+ PREFERRED PROJECT REPORT

MAJOR PROJECT APPLICATION NO. 09_0166 – "ALTITUDE ASPIRE"

RESIDENTIAL SUBDIVISION
FRASER DRIVE, TERRANORA (TWEED SHIRE COUNCIL)

ALTITUDE

• Prepared For: **Newland Developers Pty Ltd** | • Prepared by: **Darryl Anderson Consulting Pty Ltd** | • April 2013 |

Suite 7 Corporate House
8 Corporation Circuit
TWEED HEADS SOUTH NSW 2486
T 07 55 233 611
F 07 55 233 612
E admin@daconsulting.com.au
www.daconsulting.com.au
DARRYL ANDERSON CONSULTING PTY LTD
ABN 22 093 157 165

DARRYL ANDERSON CONSULTING
TOWN PLANNING & DEVELOPMENT CONSULTANTS

TABLE OF CONTENTS

SECTION **PAGE**

1.0 DESCRIPTION OF THE PROPOSAL AND SUBDIVISION TYPE 5

2.0 RESPONSE TO SUBMISSIONS 5

2.1 Summary of Amendments to Project Application 10

3.0 FINAL PROJECT APPLICATION 11

3.1 Tweed Development Control Plan 2008, Section B24 – Area E Urban Release Development Code 12

3.2 Tweed Development Control Plan 2008, Section A5 – Subdivision Manual 42

3.3 Draft Section 94 Contribution Plan No. 31 – Tweed Area E and Voluntary Planning Agreement 48

3.4 Casual Open Space 49

3.5 Proposed Further Stakeholder Engagement 51

4.0 CONCLUSION 51

TABLES

TABLE 1 – SUMMARY OF KEY ISSUES IN SUBMISSIONS AND RESPONSES 5
TABLE 2 – LOT SUMMARY 10
TABLE 3 – TDCP 2008, SECTION B24 COMPLIANCE TABLE 13
TABLE 4 – SUBDIVISION REQUIREMENTS 42
TABLE 5 – DESIGN GUIDELINES 43
TABLE 6 – LAND FORMING 44
TABLE 7 – STORMWATER MANAGEMENT 46
TABLE 8 – SECTION A5.4.7 – URBAN STRUCTURE 47
TABLE 9 – SECTION A5-10 – SUBDIVISION INFRASTRUCTURE REQUIREMENTS 48
TABLE 10 – SUMMARY OF CASUAL OPEN SPACE PROVISIONS 50
TABLE 11 – CASUAL OPEN SPACE COMPLIANCE 51

TABLE OF ANNEXURES

ANNEXURE 1	**Response to Submissions**
ANNEXURE 2	**Existing Zoning and Location Plan, Drawing No. 18779B, Rev A – B & P Surveys, 22 January 2013**
ANNEXURE 3	**Locality Context Plan, Drawing No. 18279B, Rev H – B & P Surveys, 8 April 2013**
ANNEXURE 4	**Proposed Subdivision Plan, Drawing No. 18779B, Rev A (7 Sheets) – B & P Surveys, 22 January 2013**
ANNEXURE 5	**Amended Landscape Master Plan – Form Landscape Architects, 28 March 2013**
ANNEXURE 6	**Cultural Heritage Assessment Altitude Aspire Preferred Project Report – Everick Heritage Consultants Pty Ltd, March 2012**
ANNEXURE 7	**Acoustic Report Altitude Aspire – TTM Consulting, 8 April 2013**
ANNEXURE 8	**Stormwater Assessment and Management Plan – Gilbert & Sutherland, April 2013**
ANNEXURE 9	**Revised Ecological Assessment – JWA Pty Ltd, April 2013**
ANNEXURE 10	**Revised Vegetation Management and Rehabilitation Plan – JWA Pty Ltd, April 2013**
ANNEXURE 11	**Preferred Project Report for Altitude Aspire (Engineering) – Brad Lees Consulting, April 2013**
ANNEXURE 12	**Response to Visual Issues, Altitude Aspire – LVO Architecture, February 2012**
ANNEXURE 13	**Amended Biting Insect Management Plan – HMC Consulting Pty Ltd, April 2012**
ANNEXURE 14	**Bushfire Assessment Report, Altitude Aspire – Bushfire Safe (Aust) Pty Ltd, March 2012**
ANNEXURE 15	**Altitude Aspire Transport Assessment for Preferred Project Report – Bitzios Consulting, 8 April 2013**
ANNEXURE 16	**Revised Capital Investment Value – GMP Management, 12 April 2012**
ANNEXURE 17	**Architectural Plans (Schematic Design), Proposed Community Facility – BDA Architecture, March 2012**
ANNEXURE 18	**Acid Sulphate Soil Assessment and Management Plan – Gilbert and Sutherland, April 2012**
ANNEXURE 19	**Hydrologic and Hydraulic Assessment – Gilbert and Sutherland, April 2013 and Legal Advice from Gadens Lawyers**
ANNEXURE 20	**Consent of Owner of Lot 1 DP 175234 to Amended Project**
ANNEXURE 21	**Density Projection Plan, Structural System Plan and Solar Orientation Plan – Local Office Architecture, March 2013**

TABLE OF ANNEXURES

ANNEXURE 22	**Stakeholder Engagement for Altitude Aspire Preferred Project Report – CPR Group, 28 March 2012**
ANNEXURE 23	**Emails from Tweed Shire Council Dated 31 July 2012, 16 November 2012 and 18 April 2013**
ANNEXURE 24	**Department of Education and Training Email of 5 December 2011 and Letter of 30 March 2010**
ANNEXURE 25	**NSW Office of Water Email of 1 December 2011**
ANNEXURE 26	**Draft Community Management Statement**
ANNEXURE 27	**Letter from Essential Energy Dated 7 December 2012**
ANNEXURE 28	**Summary of Soil Contamination Assessment and Annexures – Gilbert & Sutherland, 17 April 2013**
ANNEXURE 29	**Soil Preservation Management Plan for Altitude Aspire – Gilbert & Sutherland, April 2013**
ANNEXURE 30	**Revised Statement of Commitments – Darryl Anderson Consulting Pty Ltd, April 2013**
ANNEXURE 31	**Altitude Aspire Draft Planning Agreement Forwarded to Tweed Shire Council on 21 March 2013**

1.0 DESCRIPTION OF THE PROPOSAL AND SUBDIVISION TYPE

On 1 February 2011 Major Project Application No. 09_0166 for a proposed 320 lot subdivision was lodged with the Department of Planning and Infrastructure. The Environmental Assessment was publicly exhibited from 25 February 2011 until 4 April 2011. During the exhibition period, the Department of Planning and Infrastructure received submissions on the Project Application from State Agencies, Tweed Shire Council and the public.

The initial Preferred Project Report was submitted to the Department of Planning and Infrastructure in April 2012 for a Test of Adequacy, following which the report has been revised to address further issues raised by Tweed Shire Council (20 July 2012) and the Department of Planning and Infrastructure (31 July 2012, 4 December 2012, 7 December 2012).

Newland Developers Pty Ltd has considered the submissions and responds to the issues raised by way of this Preferred Project Report in accordance with Section 76H(6) of the Environmental Planning and Assessment Act, 1979 (as amended).

This Preferred Project Report identifies the applicant's response to each issue raised and describes the amendments made to the proposal, including revised plans, report and Statement of Commitments.

2.0 RESPONSE TO SUBMISSIONS

The Department of Planning and Infrastructure advised that submissions were received from the following State Agencies and individuals:

- Department of Planning and Infrastructure – 14 April 2011
- Department of Environment and Climate Change – 12 March 2011
- NSW Transport – 5 March 2011
- Land and Property Management Authority (Crown Lands) – 11 March 2011
- Rural Fire Service – 4 April 2011
- Roads and Traffic Authority – 22 March 2011
- Industry and Investment (DPI Fisheries) – 20 April 2011
- NSW Office of Water – 16 May 2011
- Tweed Shire Council – 19 April 2011
- 49 submissions from members of the public

A detailed response to the issues raised in the submissions is provided in **Annexure 1**. A summary of responses to the key issues raised in the submissions is provided in Table 1.

TABLE 1 – SUMMARY OF KEY ISSUES IN SUBMISSIONS AND RESPONSES
ISSUE
Area E Planning
RESPONSE
Subsequent to public exhibition of the Environmental Assessment, Tweed Shire Council prepared, exhibited and adopted Tweed Development Control Plan 2008, Section B24 – Area E Urban Release Development Code on 13 December 2011.

TABLE 1 – SUMMARY OF KEY ISSUES IN SUBMISSIONS AND RESPONSES
The Plan will not formally take effect until an appropriate contribution framework has been approved by Council, which is anticipated to take upward of 10 months. Accordingly, the Code has been set to formally take effect under the Environmental Planning and Assessment Act 1979 on the 1 October 2012. An appropriate contribution framework has not been approved by Council and therefore Section B24 has not formally taken effect. Should a contributions framework be/not be endorsed by this date Council may resolve to bring forward/delay the Code's taking effect. The development proposal has been revised to achieve substantial compliance with Section B24. Table 2 addresses compliance or, where appropriate, justifies inconsistencies with Section B24. In November 2011, Tweed Shire Council publicly exhibited Draft Section 94 Contribution Plan No. 31 – Terranora Area E. Subsequently Council at its meeting on 13 December 2011 resolved as follows: *"1. In accordance with Clause 31 of the Environmental Planning and Assessment Regulation 2000* *(a) Council not proceeds with S94 Plan No.31 – Terranora Area E Version 1.0.* *(b) The reason for not proceeding with the plan is that there are legislative obstacles to approving the plan.* *(c) Notice be given within 28 days of Council's decision in the Tweed Link.* *2. The works program and estimates in Draft S94 Plan No.31 – Terranora Area E e used as the basis of negotiations with the proponents of "Altitude Aspire" Part 3A Application and other Area E landowners for the purpose of reaching agreement on a Voluntary Planning Agreement to fund necessary infrastructure for Area E."* Accordingly, Tweed Shire Council and Newland have agreed in principle to enter into a Voluntary Planning Agreement for Altitude Aspire to enable the Project Application to be determined promptly. Negotiations are continuing between Tweed Shire Council and Newland in relation to the content of the Voluntary Planning Agreement. Council's Planning and Infrastructure Engineer has advised by email dated 18 April 2013 (see **Annexure 23**) that a report will be submitted to Council's meeting on 16 May 2013 in relation to the amended Draft Voluntary Planning Agreement. At this stage it is likely that it will be recommended to Council that water and sewerage infrastructure be removed from the Voluntary Planning Agreement and that these will be dealt with by way of consent conditions. The Altitude Aspire Draft Planning Agreement was forwarded to Council on 21 March 2013. A copy of the Draft is attached at **Annexure 31**. The Statement of Commitments at **Annexure 30** includes a commitment to enter into a Planning Agreement generally in accordance with the terms of the Draft. In relation to water and sewer infrastructure the Engineering Report and Plans at **Annexure 11** contain details in relation to the provision of water and sewer services which reflects the outcomes of lengthy consultations with Council. The key unresolved issue is the apportionment of funding between the applicant and Council which could be dealt with by way of an appropriate condition to the effect that an equitable funding arrangement is to be resolved prior to the issue of a Construction Certificate. The Revised Statement of Commitments includes a requirement that the Voluntary Planning Agreement be finalised prior to the issue of a Subdivision Certificate for the first residential lot.
ISSUE Subdivision Layout and Lot Sizes **RESPONSE** Amendments to the layout have been made to achieve substantial consistency with Section B24 (including locating Broadwater Parkway within the 2(c) Urban Expansion zoned land), address urban design issues; include suitable medium density sites; increase the width of the drainage corridor; redesign casual open space areas and provide for a range of lot sizes, including larger lots abutting Parkes Lane and Market Parade (see Table 2). These changes are generally supported by TSC (see email 16 November 2012 at **Annexure 23**).

TABLE 1 – SUMMARY OF KEY ISSUES IN SUBMISSIONS AND RESPONSES
ISSUE Living Design Guidelines **RESPONSE** Tweed Development Control Plan 2008, Section B24 contains a suite of development controls and guidelines relating to urban design and built form matters. In addition, Tweed Development Control Plan 2008, Section A1 – Residential and Tourist Code contains detailed guidelines.
Together, Sections B24 and A1 provide a comprehensive suite of development controls and guidelines for residential development and accordingly there is no benefit in having separate guidelines for Altitude Aspire. The Living Design Guidelines have therefore been deleted from the final Project Application.
ISSUE Stormwater and Lawful Point of Discharge **RESPONSE** Stormwater treatment facilities have been relocated to the drainage corridor within the 2(c) zoned land and suitably sized (based on MUSIC modelling) and designed to address maintenance, aesthetic and other issues raised by Council. A lawful point of discharge exists via the watercourses from the site to the Terranora Broadwater, as detailed in the Hydrologic and Hydraulic Assessment at **Annexure 19**.
ISSUE Landforming, Earthworks and Retaining Walls **RESPONSE** Achieving compliance with Council's Landforming Policy is highly constrained by the existing topography and the need to achieve compliant road gradients and functional lots. The amended subdivision layout and final landforms achieve compliance with Council's Landforming Policy (Tweed Development Control Plan 2008, Section A5 – Subdivision Manual). (See emails from Denise Galle dated 31 July 2012 and 16 November 2012, at **Annexure 29**). This includes deletion of the perimeter retaining walls. Compliance with the landforming and other controls contained in Section B24 is addressed at Section 3.1 of this Report.
ISSUE Acoustic Fence to Fraser Drive **RESPONSE** A number of submissions raised concerns in relation to visual and aesthetic impacts of the proposed 2.4m high noise fence on Fraser Drive. The amended landform design does not include a perimeter retaining wall on Fraser Drive. Finished lot levels (and future dwellings) will be well below Fraser Drive and therefore based on the Revised Acoustic Report, a noise fence will not be provided on Fraser Drive. The noise fence has therefore been deleted from this final Project Application. However, the Acoustic Report at **Annexure 7** has been amended to include appropriate noise attenuation measures for future dwellings adjacent to Fraser Drive.
ISSUE Site Sales Office **RESPONSE** This element of the development is not covered by the Major Project Declaration and has therefore been deleted from the final Project Application.

TABLE 1 – SUMMARY OF KEY ISSUES IN SUBMISSIONS AND RESPONSES
ISSUE Traffic and Transport **RESPONSE** The Transport Assessment Report has been revised to address the Phase 1 traffic impacts on Market Parade and Parkes Lane. In summary, to achieve compliance with new urbanism principles relating to neighbourhood permeability and connectivity, as required by Council's Subdivision Manual, it is proposed to connect Parkes Lane and Market Parade to the new street network within Altitude Aspire.
The Draft Voluntary Planning Agreement proposes construction of Broadwater Parkway from Fraser Drive to Altitude Aspire prior to the issue of a Subdivision Certificate for Stage 7 of the subdivision. In addition, the temporary intersection with Fraser Drive will be constructed to relevant standards as a "permanent access", however it will be removed when Altitude Aspire is connected to Broadwater Parkway.
ISSUE Flora and Fauna **RESPONSE** All infrastructure, including Broadwater Parkway, has been moved from the 7(a) wetland buffer zone to the 2(c) zoned land with the exception of a small section towards the eastern edge of Altitude Aspire within the 7(a) outer 50m buffer zone, generally in accordance with Figure 2.2 Indicative Structure Plan of the adopted Development Control Plan, Section B24. The revised alignment avoids any disturbance of existing endangered ecological communities within the State Environmental Planning Policy No. 14 buffer.
ISSUE Sewer and Stormwater Connections to Surrounding Properties **RESPONSE** A number of submissions from residents of Parkes Lane and Market Parade raise issues relating to stormwater and sewer infrastructure to service their properties. In accordance with Tweed Shire Council's Subdivision Manual (Section A5) provision has been made in the subdivision design to accommodate stormwater runoff from upstream catchments (to collect overland flow). However, this does not include inter allotment drainage to collect concentrated flows from roofs and hardstand areas, which is the responsibility of existing upstream owners. The subdivision design also provides sewer reticulation connection points to service the existing properties. The design and funding of a scheme for Parkes Lane and Market Parade is clearly the responsibility of Tweed Shire Council and landowners. There is an opportunity for Tweed Shire Council to contribute to the cost of providing increased capacity in the proposed regional sewer pump station and rising main to the Banora Point Wastewater Treatment Plant to efficiently facilitate the future connection of Parkes Lane and Market Parade properties. It is proposed that the Voluntary Planning Agreement contain appropriate provisions to address this issue.
ISSUE Broadwater Parkway **RESPONSE** Newland does not agree with the proposed alignment of Broadwater Parkway within Altitude Aspire as shown on the adopted Indicative Structure Plan within Tweed Development Control Plan 2008, Section B24 – Area E Development Code for the following reasons:

TABLE 1 – SUMMARY OF KEY ISSUES IN SUBMISSIONS AND RESPONSES
• The report to Council's meeting on 19 July 2011 (Item 19. page 277) recommends public exhibition of the Draft Development Control Plan for Area E. The Structure Plan accompanying the Draft Development Control Plan shows a Broadwater Parkway (Fraser Drive to Maher's Lane) alignment predominately within lands zoned 2(c) Urban Expansion, particularly through the Altitude Aspire site. But a section to the east of Altitude Aspire is within the 7(a) zone. This is considered to be inequitable. • The normal ecological buffer required to a State Environmental Planning Policy 14 Wetland is 50m (see Mitchell's Rainforest Snail Recovery Plan, 2001). • At its meeting on the 16th November 2005, Council resolved to, among other things, forward the Draft Local Environmental Plan Amendment 10 for Area E to the Minister to be made. The Officer's report in relation to the Local Environmental Plan Amendment states that; *"Verbal discussion were had with DEC Officers to discuss the issue of the buffer to the wetlands. It was agreed that the proposed 100m buffer could be made up of 50m of vegetation and 50m of other non-vegetated land, which can include infrastructure such as roads."* Clearly, it was intended that Broadwater Parkway be located within the outer 50m of the 100m wide State Environmental Planning Policy 14 buffer Zoned 7(a) Environmental Protection, consistent with normal practice of relevant state agencies for a 50m ecological vegetated buffer immediately abutting the wetland. • Tweed Shire Council Officers initially prepared two alignments for Broadwater Parkway, one of which was within the 7(a) outer 50m buffer zone, and one of which was to the south of that zone within land zoned 2(c). Until that plan was produced, all previous discussions with Council Officers were on the basis of Broadwater Parkway being located in the outer 50m of the buffer as per the original Officer's report to Council on 16th November 2005 and as agreed by key state agencies in their comments in response to the exhibited draft Altitude Aspire Project Application. The DECCW advised on the 25th March 2011 that providing the 50m vegetated buffer adjacent to the wetlands is free of all infrastructure the Department raised no objections. Also, New South Wales Industry & Investment (Fisheries) requested that infrastructure such as roads and stormwater be located beyond the outer edge of the inner 50m habitat buffer of replanted native vegetation. • Newland has carried out detailed investigations regarding engineering and ecological constraints on the potential alignment of Broadwater Parkway within and adjacent to the Altitude Aspire site. An alignment has been designed largely in the outer edge of the outer 50m buffer which is compliant with engineering design requirements and does not alienate unconstrained 2(c) zoned land. In addition, the alignment avoids all EECs, and sensitive native vegetation areas and incorporates appropriate buffers. The designed alignment has been pegged on the ground and ground truthed and it only passes through grassed grazing land. • Newland is disappointed that despite a number of workshops with Council Officers and the extensive detailed information to justify Newland's alignment of Broadwater Parkway, Council Officers have not recommended this alignment but rather are proposing alignments south of the outer 50m buffer within land zoned as 2(c). • At Page 284 of the report to Council's meeting on 19 July it is stated that "the indicative alignment of the future Broadwater Parkway is based on the desirability of avoiding environmentally sensitive land". As indicated at point 7 above, the alignment proposed by Newlands within the 7(a) zone achieves this objective. • Notwithstanding the above, the final Altitude Aspire Project Application has been amended to incorporate Broadwater Parkway within the 2(c) zoned land and a small section towards the eastern edge of Altitude Aspire within the 7(a) outer 50m buffer zone, generally in accordance with Figure 2.2 Indicative Structure Plan of the adopted Development Control Plan, Section B24.

TABLE 1 – SUMMARY OF KEY ISSUES IN SUBMISSIONS AND RESPONSES
ISSUE
Transitional Lots
RESPONSE
The final Project Application has been amended to include larger transitional lots at the interface with Market Parade and Parkes Lane in accordance with Section B24 (see **Annexure 4**).

2.1 Summary of Amendments to Project Application

In response to submissions received, amendments to the Project Application have been made including changes to plans, reports and the Statement of Commitments as follows:

- Deletion of the proposed temporary sales office/display home on proposed Lot 1103;
- Widening of the central drainage corridor;
- Relocation of Broadwater Parkway predominantly into the 2(c) zoned land;
- Relocation of the proposed extension of Parkes Lane such that the street is located on the common boundary of the Altitude Aspire site and adjoining Lot 1 DP 175234;
- Provision of a perimeter road on the eastern side of the central drainage corridor;
- Reconfiguration of the residents' lot (Community Association) and redesign of the proposed community recreation facility;
- Increasing the size of the lots abutting Parkes Lane and Market Parade;
- Creation of medium density lots;
- Reconfiguring and increasing casual open space areas;
- Reconfiguration of street layouts to achieve general consistency with Section B24;
- A reduction in the total number of lots to 263. The following table (Table 2) provides a summary of the various lot types in each stage.
- A significant reduction in landform alterations to comply with Tweed Development Control Plan 2008, Section A5.
- Inclusion of landscaped buffers to Broadwater Parkway to comply with Tweed Development Control Plan 2008, Section B24.

TABLE 2 – LOT SUMMARY

Stage	Residential Lots	Medium Density Lots	Public Reserves	Drainage Reserves	Community Lots	Total Lots
1	36	-	-	-	-	36
2	41	-	-	-	-	41
3	11	-	-	-	-	11

TABLE 2 – LOT SUMMARY						
Stage	**Residential Lots**	**Medium Density Lots**	**Public Reserves**	**Drainage Reserves**	**Community Lots**	**Total Lots**
4	50	-	1	-	-	51
5	24	-	-	-	-	24
6	9	-	1	1	-	11
7	9	2	1	-	1	13
8	40	-	1	-	-	41
9	24	2	1	-	-	27
10	-	-	1	-	-	1
11	7	-	-	-	-	7
TOTAL	**251**	**4**	**6**	**1**	**1**	**263**

The final total number of lots which is the subject of the revised Project Application is 263. The original proposal involved 321 lots.

- Revised plans and specialist reports as identified in the Annexures.

Section 3.0 of this Report describes the final Project Application in accordance with the amended Application Plans, amended reports and Statement of Commitments contained in the Annexures.

3.0 FINAL PROJECT APPLICATION

This final Project Application requests approval for a Community Title Subdivision comprising a total of 263 lots.

Proposed Lot 713 is the only Community Association land (proposed community recreational facility) within the community scheme. All proposed roads, water and sewer infrastructure, open space areas and drainage areas are intended to be dedicated to the public and will be owned, managed and maintained by Tweed Shire Council.

The proposed subdivision includes the following key elements:

- Construction of Broadwater Parkway within part of the Altitude Aspire site (from the Stage 7 entry roundabout to the eastern boundary of the site);
- Landforming of the site to achieve a balance of earthworks;
- Construction and dedication of all proposed roads within Altitude Aspire;
- Construction of stormwater drainage infrastructure (which will be owned by TSC) within the proposed roads, lots and drainage reserves, including the central drainage corridor which is to be dedicated as a drainage reserve;
- Construction of water and sewer reticulation (which will be owned by TSC) to each proposed lot;

- Construction of underground power and telephone services to each lot, including pit and pipe infrastructure in accordance with NBN Co's Guidelines;

- Construction of a temporary intersection with Fraser Drive, including dedication of the alignment as a temporary public road under Section 9 of the Roads Act, 1983;

- Dedication and embellishment of the proposed casual open space lots;

This final Project Application seeks approval for the subdivision as described in this Preferred Project Report and the plans and reports forming Annexures to the Report.

3.1 Tweed Development Control Plan 2008, Section B24 – Area E Urban Release Development Code

Section B24 applies to the whole of the Tweed Area E Urban Release Area, of which the Altitude Aspire site forms part. Section B24 was adopted by Tweed Shire Council on 13 December 2011 and will not formally take effect until an appropriate contribution framework has been approved by Council.

Tweed Shire Council's Development Control Plan adoption notification published in the Tweed Link (20 December 2011) indicates that if a contribution framework is endorsed before this date Council may bring forward the date on which the Code takes effect.

At the date of preparing this Report, Council has not approved a contribution framework. Therefore Section B24 has not formally taken effect.

A Voluntary Planning Agreement has been agreed in principle between Newland and Tweed Shire Council relating to contributions for Altitude Aspire and compliance with the Voluntary Planning Agreement is contained in the revised Statement of Commitments. Council's Planning and Infrastructure Engineer has advised by email dated 18 April 2013 (see **Annexure 23**) that a report will be submitted to Council's meeting on 16 May 2013 in relation to the amended Draft Voluntary Planning Agreement. At this stage it is likely that it will be recommended to Council that water and sewerage infrastructure be removed from the Voluntary Planning Agreement and that these will be dealt with by way of consent conditions. See further comments in Section 2.0, Table 1 regarding the draft Voluntary Planning Agreement.

Given that the final Project Application is not inconsistent with Section B24, or where there are inconsistencies they have been justified in this Preferred Project Report, and as contributions for Altitude Aspire will be secured by the Voluntary Planning Agreement, it is submitted that Major Project Application No. 09_0166 can be approved, notwithstanding that Section B24 has not come into force. Table 3 addresses compliance with the key Development Controls and Design Principles relevant to Altitude Aspire, which is within the Fraser Drive Precinct.

In considering compliance issues, it should be noted that the NSW Parliament has passed the Environmental Planning and Assessment Act Amendment Bill 2012. Among other things the Bill, which came into effect on 1 March 2013, returns the status of Development Control Plans to their original purpose as a guideline. Consent authorities now have more power to be flexible and consider innovative solutions when assessing development proposals.

In particular, Section 79C, 3A(b) of the Environmental Planning and Assessment Act, 1979 (as amended) provides that:

"If a Development Control Plan contains provisions that relate to the development that is the subject of a Development Application, the consent authority:

If those provisions set standards with respect to an aspect of the development and the Development Application does not comply with those standards – is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development."

In addition, as indicated above it should be noted that Section B24 has not yet come into effect and therefore in a strict sense does not have any statutory weight. Moreover, Council at its meeting on 25 October 2012 resolved to review the cut and fill controls within Section B24 of the Development Control Plan applicable to residential development within the upcoming policy maintenance under the adopted Planning Reform Unit Work Program. At the same meeting, Council resolved to endorse a Practice Note that has been prepared to supplement the Code. The Practice Note does not form part of the Code, however it provides the necessary clarity of the identified development controls for the applicant and Assessment Officers. With any future housekeeping amendments the definitions in the Practice Note are intended to be imbedded formally in Section B24.

Having regard to the above, and given that the proposed development achieves a reasonable balance between the development controls in Section B24 and the need to create a commercially viable development, the consent authority is requested to be flexible in the application of Section B24. This is particularly the case in respect of further landforming changes and retaining walls which may be required at the dwelling house stage.

TABLE 3 – TDCP 2008, SECTION B24 COMPLIANCE TABLE	
KEY DEVELOPMENT CONTROLS AND DESIGN PRINCIPLES	**COMMENTS**
PART 02 – SUBDIVISION	
Urban Footprint & Design Principles	
Objectives	
• Achieve the orderly and efficient use of land.	Key infrastructure including road access, water and sewer is available on the eastern side of the release area adjacent to Fraser Drive and therefore proceeding with Altitude Aspire as the first estate to be developed in the release area is a logical "in sequence" approach to achieve the orderly and efficient use of the land.
• Achieve a landscape character strategy that urban development within Area E should be compact settlements interspersed within the dominating landscape composition of wetland, vegetated valleys, vegetated escarpment and ridgelines.	Existing landforms have been maintained as far as possible having regard to the need to achieve compliant road gradients and suitable final landforms to accommodate a range of housing types. Landscaping of public and private domain will be achieved on an integrated basis.
• Promote high quality development that integrates the Design Principles of this Code. • Promote an urban release area of design excellence.	The suite of planning controls adopted by Tweed Shire Council including Sections A1 and B24 will ensure that high quality development is achieved on the proposed residential lots.

TABLE 3 – TDCP 2008, SECTION B24 COMPLIANCE TABLE	
KEY DEVELOPMENT CONTROLS AND DESIGN PRINCIPLES	**COMMENTS**
Development Controls	
1. Development within the identified urban footprint must address the design principles of this Code, as well as Council's other applicable policy instruments, standards and guidelines within a subdivision development application.	Complies – the proposed development is within the identified urban footprint. Relevant design principles are addressed in this table. Relevant provisions of other Planning Instruments and Policies are addressed in the original Environmental Assessment Report dated December 2010. An assessment of the revised project against relevant provisions of Tweed Development Control Plan 2008, Section A5 – Subdivision Manual is contained at Section 3.2 of this Preferred Project Report.
2. In addition to Development Control 1, development of land identified as Topographically Constrained are encouraged to consult with Council planners throughout the design and application preparation process.	Complies – numerous meetings have been held with Council Officers prior to preparation of the original Environmental Assessment Report, during and subsequent to the public exhibition period and during the preparation of this Preferred Project Report. The Altitude Aspire site is not mapped as topographically constrained on Figure 2.1 – Urban Footprint Controls of Section B24.
3. This Code does not support urban development outside the urban footprint unless for critical/essential infrastructure.	Substantially complies – a relatively small section of Broadwater Parkway will be located outside of the urban footprint shown on Figure 2.1 because it is not possible to achieve compliant geometric road design standards and link with Fraser Drive on a satisfactory alignment identified by Council without the minor encroachment. In any case, the proposed alignment is not inconsistent with Figure 2.2 (Indicative Structure Plan) of Section B24.
Design Principle 1 – Environment	
Objectives	
• The environmental lands, natural watercourses and other natural systems are protected and retained. • To preserve and protect land of high ecological significance from urban development. • To encourage the enhancement of land with high environmental qualities. • To provide for the rehabilitation and enhancement of degraded habitat and ensure that comprehensive rehabilitation plans form part of any future development applications or masterplans. • To provide for the protection and improvement of existing hydrological conditions in Terranora Broadwater. • To provide a natural growth boundary to residential development and visual relief for the proposed urban environment.	Substantially complies with all objectives on the basis that: • Areas with high conservation values will be dedicated as public reserves and rehabilitated; • Onsite stormwater management facilities will improve water quality in Terranora Broadwater and adjacent wetlands. • The revised subdivision design substantially complies with relevant development controls; • The revised subdivision design achieves a sustainable balance between the site's opportunities and constraints.

TABLE 3 – TDCP 2008, SECTION B24 COMPLIANCE TABLE	
KEY DEVELOPMENT CONTROLS AND DESIGN PRINCIPLES	**COMMENTS**
• To integrate localised 'green belts' into the urban footprint. • To create additional wildlife corridors. • To embody urban development within a park-like setting.	
Development Control	
The following information is to be submitted with any Development Application for subdivision:	
• Flora and Fauna assessments will be required to identify the presence of land of high environmental quality, suitable buffering and ongoing management. • A Wetland Restoration Plan and Habitat Restoration Plan must be prepared to Council's satisfaction for all land zoned for Environmental Protection.	Complies – see revised Ecological Assessment at **Annexure 9**. Complies – see revised Vegetation Management and Rehabilitation Plan – James Warren and Associates at **Annexure 10**.
1. Demonstrate that the environmental protection areas are retained and protected, that existing wildlife corridors and vegetative links have been maintained, and links identified within Figure 2.3 established. These links could be continuous tracts of vegetation, or where they traverse urban areas, a strong linking canopy of native street trees;	Complies (see **Annexure 4**). • The SEPP14 buffer will be dedicated and rehabilitated (Lot 1001); • The central drainage reserve will be dedicated and embellished to provide a wildlife corridor;
2. Demonstrate suitable buffering and ongoing management of land possessing high environmental quality;	Complies – the whole of the SEPP14 buffer will be dedicated as a public reserve and rehabilitated.
3. Demonstrate that an adequate buffer of at least 20m (which may include the road reserve) is retained around the edge of the environmental protection area;	Complies – the future Broadwater Parkway will be located in a 19.8m wide road reserve within the 2(c) land abutting the 7(a) land. A short section of Broadwater Parkway will be located within the 7(a) buffer area of necessity because of topographic constraints and to achieve geometric road design standards. This is consistent with Figure 2.2 of Section B24. In addition, a 5m public reserve is proposed between Broadwater Parkway and the residential lots.
4. Demonstrate the works identified within the Council approved Wetland Restoration Plan and Habitat Restoration Plan that the development will be responsible for and the intended method of addressing the works required;	Complies – the 7(a) zoned wetland buffer (proposed Lot 1001) will be progressively rehabilitated in accordance with the Vegetation Management and Rehabilitation Plan at **Annexure 10** and dedicated as a public reserve with Stage 10. Contributions are proposed in accordance with the Voluntary Planning Agreement for Altitude Aspire for acquisition and restoration of wetland areas outside the Altitude Aspire site.
5. Demonstrate that any wetland on the land will be restored and managed to the consent authority's satisfaction to restore freshwater wetland values and minimise breeding habitat for saltwater mosquitoes and biting midges.	See comments above.

TABLE 3 – TDCP 2008, SECTION B24 COMPLIANCE TABLE	
KEY DEVELOPMENT CONTROLS AND DESIGN PRINCIPLES	**COMMENTS**
Note - It is acknowledged that land requiring restoration works is in fragmented ownership. To this extent, Council is open to discussion with applicants regarding delivery methods for the restoration work identified to ensure equitable distribution across the landowners and development of Area E. *The developer will be responsible for the restoration works of the area of environmental protection to Council's satisfaction. Should environmental areas be dedicated to Council in any subdivision or other development, Council may enter into an agreement for a maintenance period and contribution prior to handover and all restoration works must be completed to Council's satisfaction.*	Restoration of the SEP14 wetland (Lot 227) would be most efficiently and effectively achieved by: 1. Council acquiring the wetland when sufficient developer contributions are available; 2. Council managing rehabilitation by a contractor as and when sufficient developer contributions are available. The Draft Voluntary Planning Agreement between Council and Newland contains provisions to equitably fund the acquisition and rehabilitation of Lot 227.
Design Principle 2 – Landscape Character and Views	
Objectives	
• Maintain the integrity of ridge lines, valleys and natural topographic features as an important part of the localities character.	Whilst the development of the site will require significant areas of cut and fill on parts of the site, the finished grades will be generally consistent with the existing grades, meaning that on the whole the site will retain its fundamental landform structure – an amphitheatres sloping down to the Broadwater, defined by two lesser ridges on the western and eastern extents, and a valley through the middle of the site. The inclusion of landscaped open space through the valley on the site, and retention of open space near the Broadwater will help to highlight these topographical aspects of the site. Furthermore, as explained in the previous Visual Assessment Report accompanying the EA, the proposed development will not impact on any of the significant ridges in the local area, such as the ridge defined by Terranora Road.
• Promote subdivision design which reduces the need for benching and significant cut and fill.	See **Annexure 11**.
• To ensure site modifications, retaining walls and engineered elements do not adversely impact on the streetscape, or precincts character.	See **Annexure 11**.
• The watercourses and vegetated drainage lines running through the site provide excellent visual, recreational, educational and environmental preservation opportunities and are to be integrated with opportunity for pedestrian links between.	See **Annexure 11**.
• Realise and retain key visual character components of the site through a contemporary urban structure and built form.	As described in the previous Visual Impact Assessment, from most vantage points that take in views of the site and surrounding landscape, the future built form on the subject site will appear as a logical extension of existing residential development, and will not encroach upon the natural landscape elements of the local area.

TABLE 3 – TDCP 2008, SECTION B24 COMPLIANCE TABLE	
KEY DEVELOPMENT CONTROLS AND DESIGN PRINCIPLES	**COMMENTS**
	As development of the site will be subject to the controls of the new DCP, the future built form will be contextually appropriate and will contribute to the residential character of the local area. Furthermore, the resulting built form character will be consistent with the prevailing character of the area, with ample opportunity for landscaping to soften the built form.
• Provide view sharing and maintenance of view fields.	The only views that would potentially be obstructed or limited by the proposed development would be views enjoyed by travellers and residences along Fraser Drive, Parkes Lane and Market Parade. With regard to views from Fraser Drive, Appendix B of **Annexure 12** includes a section from the Landscape Plans prepared by Form and shows the relationship between Fraser Drive and the easternmost lots of the proposed development. As this section illustrates, Fraser Drive will be significantly higher than the nearest houses and will not be subjected to an acoustic fence (fencing will be located at the rear of the lot, at the base of the bank in the open space buffer). As a result, views from Fraser Drive across the site to the Broadwater and broader landscape will essentially be maintained. There are some residences along Parkes Lane and Market Parade who currently enjoy open views across the site and whose views may be slightly obstructed by future built form resulting from the proposed development. However the extent of view obstruction would be reduced by the height difference between the proposed lots and adjoining properties (see Section 2 of the Earthworks Plans prepared by Bradlees Civil Consulting). View obstruction will be reduced by the creation of longer lots along the Market Parade/Parkes Lane interface. The only quality view across the site from Parkes Lane itself is through the gap between houses at #4 and #8 Parkes Lane. Whilst this view is of a reasonable quality, it is not a locally significant view, being available only to local traffic along Parkes Lane and is of much less importance than the view from Fraser Drive. The view will be obstructed by future houses on proposed Lots 501 and 502. However, given the designation of the subject site, development on these lots would not be beyond the reasonable expectation of the community. Given the low significance of the view, its loss could not be considered unacceptable in terms of the visual amenity of the local area.

TABLE 3 – TDCP 2008, SECTION B24 COMPLIANCE TABLE	
KEY DEVELOPMENT CONTROLS AND DESIGN PRINCIPLES	**COMMENTS**
	Ultimately, the impacts on views from public and private vantage points are relatively low, due largely to the fact that the site slopes away from most vantage points. Given the planning intent for the site the extent of impacts on views is considered to be an appropriate view sharing outcome. It is also worth noting that, by opening up the site to public access, and by providing a significant public open space area within the site, the proposed development is effectively offering access to vantage points within the site, thereby contributing to the visual amenity of site users.
• Maintain important regional and local views.	The view analysis presented in the previous Visual Impact Assessment is still relevant except that the impacts on views from Fraser Drive have now been reduced due to an amended earthworks regime. Ultimately the development of the site, whilst it will affect views towards the site as it will result in the conversion of pastoral green space into residential development, will not have an adverse impacts on key elements of the visual environment (such as the Broadwater or the ridge defined by Terranora Road), will maintain a significant amount of open space through the centre of the site and around the Broadwater, and will on the whole present an outcome consistent with what must be anticipated given the planning intent for the site. As explained below, the proposed development can be seen to satisfy controls on views from regional and local vantage points.
• Preserve the visual amenity of and within the site.	As explained in the previous Visual Impact Assessment, it is obvious that development on the Altitude Aspire site will have some impact on scenic amenity as it will result in the development of land with rural and natural landscape values. However, as the proposed development maintains a number of elements which define the scenic amenity of the area (the landscape qualities of the Broadwater, a central connected green space, the general landform structure of the site) the scenic amenity qualities of the site will be maintained to an extent which must be considered reasonable accepting the practically inevitable development of the site.
• The identification and retention of green breaks, important feature trees/stands of trees and important view fields.	As explained previously, the proposed development maintains a significant landscape space in the centre of the site which connects to an open space network beyond the site. There is also a large area of open space at the northern part of the site which will be retained.

TABLE 3 – TDCP 2008, SECTION B24 COMPLIANCE TABLE	
KEY DEVELOPMENT CONTROLS AND DESIGN PRINCIPLES	**COMMENTS**
	Furthermore, there is a large area of open space included in the entire Altitude Development Area which will be retained. Whilst not identified as part of this application the proposed development of the Altitude Aspire site area will be seen within this open space area and the open space will offset potential impacts of development.
Development Control	
The following information is to be submitted with any Development Application for subdivision: • Visual impact assessment	Complies – a Response to Visual Issues Report is contained at **Annexure 12**. The Environmental Assessment is accompanied by a Visual Impact Assessment at Annexure 21.
1. Any proposal must detail consistency with the visual strategies detailed above in the format of a visual impact assessment as part of any subdivision development application. The visual analysis should address: • key vantage points both into and out of the Area E site as identified within this plan; • provide visualisations of subdivision pattern and indicative built form by way of 3D photo montage from key surrounding vantage points around the site (refer to Fig 2.5), as well as from key cross site vantage points. All visualisations are to be provided at an appropriate scale for meaningful assessment. Montages should illustrate a representation of indicative built form including particularly roof materials and colour.	In the Development Controls of Design Principle 2 retention of specific key views is identified as information which should be included in a Visual Impact Assessment. The previous Visual Impact Assessment prepared by LVO considered those views relevant to the subject site and they are considered further below (refer Appendix A of the previous Visual Impact Assessment), (Annexure 21 of the EA). It is important to note that the views presented in the DCP take in the entire Area E, of which the subject site is only a part. Only those controls relevant to the subject site are addressed below.
2. Any proposal must not obstruct the key view lines as identified in the identified 5 key views illustrated at Figure 2.5 and demonstrate the subdivision design enables future development of lots that can preserve the key view lines.	Complies – see comments below.
3. Any proposal must demonstrate that the undulating and vegetated valley character is maintained as an important part of the sites visual character in terms of regional inward views.	Complies – final landform will retain the essential elements of the existing landscape character.
4. Achieve the outcomes of the Tweed Scenic Landscape Strategy.	Complies – see Section 2.3 of the Visual Impact Assessment at Annexure 21 of the Environmental Assessment.
5. Any proposal must identify remnant vegetation across the site including existing paddock windbreaks and seek to retain or interpret these important elements of the sites visual character. Suggested means of embodying these components include adapting existing vegetated wind break lines as street trees, to create more visually attractive streetscapes; maintain the presence of existing mature trees to assist in visually defining the identified character zones and preserving ecological habitat.	Complies – see Section 2.1 of the Visual Impact Assessment at Annexure 21 of the Environmental Assessment.

TABLE 3 – TDCP 2008, SECTION B24 COMPLIANCE TABLE	
KEY DEVELOPMENT CONTROLS AND DESIGN PRINCIPLES	**COMMENTS**
6. Any proposal must demonstrate a building design and structural system which reduces the need for benching and significant cut and fill thereby maintaining the topographic integrity and visual character of the site.	Complies – see Density Projection Plan and Housing Typology Plan at **Annexure 21**.
7. Identification and retention of significant vegetation (including non-native species) that contribute significantly to the landscape character of the locality.	Substantially complies – significant vegetation has been retained where possible in Lots 1001, 439 and 610.
8. Significant landscape features including overland flow paths, dams, native vegetation and other significant stands of vegetation are to be identified and retained in any development application.	Substantially complies – significant vegetation has been retained where possible in Lots 1001, 451 and 610.
View 1 – Champagne Drive	
Characteristics	
• The low area waters edge and wetland vegetation up to about 10m high. • The vegetated valleys or green fingers climb up the sites two main valleys. • Large tracts of bushland vegetation, some native some exotic including camphor laurel. • Open undulating paddocks which are each divided and indispersed by these green breaks and green fingers which divides the site into clear pockets or precincts. • The varied ridgeline climbing to the highest point around sunnycrest subdivision, stand of Norfolk Island trees which are a regional marker or landmark.	
Development Controls	
1. Reproduction of this image as a photomontage to demonstrate how the following characteristics are achieved: • Retain strong middle band of vegetation (acceptable to see roofs of community title and topographically sensitive development dispersed within). Although much of this vegetation is exotic species, the preservation of the canopy and 'greening' of the Area E site is an important part of the visual character; • Retain the integrity of the ridgeline by limiting building height; • Retain the integrity of the paddock 'green windbreak' lines through the establishment of street trees;	Development Code Key View 1 • The location of the proposed development does not impact upon the areas of key vegetation identified in View 01-Exisitng View and • The proposed development is located below the main ridge line (defined by Terranora Road) and below existing development and will therefore not impact upon the existing vegetation along the ridge. • The proposed development is configured to form two clusters of lots that are separated by open space, which will enable the developable area to be interspersed by vegetation, thereby reinstating the "green fingers" of vegetation through the valley of the site. • Street trees will be incorporated to compensate the loss of existing lines of vegetation on the site.

TABLE 3 – TDCP 2008, SECTION B24 COMPLIANCE TABLE	
KEY DEVELOPMENT CONTROLS AND DESIGN PRINCIPLES	**COMMENTS**
• Retain vegetation running up gullies / valley and other pockets of bushland / vegetation; • Developable area to be interspersed and framed by vegetated foreground, middle landscaped band and vegetated gullies; • No red, terracotta, white or blue roofs; and • Acceptable to see the tops of buildings within the village centre just above wetland vegetation line.	• As the future houses will be subject to other controls in the DCP, building colours will is recessive and contextually appropriate. The Visual Impact Assessment at Annexure 21 of the Environmental Assessment contains information which adequately addresses these controls.
View 2 – Fraser Drive Looking South	
Characteristics	
• Area E from the end of the Market parade ridge line across to the open paddock area below Terranora Road forms the backdrop to this busy intersection of Fraser and Leisure Drive. • The view composition consists of fore (wetland and eucalyptus stands), mid and background stands of vegetation. The layering of the pockets of vegetation, and vegetated paddock windbreaks with open paddock in between which define the existing visual character. • Vegetation which extends up the valley's and gullies which read as 'green fingers'. • Open undulating paddocks which are each divided and indispersed by green windbreaks which run along and perpendicular to contours.	
Development Controls	
1. As part of a development application for the subdivision of this land a photomontage from this view must be prepared to demonstrate how the following characteristics are achieved: • retain strong middle band of vegetation (acceptable to see roofs of community title and topographically sensitive development dispersed within). Although much of this vegetation is exotic species, the preservation of the canopy and 'greening' of the Area E site is an important part of the visual character; • Retain the integrity of the ridgeline by limiting building height; • Retain the integrity of the paddock 'green windbreak' lines through the establishment of street trees;	• The proposed development is located below the main ridge line (defined by Terranora Road) and below existing development and will therefore not impact upon the existing vegetation along the ridge. • Street trees will be incorporated to compensate the loss of existing lines of vegetation on the site. • The proposed development is located within an area that is generally cleared of significant vegetation. • The proposed development is configured to form two clusters of lots that are separated by open space, which will enable the developable to area to be interspersed by vegetation thereby reinstating the "green fingers" of vegetation through the valley of the site.

TABLE 3 – TDCP 2008, SECTION B24 COMPLIANCE TABLE	
KEY DEVELOPMENT CONTROLS AND DESIGN PRINCIPLES	**COMMENTS**
• Retain vegetation running up gullies / valley and other pockets of bushland / vegetation including the stand of eucalyptus trees at the toe of the ridgeline; • Developable area to be interspersed and framed by vegetated foreground, middle landscaped band and valley's gullies; and • No red, terracotta, white or blue roofs. Use colours which have low levels of reflectivity and glare. As such choose neutral greens, browns and grey tones which is more related to the natural landscape.	• As the future houses will be subject to other controls in the DCP, building colours will be recessive and site appropriate. The Visual Impact Assessment at Annexure 21 of the Environmental Assessment contains information which adequately addresses these controls.
View 03 – Terranora Road Looking North	
Characteristics	
• Panoramic regional views which take in Terranora Broadwater, Tweed Heads, Coolangatta, Pacific Ocean and beyond to Gold Coast and South Stradbroke Island; • The vegetated wetland areas on the southern edge of the Terranora Broadwater; • Large tracts of bushland vegetation extending up ridgelines and valleys; • Foreground high level vegetation which pierce the primary view field.	
Development Controls	
1. Parcels of land which will potentially impact on this view field are required to prepare a photomontage to demonstrate how the following characteristics are achieved: • Long views of the wetland, Terranora Broadwater, Pacific Ocean and beyond must not be obstructed by development of the site when viewed from Terranora Road. Development must be below dotted white line (RL 125 AHD). • Mid views should comprise vegetation piercing the long view and soften future built form. • Foreground views will include the future development, with views and vegetation between built form. • No red, terracotta, white or blue roofs. Use colours which have low levels of reflectivity and glare. As such choose neutral greens, browns and grey tones which is more related to the natural landscape.	• The proposed development is located below Terranora Road and below existing development adjacent to Terranora Road and will therefore not impact upon views from Terranora Road The Visual Impact Assessment at Annexure 21 of the Environmental Assessment contains information which adequately addresses these controls.

TABLE 3 – TDCP 2008, SECTION B24 COMPLIANCE TABLE	
KEY DEVELOPMENT CONTROLS AND DESIGN PRINCIPLES	**COMMENTS**
View 04 – Fraser Drive Looking North	
Characteristics	
• panoramic regional views which take in Terranora Broadwater and west towards the Border Ranges; • the vegetated wetland areas on the edge of the Terranora Broadwater; • large tracts of bushland vegetation extending up ridgelines and valleys.	
Development Controls	
1. Long views of the wetland, Terranora Broadwater, Pacific Ocean and beyond must not be obstructed by development of the site when viewed from Fraser Drive by limiting the height of buildings to below the redline indicated in the diagram below as a measure of the RL at the rear of an allotment +1.8m. Additional height will be considered where it can be demonstrated through the production of photomontages that a building will not impact on view.	• The proposed development is located on the slope below Fraser Drive. Rear boundary fences to Fraser Drive will be designed to enable views through the buffer and over the development to the Terranora Broadwater. • As the future houses will be subject to other controls in the DCP, building colours will be recessive and site appropriate. The Visual Impact Assessment at Annexure 21 of the Environmental Assessment contains information which adequately addresses these controls.
2. Landscape buffer along Fraser Drive to include layering of native vegetation including species which will establish a strong higher level canopy but still allow views through to the Terranora Broadwater, mid level shrubs and ground covers.	Following consultations with Tweed Shire Council the landscaped buffer along Fraser Drive has been deleted because of maintenance and access issues arising from the steep slope of the land. The rear deep soil zones required by TDCP2008, Section A1 will assist in achieving a landscape buffer. A restriction on use is proposed on all lots abutting Fraser Drive precluding any buildings in the 5m corridor.
3. Rear fences backing onto Fraser Drive to be maximum of 1.8m high and screened with native plants within the 5.0m landscape buffer (fence West of landscape buffer). The upper 600m of the rear fences must have 50% transparency. Fences are to consist of two of more different materials. Colourbond fences are not permitted.	See comments above.
4. Submit photomontage or other documentation at subdivision stage of typical dwellings on designed lots to demonstrate that the key characteristics of the view will be retained.	Complies – See **Annexure 5** (Section 14).
5. No red, terracotta, white or blue roofs. Use colours which have low levels of reflectivity and glare. As such choose neutral greens, browns and grey tones which is more related to the natural landscape.	Will comply.
6. Fraser Drive and Broadwater Parkway 5.0m landscape buffer areas are to include (refer to Figure 2.13, 2.15):	Complies – see **Annexure 5**.

TABLE 3 – TDCP 2008, SECTION B24 COMPLIANCE TABLE	
KEY DEVELOPMENT CONTROLS AND DESIGN PRINCIPLES	**COMMENTS**
• a strong layering of native vegetation including a high level tree canopy and lower level shrubs and ground cover; • a pedestrian pathway a minimum of 1.2m wide, • street furniture including bench seats, water supply and bus shelters at key locations to be identified within the public domain plan; • where back fences adjoin these landscape buffer areas they are to be a maximum of 1.8m high with the upper 600mm to be 50% transparent. Fences are to use more than one material type. Fences only constructed from treated pine or colourbond (or a combination of those two) are not acceptable.	See comments at Design Control 2. Complies – see **Annexure 5**. Substantially complies – see **Annexure 5**. Will comply.
Design Principle 3 – Landforming	
Objectives	

• Maintaining and respecting the landform – buildings and civil works are to be designed to landform rather than landform designed to buildings and civil works;
• Maintain the integrity of ridge lines, valleys and natural topographic features as an important part of the locality's character;
• Promote subdivision, building design and structural systems which reduce the need for benching and significant cut and fill;
• Understand the design relationship of slope to appropriate construction types to minimise cut and fill and respond to upslope, down slope, side slope and combination slope with appropriate design consideration;
• Adopt an overall bulk earthworks strategy that includes:
  • subdivision design which reduces the need for benching and significant cut and fill;
  • to limit modification of site levels at boundaries to maintain amenity to adjoining properties;
  • to ensure site modifications, retaining walls and engineered elements do not adversely impact on the streetscape character;
  • ensure that fencing on top of retaining walls does not adversely impact amenity of neighbouring properties or de-stablise retaining walls;
  • where possible, the use of the stone found on the site should be incorporated into the retaining walls, although it is understood that this stone would not be suitable for structural elements of retaining walls.
	Substantially complies – landform design complies with Development Design Specification D6 – Site Regrading (see Table 6 and **Annexure 11**).
	The final landform proposed will avoid the need for further significant landform changes or retaining walls on each lot to enable appropriate dwelling houses to be constructed.
	A balance of cut and fill is achieved in the landform design which also achieves compliant road gradients while minimising natural landform changes as far as possible.
	See previous comments regarding application of Section B24, particularly in relation to landforming and retaining walls.

TABLE 3 – TDCP 2008, SECTION B24 COMPLIANCE TABLE	
KEY DEVELOPMENT CONTROLS AND DESIGN PRINCIPLES	**COMMENTS**
Development Controls	
The following information is to be submitted with any Development Application for subdivision:	
• Plans displaying compliance with the development controls outlined in the Tweed Development Control Plan Section A5 - Subdivisions Manual, including but not restricted to Part A 5.4.4 Physical Constraints, A 5.4.5 Environmental Constraints, A 5.4.6 Landforming including Table A 5-3.	Complies – this information is provided in the Environmental Assessment at Section 3.2 and **Annexure 11**.
• Plans and site sections that demonstrate design measures employed which minimise bulk earthworks over the site.	Complies – see revised Engineering Report at **Annexure 11**.
• Accurately represented and documented detail of all proposed site works including cut, fill, benching and retaining walls.	Complies – see revised Engineering Report at **Annexure 11**.
• Landforming plans are to detail the location, management and final placement of Class 6 Soils in order to preserve and productively utilise this soil.	See comments below.
1. Maintain the integrity of ridge lines, valleys and natural topographic features as an important part of the locality's character;	Complies – see Annexure 21 of Environmental Assessment and **Annexure 12**.
2. Batters and retaining walls are not permitted for the purpose of creating terraced lots, as per DCP A5;	The landform proposed generally complies with Section A5. Justification for the proposed landform is provided above.
3. Demonstrate the preservation and future productive use of Class 6 soil.	Complied with – see **Annexure 29**.
Design Principle 4 – Road Layout, Traffic and Transport	
Objectives	
• As well as providing access for vehicles, streets and roads are to be pedestrian safe and friendly environments.	Complies – within the constraints imposed by existing topography and Council's Landforming Policy. Passive surveillance of streets is achieved by the road design and all new streets will comply with the construction standards contained in Council's Subdivision Manual. The lot and road layout has been designed to minimise earth works. Wherever possible and practical the roads either provide the opportunity for views to the Terranora Broadwater or to the landscape open space that separates the two clusters of lots.
• Integrate the principles of WSUD into street and open space design;	Complies – see **Annexure 8** – WSUD Principles have been included in the project generally, within the constraints imposed by topography.

TABLE 3 – TDCP 2008, SECTION B24 COMPLIANCE TABLE	
KEY DEVELOPMENT CONTROLS AND DESIGN PRINCIPLES	**COMMENTS**
• Progressively implement the construction of Broadwater Parkway, the primary road for the Area E Urban Release Area.	Complies – Council is required to acquire the corridor of Broadwater Parkway from Fraser Drive to the eastern boundary of Altitude Aspire under the terms of the Voluntary Planning Agreement. Under the terms of the Voluntary Planning Agreement Newland are required to construct Broadwater Parkway from Fraser Drive to the Altitude Aspire Stage 7 entry roundabout prior to release of the Stage 7 Subdivision Certificate.
• The design of Broadwater Parkway is to create a sense of place through a range of public domain treatments and address pedestrian movement and comfort, efficient vehicle movement, and establish a key entry statement and journey to the overall character and appearance Area E.	Complies – details will accompany the Construction Certificate Application.
• A road layout and design that provides integration between the existing urban fabric, particularly to the East and West, for an efficient bus transport option. Suitable locations and attractive bus shelter designs should be determined to further encourage this sustainable mode of transport.	Complies – it is proposed to connect Parkes Lane and Market Parade to the Altitude Aspire street network to improve connectivity and permeability. Suitable bus shelters will be incorporated as the subdivision develops at appropriate locations in consultation with bus service operators.
• A road network and layout that establishes a clear and legible configuration contributing to way finding and establishing a strong streetscape character in terms of carriage widths, verge, street trees and implementation of water sensitive urban design principles.	Complies – the street network has been derived following a number of trial layouts to achieve maximum connectivity and permeability, comply with Council's maximum road gradients, minimise landform changes and provide efficient and cost effective allotments. Council has advised in emails dated 31 July 2012 and 16 November 2012 that the proposed road orientation is acceptable (see **Annexure 23**).
• Adequate integrated bicycle facilities (parking and on/off street routes). Particular consideration should be given to providing East-West links throughout Area E that traverse the same contour, or provide minimal transition in elevation to further encourage this healthy and sustainable form of transport.	Complies – appropriate cycleways/walkways will be provided as indicated on the Application Plans having due regard to site opportunities and constraints and in particular relatively steep gradients in some locations.
Development Controls	
The following information is to be submitted with any Development Application for subdivision: • Traffic Study.	Complies – see revised Altitude Aspire Transport Assessment Report at **Annexure 15**.
1. Any application seeking development consent prior to the construction of Broadwater Parkway, must be accompanied by a traffic study demonstrating the ability for the proposal to be accommodated by existing or alternative proposed road networks to the satisfaction of Council.	Complies – see revised Altitude Aspire Transport Assessment Report at **Annexure 15** demonstrating adequacy of temporary access from Fraser Drive.
2. A Traffic Study is to be submitted with any development application should the application depart from the external connections or increase the dwelling targets specified within this Code.	Complies - the proposal does not depart from the external connections or dwelling targets to any substantial extent, but a revised Traffic Assessment is at **Annexure 15**.

TABLE 3 – TDCP 2008, SECTION B24 COMPLIANCE TABLE	
KEY DEVELOPMENT CONTROLS AND DESIGN PRINCIPLES	**COMMENTS**
3. Applicants must investigate any changes to public transport services in consultation with the local public transport provider and ensure those changes are incorporated. As part of a development application, a route suitable for a bus shall be designed for in terms of suitable pavement widths and appropriate bus stop locations.	Complies – see Revised Altitude Aspire Transport Assessment at **Annexure 15** in relation to bus routes.
4. Demonstrate how the road layout compliments the topography of the land through a road layout detailing the primary, or long street of the block following the contour, whilst the secondary, or short street of the block positioned perpendicular to the contour.	Complies – see **Annexure 4** and comments above regarding the objectives of Design Principle 4.
5. Demonstrate how the road layout is clear and legible, provides long views towards the Terranora Broadwater, and other green or landmark vistas, and provides for regular shaped lots.	Complies – see **Annexures 4** and **12**.
6. Ensure that a road forms the edge to the natural and environmental protection areas providing a public interface to the buffers and areas of environmental protection and avoid the rear of properties to directly back onto buffer areas and areas of environmental protection.	Complies – Broadwater Parkway will form the edge of the wetland buffer. See comments in **Annexure 1**.
7. The design of Broadwater Parkway is to include a range of public domain treatments and address pedestrian movement and comfort, efficient vehicle movement, and establish a key entry statement and journey to the overall character and appearance Area E.	Complies – see **Annexures 5** and **11**.
8. Suitable locations and attractive bus shelter designs should be determined to further encourage this sustainable mode of transport.	Complies – bus stop locations are shown on Figure 6.2 of **Annexure** 15. Final locations and designs will be determined as part of the Construction Certificate for each stage.
Design Principle 5 – Open Space	
Objectives	
• Ensure a mix of active and passive open space to service the community; • To integrate road layout with open space and pedestrian / cycle paths to achieve good access, connectivity and site permeability; • The primary role of the open space is to ensure that the passive and active recreation needs of the proposed community are met. However, the open space is also expected to provide visual relief to the urban environment and to be designed to contribute towards an overall identity and a new 'sense of place' for the community (responsive to the unimproved nature and vistas characteristic of the undeveloped site);	Complies – active open space contributions in lieu will be paid in accordance with the Voluntary Planning Agreement and the Indicative Structure Plan, as no active open space areas are proposed within the Fraser Drive Precinct or the Altitude Aspire site. Casual open space areas also substantially comply and will be suitably embellished and dedicated as public reserves.

TABLE 3 – TDCP 2008, SECTION B24 COMPLIANCE TABLE	
KEY DEVELOPMENT CONTROLS AND DESIGN PRINCIPLES	**COMMENTS**
• The design of the individual open spaces and overall network is to facilitate use by the community. Open space should incorporate design aspects of safety, accessibility, activity (through embellishments) and utility (e.g. slope, dimensions). The network in the area should acknowledge its role in the 'bigger system' by building upon and connecting to open spaces in surrounding areas; • Ensure a diverse range of quality open spaces is anticipated to allow for diversity of recreation use and flexibility to meet the changing recreation needs of future generations; • Ensure the provision of a structured open space facility within the Area E Urban Release Area; • Encourage the delivery of alternate forms, uses and facilities for public open space; • Provide a series of well designed public open spaces that contributes to the identity, amenity and wellbeing of the community; • Provide open space that is conveniently and safely accessible to users, particularly pedestrians and cyclists; • Ensure green linkages are provided through the residential precincts to connect the open space system into the greater (external) network; • The open space areas are designed to ensure that land is not fragmented by physical barriers preventing use by those that it intends to service, including inhibited groups such as the frail; • To ensure that open space areas comprise suitable dimensions, quality of land and are unencumbered by hazards; • Provide opportunity for community gardens;	
Development Controls	
1. Structured open space is to be provided as detailed within Figure 2.10, specifically: • 4.17ha (gross) of structured open space within the Village Centre by way of one playing field. • 2.89ha (gross) by way of a singular full sized playing field in the central precinct (southern/ southwestern area) • 2.09ha (gross) by way of a singular full sized playing field in the western precinct.	Complies – no proposed structured open space areas are located on Altitude Aspire. Contributions in lieu will be paid in accordance with the Voluntary Planning Agreement between Newland and Council.
2. Large open space areas and smaller pocket parks as nominated on the structure plan should be a combination of active and embellished structured and casual open space including community gardens to assist in wider use by the future community.	Substantially Complies – see Section 3.4 and **Annexures 4** and **5**. Conceptual designs accompany this Preferred Project Report for each of the casual open space parks in general accordance with Section A5 – Subdivision Manual (see **Annexure 5**).

TABLE 3 – TDCP 2008, SECTION B24 COMPLIANCE TABLE	
KEY DEVELOPMENT CONTROLS AND DESIGN PRINCIPLES	**COMMENTS**
Detail design of each of these parks and open space areas including details of embellishments including lighting, paths ways, viewing platforms, park furniture, landscaping, play equipment, shelters, bbqs and picnic areas are to be lodged with applications that include open space land;	It is considered unreasonable that detailed designs be submitted at this stage as they are more appropriately provided with the Construction Certificate Application.
3. Subdivision design shall integrate walking and cycling paths connecting to the key open space area, residential precincts with the village centre and surrounding urban fabric. There is opportunity to include pathways through the environmental protection area to traverse the steep topography as well as provide educative interpretive environmental trails;	Complies – see **Annexures 5** and **15**.
4. Open space areas are to be surrounded by a public interface (predominately roadways) and an adjacent ring of medium density development where row houses, terrace houses, courtyard houses, zero side setback houses, duplex, triplex and other medium density typologies are incorporated;	Substantially complies – see comments in **Annexure 1**.
5. Open space and public domain plans prepared are to allocate areas for the purpose of urban agriculture and community gardens, enabling them to be pursued by interested community members;	Complies – proposed Lots 610 and 712 have sufficient area for a "community garden".
6. In the event of a development application detailing that a structured open space requirement cannot be accommodated within the Area E release site, the applicant shall demonstrate: • Investigations undertaken into providing open space as detailed within this Code; • How the alternate proposal will properly service the needs of the release area.	Complies – contributions in lieu of onsite dedication of structured open space will be paid in accordance with the Voluntary Planning Agreement. The contributions will be towards acquisition and embellishment of the area shown on the Indicative Structure Plan.
Design Principle 6: Dwelling and Allotment Mix	
Objectives • To provide for a range of lot sizes and medium density integrated sites which will provide a broader range of housing types, sizes and housing choice for future occupants.	Substantially complies – see details below in response to relevant development controls.
Development Controls	
The following information is to be submitted with any Development Application for subdivision: • Density Projection Plan.	Complies – see Density Projection Plan at **Annexure 21**.
1. Prepare a Density Projection Plan, including a breakdown on plan and ancillary schedules of differing allotment sizes including but not limited to transition lots (greater than 1,200m2), large lots (greater than 800m2), suburban blocks (450-1000m2), small lots (<450m2), courtyard house lots, zero setback lots, semi attached lots.	Complies – see Density Projection Plan at **Annexure 21**.

TABLE 3 – TDCP 2008, SECTION B24 COMPLIANCE TABLE			
KEY DEVELOPMENT CONTROLS AND DESIGN PRINCIPLES			**COMMENTS**
2. Satisfy the density yield targets identified within Table 2.1 of this Code. Where these yields cannot be met, justification for the departure or variation is required. Significantly sloping land or development costs in isolation would not constitute appropriate justification. Density and yield offsets around different parts of the precinct will be considered.			Substantially complies – as indicated in the following Table 2.1 of Section B24. The variation of approximately 6% is minor and reflects the site's opportunities and constraints, impacts of open space buffers required and detailed design of the layout to comply with the Section B24 Indicative Structure Plan:
Housing / Lot Type	Fraser Drive Precinct		
	Required	Required Altitude Aspire	Proposed
Transitional and Large Lot Residential (Lots >800m2 or 1200m2 for Transitional)	47[1]	30	26
Suburban Lot Residential (Lots between 450 – 800m2 at a general rate of 1 dwelling per 650m2 of site area)	229	229	225
Small Lot and Medium Density (Lots between 250 – 450m2 and medium density development at a general rate of 1 unit per 333m2 of site area)	55	55	Lot 701 (5269m^2) = 14 Lot 711 (3745m^2) = 10 Lot 925 (2938m^2) = 8 Lot 926 (7729m^2) = 21 Est Yield 1/333m^2 = 53
Neighbourhood Planning Housing	32[2]	Approx. 10[2]	NIL
Shop-Top & Village Centre Residential	0	0	0
Total	**363**	324	**304**
1. Josh Townsend of Tweed Shire Council advised by email on 2 March 2012 that 47 lots is incorrect and should read 30. 2. The Indicative Structure Plan (Fig 2.2) shows a small area of neighbourhood planning housing in the north western part of Stages 2 & 3 of Altitude Aspire. However, because of topographic constraints and drainage corridor requirements, it is not feasible to develop neighbourhood housing in this area.			
3. Demonstrate the nomination (through a plan and ancillary schedule) the dwelling type and appropriate or likely structural system/s nominated to each individual lot to demonstrate the nexus between slope, allotment size and appropriate dwelling type. Note: Structural categories could include: single slab on ground, split or raft slab, hybrid slab and post and beam, post and beam construction and pole construction.			Complies – see Structural System Plan at **Annexure 21**.
4. Allocation of transition allotments (minimum lot size of 1200m2) to interface areas where Area E adjoins existing large lot areas. These interfaces have been identified on Figure 2.12.			Complies – see **Annexure 4**. All lots at the Parkes Lane/Market Parade interface are in excess of 1200m^2.
5. Any architectural guidelines formed as part of a subdivision application must embody the objectives and design principles and development controls within the residential section of this plan or provide suitable design based justification as to why variations from these objectives, principles and controls is sought.			Complies – no architectural guidelines are proposed.

TABLE 3 – TDCP 2008, SECTION B24 COMPLIANCE TABLE	
KEY DEVELOPMENT CONTROLS AND DESIGN PRINCIPLES	**COMMENTS**
Design Principle 7 – Urban Design, Streetscape & Public Domain	
Objectives	
• Public domain areas both within the village centre and residential areas are embellished to a high standard and reinforce the landscape character of the locality. • Public domain areas are safe and accessible to all users.	Complies – public reserves, road reserves and drainage reserves will be appropriately embellished in accordance with detailed plans to accompany the Construction Certificate Application. Conceptual Landscaping Plans are attached to this Preferred Project Report at **Annexure 5**. Complies – see comments above.
Development Controls	
The following information is to be submitted with any Development Application for subdivision: • Public Domain Plan.	
1. Prepare a public domain plan for the open space areas, including but not limited to: • a sustainable landscape concept which relates to street tree plantings, drainage corridors, buffer areas, casual open space and public domain areas. Street trees are to be nominated within the street verge of every street and relate to the street pattern hierarchy. The street trees are to be positioned in a location where they are unlikely to conflict with the location of future driveways; • Application of Water Sensitive Urban Design Principles to the streets, casual open space and drainage corridors where possible; • The inclusion of street plans and sections (one for each different street typology) illustrating relationship between allotments (illustrate indicative front of buildings adjoining streets), verge and street tree plantings, street lighting, pavement, footpaths and any other embellishments; • Inclusion of an entry feature or gateway markers that embody the history/character of the Terranora locality; • Mahers Lane (South) - is to incorporate a landscaped feature combining native plants, local stone and incorporate a bus shelter including bike parking and water supply; • Mahers Lane (North) - is to be embellished with a viewing platform and picnic shelters with bbq facilities; • Broadwater Parkway (East) - is to incorporate a landscaped feature combining native plants, local stone and incorporate a bus shelter with bike parking and water supply;	Substantially complies. The Landscape Master Plan at **Annexure 5** contains conceptual details. A formal Public Domain Plan would be more appropriately provided at the Construction Certificate stage when detailed design work has been completed. The Revised Statement of Commitments includes a requirement to this effect.

TABLE 3 – TDCP 2008, SECTION B24 COMPLIANCE TABLE	
KEY DEVELOPMENT CONTROLS AND DESIGN PRINCIPLES	**COMMENTS**
• Market Parade (Corner Park) - is to be embellished with a viewing platform and picnic shelters with bbq facilities; and • Display the interrelationship with the Design Principles contained within this Code.	
Design Principle 8 – Solar Orientation for Lots	
Objectives	
• Encourage subdivision design which maximises opportunity for good solar orientation and access to prevailing breezes in terms of street layout and lot configuration; • Encourage buildings which respond to the natural environment and climatic condition of the location;	Complies – all lots are generally oriented in a north/south or east/west direction subject to topographic constraints and constraints imposed by property boundaries. See **Annexure 21**. Complies - the design orientation and size of the allotments are such that future dwellings can be designed to comply with this objective.
Development Controls	
1. Demonstrate by way of diagrams and or plans how 75% of all new lots (80% aspirational) to meet the AMCORD optimum solar orientation guidelines of being oriented between 20-30 degrees of N/S or E/W; or demonstration that a resultant built form or building envelope on the lots can be sited within these orientation parameters.	Complies – see **Annexure 21**.
2. Any subdivision development application shall avoid cul-de-sacs and road alignments which result in irregular shaped lots. The inclusion of cul-de-sacs may be considered in topographically constrained areas.	Complies – only one cul-de-sac is proposed. The Stage 11 cul-de-sac and irregular shaped lots are required because of topographic constraints and existing lot/street geometry.
Design Principle 9 – Hazards and Resilience	
Objectives	
• Ensure that development is appropriately designed to accommodate for potential climate change impacts. • Ensure that any soil contamination is identified and suitably mitigated prior to the development of Area E. • Provide only suitable development and land uses within land identified as affected by a Probable Maximum Flood. • Minimise the disturbance of acid sulfate soils. • Provide a subdivision layout that responds to and manages bushfire hazards.	Complies – all residential lots will be above the design flood level and climate change level. Complies – see Soil Contamination Assessment at Annexure 13 of the Environmental Assessment Report. Complies – the probable maximum flood level for the site is RL 5.7m AHD. No proposed residential or other urban land uses are proposed below this level. Complies – see **Annexure 18**. Complies – the principal bushfire hazard comprises the vegetation to the north and west of the site. An appropriate asset protection zone to the vegetation will be provided by the future Broadwater Parkway and the proposed road on the common boundary of the subject land and the adjoining land to the west, being Lot 1 DP 175234.

TABLE 3 – TDCP 2008, SECTION B24 COMPLIANCE TABLE	
KEY DEVELOPMENT CONTROLS AND DESIGN PRINCIPLES	**COMMENTS**
	Vegetation communities identified within the Council owned public reserves in the south western corner of the site are relatively isolated and appropriate asset protection zones can be achieved. See Revised Bushfire Assessment Report at **Annexure 14**.
• Incorporate design elements and urban buffers, such as lot size and orientation, perimeter roads or overland drainage reserves, to enable the maintenance of existing vegetation and provide adequate separation of residential land uses from any hazard.	Complies – a perimeter road has been provided on the western and northern boundaries of the site and appropriate lot sizes have been provided at the Parkes Lane and Market Parade interfaces to provide a transitional lot size between the rural residential areas and the future proposed residential areas within Altitude Aspire.
• Ensure areas identified as 'currently unsuitable' are excluded from development for urban purposes or other purposes that are sensitive to soil stability.	There are no areas identified as currently unsuitable for urban purposes within the Fraser Drive Precinct (see Broadscale Geotechnical Engineering Assessment at Annexure 20 of the Environmental Assessment Report).
Development Controls	
The following information is to be submitted with any Development Application for subdivision:	
♦ Detail of all site investigations (including underground and site boring) to provide adequate information to prepare designs and assess construction methods.	Complies – see Broadscale Geotechnical Engineering Assessment at Annexure 20 of the Environmental Assessment Report.
♦ Detail of all necessary geotechnical investigation and analysis to ensure that the subdivision and all works associated with the subdivision are stable and will not be subject to subsidence, landslip, mass movement or significant erosion in the short and long term.	Complies – see above. All earthworks will be carried out in accordance with relevant Australian Standards and Tweed Shire Council Standards.
♦ A Site Audit Statement (SAS) certifying the land is suitable for the proposed use. The SAS is to be prepared by an Environmental Protection Agency Accredited Contaminated Site Auditor under the provisions of the Contaminated Land Management Act, whom is to be engaged to oversee the contamination investigation and any necessary remediation of the site.	Complies – see Site Contamination Assessment at Annexure 13 of the Environmental Assessment Report. In summary, that Report concludes that the concentration of agricultural substances within the surface soils were below the relevant health investigation levels adopted by the NSW EPA. Therefore a Site Audit Statement is not required. See Summary of Soil Contamination Assessment at **Annexure 28**.
1. Required Asset Protection Zones must not be provided on public land (with the exception of roads) and are to be incorporated within development allotments.	Complies – see Application Plans at **Annexure 4** and Revised Bushfire Assessment Report at **Annexure 14**.
Design Principle 10 - Infrastructure	
Objectives	
• Progressively implement the design and construction of essential services for Area E and ensure coordinated and efficient delivery.	Complies – the Voluntary Planning Agreement between Council and Newland achieves an efficient and co-ordinated timeframe and funding mechanism for the delivery of essential services.

TABLE 3 – TDCP 2008, SECTION B24 COMPLIANCE TABLE	
KEY DEVELOPMENT CONTROLS AND DESIGN PRINCIPLES	**COMMENTS**
• Convey external catchment flows safely through the site;	Complies - the existing natural watercourse through the site will be contained within a future drainage reserve which will convey all upstream and onsite flows to a legal point of discharge.
• Preserve existing catchment boundaries and utilise existing water courses and gully lines for conveyance where practical and environmentally sustainable;	Complies – see **Annexures 8** and **11**.
• Provision of minor and major stormwater collection and conveyance systems for the development land;	Complies – see **Annexures 8** and **11**.
• Provision of stormwater quality control devices to meet Council's stormwater quality objectives in accordance with Development Design Specification D7 – Stormwater Quality;	Complies – see **Annexures 8** and **11**.
• Provision of stormwater detention / retention devices and level spreaders to ensure that stormwater discharge from the development does not create significant adverse impacts on receiving water bodies, wetlands and environmental land.	Complies – see **Annexures 8** and **11**.
Development Controls	
The following information is to be submitted with any Development Application for subdivision:	
⬩ Water Servicing Plan	Complies – see **Annexure 11**.
⬩ Sewer Servicing Plan	Complies – see **Annexure 11**.
⬩ Stormwater Management Plan	Complies – see **Annexure 8**.
⬩ Erosion and Sediment Control Plan (ESCP)	Complies – see **Annexure 8**.
1. Any proposal must comply with the Demand Management Strategy adopted by Council employing minimum sized rainwater tanks and connected roof areas as well as reduced infiltration gravity sewers and other measures to reduce demand on water supply and load on wastewater systems.	Complies – see **Annexures 8** and **11**.
2. Land affected by potential water infrastructure, as depicted in Figure 2.18, shall not be used for any other purpose than for water supply infrastructure unless Council specifically determines that the land is no longer required for that purpose.	Complies – see plans at **Annexure 4**. No water reservoir sites are designated on Altitude Aspire.
3. Demonstrate the location of a fibre ready, pit and pipe network (including trenching, design and third party certification) to NBN CO's Specifications, to allow for the installation of Fibre To The Home (FTTH) broadband services.	Complies – see **Annexure 11**.
4. Demonstrate the presence of a lawful point of discharge.	This issue is addressed in **Annexure 19**. In summary, the existing watercourse provides a lawful point of discharge to the Broadwater.

TABLE 3 – TDCP 2008, SECTION B24 COMPLIANCE TABLE	
KEY DEVELOPMENT CONTROLS AND DESIGN PRINCIPLES	**COMMENTS**
RESIDENTIAL	
Built Form	
Objectives	
All residential development within Area E (new build or alterations and additions) is to: • foster high quality environmentally responsive and sensitive design. • be appropriately sited within the natural context, (including native vegetation, and wildlife habitat) maintaining integrity of ridgelines and undulating topography and preserving the landscape and visual character of Area E. • be architecturally appropriate to the specific site, aspect and the sloping coastal hinterland subtropical location through planning, materiality, and construction type. • pursue development and density that is appropriate and responds to site constraints. • provide for alternative housing options within Area E. • pursue design excellence through promotion of holistic approach to site design including an understanding of solar path, prevailing breezes, as well as integrating landscape with building.	Complies – the original Environmental Assessment Report contained, at Annexure 9 Living Design Guidelines for Altitude Aspire. Those Guidelines provided details in relation to built form requirements. However, TDCP2008, Section B24 contains a suite of development controls and guidelines relating to urban design and built form matters. In addition, TDCP2008, Section A1 – Residential and Tourist Code contains detailed guidelines relating to the design and construction of dwellings. Together, these Sections provide a comprehensive suite of development controls and guidelines and accordingly there is no benefit in having separate guidelines for Altitude Aspire. The Living Design Guidelines have therefore been deleted from the final project.
Development Controls	
1. All new dwellings are to comply with the housing type development control matrix detailed in Figure 4.4.	Future dwellings will comply.
2. Demonstrate how the proposal is consistent with the approved Density Projection Plan, or the residential yield targets established within Table 2.1.	Substantially complies– see Design Principle 6.
3. All Development Applications are to be accompanied by a site analysis plan demonstrating an understanding of slope, view, orientation and aspect which demonstrates how the new dwelling(s) has been design in consideration of these contextual elements.	Will be complied with as part of Development Application for future dwellings.
4. All dwellings are to address good streetscape design principles with the primary frontage incorporating at least 3 of the following design elements: • Mix of building materials (at least 3) and colours, • Landscaping of front yard and use of landscaping to define frontage, • Using low and/or partially transparent front fences,	As above.

TABLE 3 – TDCP 2008, SECTION B24 COMPLIANCE TABLE	
KEY DEVELOPMENT CONTROLS AND DESIGN PRINCIPLES	**COMMENTS**
• Providing architectural detail through entry porticoes, verandahs, balconies, pergolas and screens to provide depth to the buildings street elevations,	
5. On downslope blocks, Council will consider a reduced front setback for carports (which can include storage and screens but no garage door) where appropriate car parking and manoeuvring can be achieved without impacting pedestrian and vehicular movement.	As above.
6. Finishes and materials should be appropriate to the local climatic conditions, solar orientation and site specific aspect, opportunities and constraints. Suitable materials include but are not limited to: • Timber, weatherboards, fibre cement sheeting, custom orb, mini orb and other metal sheeting. • Face brick and rendered concrete block (or rendered foam panels) is not to be used as the only material. • Walls of masonry, stone or brick are permissible where it adds to the detailing of an elevation.	As above.
7. No building shall be erected having eaves of less than 600mm with the exception of garages which have a zero lot setback on the zero boundary interface;	As above.
8. Roof materials must contribute to the overall coastal hinterland character in terms of form and colour. Metal sheet roofs are preferred due to the range of muted landscape tones which are less visually obtrusive, low thermal mass and ability to withstand intense weather and high wind conditions unlike tiled roofs. Terracotta, red, blue or white coloured roofs are not permitted due to the impact on regional view fields. Metal roofs should be muted to prevent glare and reflectivity.	As above.
9. Use of metal sheet fences is prohibited due to reflective heat impacts and incompatible visual quality.	This development control will not be complied with. It is considered to be onerous and unreasonable, particularly in the context of contemporary urban design and given that metal sheet roofs are preferred. The alternative fencing type of palings is not conducive to aesthetics, particularly as they age and weather and it is therefore proposed that future owners be permitted to erect metal sheet fences, notwithstanding this development control. In addition, the development control purports to prohibit metal sheet fences. Clearly, a Development Control Plan cannot be inconsistent with a Local Environmental Plan and TLEP2000 does not prohibit metal sheet fences.

TABLE 3 – TDCP 2008, SECTION B24 COMPLIANCE TABLE	
KEY DEVELOPMENT CONTROLS AND DESIGN PRINCIPLES	**COMMENTS**
	The provision is therefore statutorily invalid on its face.
10. The return of side fences is to be set back at least 1.0m from the front building line, as displayed within Figure 4.3.	Will be complied with as part of Development Applications for future dwellings.
Cut and Fill	
Objectives	
• To limit modification of site levels at boundaries to maintain amenity to adjoining properties. • To promote building design which is designed to sloping sites rather than modify sloping sites to suit building design. • To promote building design which takes up of sloping site level change within the building envelope rather than at boundary edge to reduce amenity impacts and promote building design more conducive to sloping sites. • To ensure site modifications, retaining walls and engineered elements do not adversely impact on the streetscape. • Ensure that fencing on top of retaining walls does not adversely impact amenity of neighbouring properties or destabilise retaining walls. • To ensure best practice design for sloping sites.	Complies – proposed finished surface landforms achieved at the subdivision stage, which comply with Tweed Shire Council's Landforming Policy (Development Design Specification D6), will minimise the need for further cutting and filling on individual allotments to facilitate dwelling construction.
Development Controls	
1. All natural ground levels are to be maintained except where land reforming is necessary to allow the building and approved buildings or structures in which case excavation is limited to the width of the building footprint rather than the width of the site.	Complies – it is assumed that reference to *"natural ground levels"* means approved finished ground level following completion of landforming at the subdivision stage. Subject to the above, this provision will be complied with at the Development Application stage for dwellings.
2. On sloping sites excavations must not be made for a contiguous slab on ground construction if the lot has a slope of greater than 6 degrees or 10%. Design on sloping sites should reference sloping design principles and the sloping sites matrix included within this plan.	As above.
3. Level change is to be taken up within building design, rather than at property boundaries.	As above.
4. All proposed site works including cut, fill, benching and retaining walls to be accurately represented and documented as part of a development application submission by way of a site works plans and sections.	As above.
5. All excavation, cut and fill is to comply with the provisions of the Tweed Development Control Plan Section A1 – Residential & Tourist Development Code.	As above.

TABLE 3 – TDCP 2008, SECTION B24 COMPLIANCE TABLE	
KEY DEVELOPMENT CONTROLS AND DESIGN PRINCIPLES	**COMMENTS**
Cut allowances may be increased to a full level (2.7m) where design relates to the slope in terms of stepping slabs, drop edge beams, post and beam construction and is within the building envelope.	
6. Where cuts exceed 1.0m they should be retained and backfilled to the wall of the dwelling with the retaining wall designed and constructed to the specification of a certified structural engineer. In addition any cut and fill outside of building envelope would be controlled by the +/- 1.0m control.	As above.
7. Site cut and fill within building envelope should be obscured from view by way of cladding, screening and or landscaping.	As above.
8. Where possible, the use of the stone found on the site should be incorporated into the retaining walls, although it is understood that this stone would not be suitable for structural elements of retaining walls.	In situ rock will be used to create retaining walls at the subdivision landforming stage where possible.
Landscaping	
Objectives	
• To promote integration of landscape and building design. • To conceal cut and fill earth works. • To promote the use of native and endemic species. • To protect Koala food trees.	Will be complied with at Development Application stage for dwellings.
Development Controls	
1. A landscape plan (or site plan) demonstrating integration of landscape with building design for shade or screening to be submitted for new dwellings in accordance with provisions of the Tweed DCP Section A1 – Residential and Tourist Development Code;	Will be complied with at the Development Application stage for dwellings.
2. No person shall remove, damage or in any way interfere with any Koala food trees, home range and primary browse trees located on the land or at any place in Area E;	No suitable Koala habitat occurs on the site.
3. All existing significant vegetation including, existing trees in road reserves, along paddock edges, important feature trees / stands of trees (not necessarily endemic natives) are to be identified as part of the precinct masterplan and where possible retained;	Complies – see plans at **Annexure 9**. Generally, all existing significant vegetation will be contained within proposed Lot 1001 in Stage 10, proposed Lot 610 (drainage reserve in Stage 6) and proposed Lot 451 (public reserve) where possible. The reference to a Precinct Master Plan is an error (John Lynch pers. com. 14.02.12 and should be read as a reference to the subdivision Application Plans).
4. 80% of plant species utilised on site are to be native and endemic to the area.	Will be complied with at the Development Application stage for dwellings.

TABLE 3 – TDCP 2008, SECTION B24 COMPLIANCE TABLE	
KEY DEVELOPMENT CONTROLS AND DESIGN PRINCIPLES	**COMMENTS**
Topographically Sensitive Development Opportunities	
Objectives	
• Promote development that is considered holistically, including shared and coordinated deep soil zones, retention of natural systems, building position and material use that enables vegetation retention, or generous offset plantings, roads that minimise bulk earthworks, innovative communal services designs (i.e. garbage disposal etc).	Complies – medium density sites will be the subject of integrated design to achieve co-ordinated deep soil zones, vegetation retention and landform.
• Promote an integrated design for the whole development, including designs of each of the proposed dwellings to enable a holistic architectural consideration of complex and structurally difficult sites.	Complies – the final design layout proposed in this Preferred Project Report has evolved from numerous drafts prior to finalisation of the Environmental Assessment Report and a number of amendments following public exhibition of the Environmental Assessment Report. The final layout achieves a workable balance between the site opportunities and constraints, compliance with Council's Code requirements and the achievement of commercially viable allotments.
• Promote development opportunities as a series of building envelopes which are sensitively sited with topographic constraints and avoid large expanses of elevations and large groupings of attached units.	Complies – final landforms achieved at the subdivision stage will minimise further landform changes required to establish dwelling houses.
• Encourage suspended structural systems to avoid avoiding extensive earthworks.	Will be complied with a dwelling design phase.
• Utilise lightweight materials which respond to the context and climate but also reduce structural loads.	As above.
• Encourage integrated landscape plans, combining whole of site ecological benefits with built form envelopes.	**Annexure 5** comprises a Revised Integrated Landscape Master Plan for the whole site which establishes a design philosophy for future landscaping of individual sites in conjunction with the erection of dwelling houses.
• Promote a high quality, topographically sensitive form.	Complies – the final landform proposed complies with Council's Landforming Policy requirements, achieves a balance between cut and fill and substantially achieves Council's objectives contained in Section B24 relating to buildings on sloping sites, a range of lot types and gradients and minimising landform disturbance.
Development Controls	
1. Demonstrate how the proposal addresses each of the abovementioned objectives.	See comments above.
Climatically Sensitive Design	
Guiding Principles	
The diagram overleaf (see Page 128 of the Tweed Area E Urban Release Development Control – Section B24) illustrates optimum design considerations on a range of street frontage orientations.	These Guiding Principles will be complied with at the Development Application stage for dwelling houses.

TABLE 3 – TDCP 2008, SECTION B24 COMPLIANCE TABLE	
KEY DEVELOPMENT CONTROLS AND DESIGN PRINCIPLES	**COMMENTS**
To respond to the local features of hot humid summers, wet summers, drier winters, housing should incorporate the following features: • Consider the best part of the allotment to position the house in terms of achieving a good aspect to outdoor living areas in terms of solar path, shade, prevailing breezes and view. • Orient indoor and outdoor living spaces north to benefit from winter sun, but provide adequate shading to these areas during summer months. • Elevate your house and have adequate spacing between your neighbours to capture cooling summer breezes. • Provide generous and deep balconies and verandahs as outdoor living areas, but also to provide good shading and thermal buffers to interior spaces. • Consider prevailing summer wind patterns (afternoon north east) and utilise these to obtain passive cooling outcomes through the positioning of windows and doors. • Interconnect indoor and outdoor living spaces to facilitate an effective and interactive indoor-outdoor lifestyle. • On upslope blocks elevate living space for views and breeze as well as achieving level transition to rear yard. • On down slope blocks seek to utilise the front yard as integrated outdoor - indoor space. • Locate bathrooms, laundry's and other service uses on the south or western side of the house. • Buildings with a predominantly west orientation are to be adequately designed to the solar orientation and shall including deep eaves of no less than 600mm and window hoods or be appropriately shaded to all west and north- west facing glazed areas. Building designs should consider deep covered verandahs and balconies to the north, north-west and west orientations. • Consider roof colour in terms of balancing reflectivity and glare (resulting from white or lighter colours) with unwanted heat gain (from dark colours) Face brick and rendered concrete block is not to be used as the only material to a buildings elevations given the climatic context; • A series of roof planes break up the roof mass and building mass, as well as providing greater opportunity for natural light penetration and stack effect ventilation. High volumes or raked ceilings over living spaces is encouraged in all new dwellings;	

TABLE 3 – TDCP 2008, SECTION B24 COMPLIANCE TABLE	
KEY DEVELOPMENT CONTROLS AND DESIGN PRINCIPLES	**COMMENTS**
• Predominate use of light weight materials which have a low thermal mass beneficial to the low diurnal climatic range; • Minimise solid masonry fencing and high retaining walls as this blocks cooling breezes to the ground floors and yard spaces; • Incorporate insulation to ceilings and walls; • Maximise external wall areas and use single room depths where possible; • Incorporate ceiling fans; • Incorporate suitable drainage appropriate for the slope; • Incorporate covered clothes drying areas.	
Small Lot Housing	
Guiding Principles	
• Integrate small lot housing with other forms of housing and design in variation by way of form, roof type and material to each different small lot house to enrich and provide streetscape diversity. • Locate small lot housing within 400m of large tracts of open space. • Locate small lot housing within 400m of public transport and mixed use nodes. • Each small lot housing allotment has a street frontage rather than a battleaxe arrangement. • Zero lot and rear loaded small lot typologies are to incorporate an integrated building and subdivision design. • Dwellings should be oriented with living areas facing north, whether that be to rear yards or to side lot courtyards. • Courtyards and light wells should be used where possible. Rooms may have windows facing the courtyard/lightwell, rather than facing the side boundaries, increasing privacy, light access and ventilation. • Reduce impact of garages by considering lightweight open carports with roof lines which integrate with the house forming an overall streetscape composition. • Design in generous amounts of external living spaces which have a strong relationship to internal living spaces. • Consider modest sized floor areas rather than trying to fit a large house on a small lot. • Consider 2 storey forms to maximise the amount of outdoor area on the ground floor reducing the amount of building envelope and increasing deep soil and infiltration areas.	As indicated in response to Design Principle 6, Development Control 2 – Dwelling and Allotment Mix, there is only a very small area of neighbourhood planning housing shown on the Altitude Aspire site. Achieving neighbourhood housing on that area is highly constrained by existing topographic and property boundary constraints. In summary, it is likely that only a duplex could be realistically achieved on proposed Lot 311 because of these constraints.

TABLE 3 – TDCP 2008, SECTION B24 COMPLIANCE TABLE	
KEY DEVELOPMENT CONTROLS AND DESIGN PRINCIPLES	**COMMENTS**
• Consider flexibility of use in dwelling design, for example a carport which can become an outdoor entertaining area. • Include higher internal volumes over living spaces to assist in thermal performance, but to also to create a greater sense of space.	

3.2 Tweed Development Control Plan 2008, Section A5 – Subdivision Manual

An assessment of the amended Project Application against relevant provisions of Section A5 is contained in the following tables:

TABLE 4 – SUBDIVISION REQUIREMENTS	
PROVISION	**COMMENTS**
A5.3.1 – Master Plans	
The subject site is located within the coastal zone and involves more than 25 lots and therefore a Development Control Plan would normally be required under the provisions of State Environmental Planning Policy No. 71. However, as this is a Major Project to which Part 3A applies a Development Control Plan is not required under State Environmental Planning Policy No. 71.	A Development Control Plan is not required as this is a Part 3A Major Project Application. In any case, Council has adopted Tweed Development Control Plan Area E Urban Release Development Code, Section B24.
However, this Section of the Development Control Plan provides that a Master Plan is still required for more than 25 lots and, **where the urban pattern (street and open space network, neighbourhood structure, etc.) is not determined by:** • Development and street/neighbourhood development patterns; or • An existing site specific section that determines the general street and neighbourhood layout.	Complies – Council has adopted the Tweed Area E Urban Release Development Code, Section B24.
A5.3.4 – Subdivision Design	
Site investigation, survey and analysis	Complies – see Section 3.0 and Annexures of the Environmental Assessment Report prepared by Darryl Anderson Consulting Pty Ltd, dated December 2010.
Statutory and Council requirements	Complies - integrated development provisions do not apply to Part 3A Major Projects.
Subdivision design trial layouts and optimisation	Complies – a Detailed Site Analysis has been undertaken to identify the key site opportunities and constraints following which a number of layout options were developed to identify optimal yields, appropriate disposition of casual open space areas and suitable connectivity and access requirements. The proposed amended layout is considered to achieve the best outcome balancing all relevant planning and commercial considerations, key site opportunities and constraints and key issues raised following public exhibition of the Environmental Assessment.

TABLE 4 – SUBDIVISION REQUIREMENTS	
PROVISION	**COMMENTS**
Pre-application consultation	Complies – see Development Assessment Panel Minutes at Annexure 29 of the Environmental Assessment Report.

Urban Design Guidelines and Development Standards

The following **Table 5** summarises the key guidelines contained in this part of Section A5.

TABLE 5 – DESIGN GUIDELINES	
PROVISION	**COMMENTS**
A5.4.3 – Physical Constraints	
In summary, this section provides that prior to detail Master Planning of a site, the physical constraints of the site must be identified, mapped and constraint issues resolved.	Complies – constraints relating to slope, geotechnical stability, bushfire, contamination and threatened species have been identified in the various plans and annexures and the amended subdivision layout reflects those constraints and the site's opportunities.
A5.5.4 – Environmental Constraints	
Contaminated land.	Complies – Annexure 13 of the Environmental Assessment Report comprises a soil contamination assessment for the site. The report concludes that the site is suitable for the proposed residential development.
Landslip or subsidence.	Complies – Annexure 20 of the Environmental Assessment Report comprises a Geotechnical Report which concludes that the proposed subdivision is a suitable and feasible land use for the subject site in terms of geotechnical conditions.
Bushfire risk.	Complies – the Revised Bushfire Assessment at **Annexure 14** does not identify bushfire threats as an absolute constraint.
Threatened species, population or ecological communities or their habitats.	Complies – the Revised Ecological Assessment and Vegetation Management and Rehabilitation Plan at **Annexures 9** and **10** address all relevant statutory provisions under the Threatened Species Conservation Act. The reports conclude that the proposed development does not result in a significant effect and a Species Impact Statement is not required for the development.
Koala habitat.	Complies – the Ecological Assessment concludes that for the purposes of State Environmental Planning Policy No. 44 there is no requirement for a Koala Plan of Management. No Koala food trees were identified on site (see **Annexure 15** of the Environmental Assessment Report).
Significant vegetation.	Complies – the site contains seven vegetation communities as shown on **Figure 2** of **Annexure 9**.
Landscape visual character.	This issue is addressed in the Revised Visual Impact Assessment at **Annexure 12**.
Acid Sulphate Soils.	See **Annexure 18**.

TABLE 5 – DESIGN GUIDELINES	
PROVISION	**COMMENTS**
Heritage or cultural items of Aboriginal or European origin.	This issue is addressed in the Revised Cultural Heritage Report at **Annexure 6**.

TABLE 6 – LAND FORMING	
PROVISION	**COMMENTS**
A5.4.5 – Land Forming	
A. General Criteria	
1. Significant Natural Features Site regrading is not to take place on: • topographical features that are significant to the character of the site or locality. • existing or natural watercourses with catchment areas of 100ha or more. • riparian zones (see Table A5-5) associated with above.	These matters are addressed in the Revised Engineering Report at **Annexure 11**.
2. External & Perimeter Issues (a) Cross Boundary Drainage; • Runoff from the subject land to other land shall not be significantly increased; • Runoff from upstream or upslope of the subject land shall be conveyed unimpeded across the land; • Public infrastructure in land to be regraded shall be preserved and if necessary for its continued viability be reconstructed to suit the new landform. Public infrastructure continuity shall be preserved at external boundaries. • Alteration of the locations of cross boundary stormwater drainage/watercourse discharge should be avoided. If alterations are proposed, then the written agreement of all effected downstream landowners is required. (b) Perimeter levels; Pre development levels must be preserved at external (perimeter) boundaries of a subdivision, preferably without the use of boundary (or within 3m of the boundary) retaining walls exceeding 1.2m in height. The application of this criteria may be varied in infill subdivisions in flood liable areas where there is general filling to provide flood immunity.	These matters are addressed in the Revised Preliminary Engineering Report at **Annexure 11**.
B. Mass Landform Change Criteria 1. Residential, includes residential subdivisions in Village, Urban Expansion and Rural Living zones. The proportion of a subdivision site (plan area) that contains cut or fill areas with finished surface levels that depart from natural surface levels by more than 5m shall not exceed 10%. Variations up to 15% of site area may be considered if such variations have a demonstrated environmental benefit (eg. avoidance of importing borrowed fill off site). 2. Industrial, Business and Mixed Use Subdivision, includes industrial, business and mixed use subdivisions in Village and Urban Expansion zones.	These matters are addressed in the Revised Engineering Report at **Annexure 11**.

TABLE 6 – LAND FORMING	
PROVISION	**COMMENTS**
A5.4.5 – Land Forming	
The proportion of a subdivision site (plan area) that contains cut or fill areas with finished surface levels that depart from natural surface levels by more than 8m shall not exceed 20%. For the purpose of this Section "subdivision site" includes the parcels of land created for private sale and formal parks, and does not include undeveloped areas, areas retained for environmental purposes, roads, or residual allotments. If a subdivision contains a mix of urban and rural/rural residential uses, the rural/rural residential areas must be excluded from the urban areas for the purposes of complying with this Clause.	
C. Shape/Surface Criteria 1. Residential and Rural Living Subdivision, includes residential subdivisions in Village and Urban Expansion zones: • The finished landform shape (concave/convex, rolling, stepped etc) of the subdivision site should mimic existing and local surrounding natural topography. • Except as provided in Note 1 below, no sharp changes of gradient (eg associated with batters or retaining walls) are permitted at or near inter lot boundaries or within lots. • Batters and retaining walls are not permitted for the purpose of creating terraced lots. • Sharp changes of gradient are permitted at road and public land boundaries. • See Figure 4.2.2. Note 1: A retaining wall or batter of maximum "combined height" (as defined in Section E) of 1.2m at or adjacent to inter lot boundaries may be permitted to ease lot gradients, where lot longitudinal or cross gradient would exceed 10% in the absence of such retaining wall or batter. 2. Industrial, Business and Mixed Use Subdivision, includes industrial, business and mixed use subdivisions in Village and Urban Expansion zones: • Terraced lots with sharp changes of gradient associated with retaining walls or batters are permitted. Sharp changes of gradient (ie. associated with batters or retaining walls) are permitted at or near lot, road and public land boundaries. Sharp changes of gradient are permitted within lots.	These matters are addressed in the Revised Engineering Report at **Annexure 11**. See above.
D. Plans Criteria Site regrading proposals must be accompanied by the plans specified in Development Design Specification D13 – Engineering Plans (Subdivisions) clause D13.03 5(a)	These matters are addressed in the Revised Engineering Report at **Annexure 11**.
E. Retaining Walls and Batters Criteria 1. Definitions: "retaining wall" is defined as a structure required to retain soil, rock and other materials. It includes retaining and revetment structures as defined in clause 1.1 of AS 4078 - 2002. "batter" is defined as the sloping surface of artificial cuttings and embankments that have a gradient exceeding 25%. It excludes natural slopes.	These matters are addressed in the Revised Engineering Report at **Annexure 11**.

<table>
<tr><th colspan="2">TABLE 6 – LAND FORMING</th></tr>
<tr><th>PROVISION</th><th>COMMENTS</th></tr>
<tr><td colspan="2">A5.4.5 – Land Forming</td></tr>
<tr><td>"Combined height" is defined as the vertical height difference at or adjacent to the boundary between top of batter or retaining wall and bottom of batter or retaining wall. Adjacent to a boundary includes any batters or retaining walls that lie either wholly or partly within a distance of 5m measured horizontally from the allotment boundary.
2. Criteria
(a) The combined height of retaining walls or cut/fill batters on an allotment boundary shall not exceed the following</td><td></td></tr>
<tr><td>
<table>
<tr><th colspan="4">MAXIMUM PERMISSIBLE COMBINED HEIGHT OF RETAINING WALLS OR BATTERS</th></tr>
<tr><td rowspan="2">Type of Subdivision</td><td rowspan="2">Perimeter boundary of subdivision</td><td colspan="2">Boundaries of lots created within subdivision</td></tr>
<tr><td>Side and Rear Boundaries</td><td>Street Boundary</td></tr>
<tr><td></td><td></td><td></td><td>Above Street Level</td><td>Below Street Level</td></tr>
<tr><td>Residential</td><td>1.2</td><td>1.2 see Note 1 of Table A5-3(C)(1)</td><td>1.8</td><td>2.4</td></tr>
<tr><td>Industrial</td><td>1.2</td><td>5</td><td>2.5</td><td>5</td></tr>
<tr><td>Business</td><td>1.2</td><td>5</td><td>1.2</td><td>2.4</td></tr>
<tr><td>Rural Living</td><td>1.2</td><td>Nil</td><td>1.2</td><td>2.4</td></tr>
</table>
</td><td>These matters are addressed in the Revised Engineering Report at Annexure 11.</td></tr>
<tr><td>(b) Where retaining walls or batters are utilised to create a level difference between adjacent allotments or an allotment and a road and the retaining wall is located in the lower allotment, the top of batter or top of retaining wall shall be located a minimum 0.5m horizontally from the boundary</td><td></td></tr>
</table>

TABLE 7 – STORMWATER MANAGEMENT	
A5.4.6 – Stormwater Runoff, Drainage, Waterways and Flooding	
PROVISION	**COMMENTS**
Water Sensitive Urban Design	This issue is addressed in the Stormwater Assessment and Management Plan at **Annexure 8**.
Erosion and Sedimentation Control	This issue is addressed in the Stormwater Assessment and Management Plan at **Annexure 8**.
Permanent Stormwater Quality Facilities	This issue is addressed in the Stormwater Assessment and Management Plan at **Annexure 8**.
Drainage (lawful point of discharge)	This issue is addressed in the Stormwater Assessment and Management Plan at **Annexure 8**.
Riparian Buffer Widths	See Section 8.7.1 and Annexures 14, 15 and 16 of the Environmental Assessment Report.

The following table summarises the key principles applicable to urban structure.

TABLE 8 – SECTION A5.4.7 – URBAN STRUCTURE	
Requirement	**Compliance**
No more than 15% of lots fronting cul-de-sac.	Complies – 5 lots out of 251 will have frontage to a cul-de-sac, which represents approximately 2% of the total residential lots.
Maximum cul-de-sac length 100m serving no more than 12 dwellings with clear view for full length of cul-de-sac.	Complies – cul-de-sac in Stage 11 is only approximately 70m long and services 5 dwellings.
Where constrained by landform alteration limits, the maximum length of cul-de-sacs may be increased to 200m and 24 dwellings and consideration may be given to modification of road connectivity requirements if this leads to better urban design outcomes.	Not applicable.
Linking access for pedestrians and cyclists.	Complies – see **Annexures 4** and **15**.
Bus route/stops should be located at an average spacing of 300 – 400m.	Complies – see **Annexures 4** and **15**.
Street design to achieve target street speeds.	Complies – width and alignment designed to discourage high speeds (see **Annexures 11** and **15**).
Cycleway network required.	Normal contributions under Section 94 Plan No. 22 will be applicable (see also **Annexure 15**).
Dedication of environmentally sensitive areas.	Complies - the central drainage corridor and the 7(a) wetland buffer (Lot 1001) will be dedicated and embellished (see plans at **Annexure 4**).
Casual parks – 1.13 hectares/1000 population (11.3m^2/person). Desirable minimum area 2500m^2 – 4000m^2.	Complies – see Section 3.4.
95% of residences within 400m walking distance of casual parks.	Complies – all lots are within 400m walking distance (see Layout Plan).
Land form of casual park – slopes less than 8%.	Complies – see **Annexures 5** and **11**.
Access from more than one local road.	Complies – see plans at **Annexure 4**.
Road frontage – 50% of perimeter.	Complies – see **Annexure 4**.
Embellishment.	Complies – the local parks will be embellished in accordance with Table A5-8.2.1 of Section A5 of TDCP2008, Section A5 – Subdivision Manual.
Sports playing field – 1.7 hectares/1000 persons (structured or active open space).	Complies - contribution in lieu is applicable in accordance with the Voluntary Planning Agreement between Council and Newland.
Minimum residential lot size of 450m^2 and 10 x 15m building envelopes for dwellings.	Complies lots range from 500m^2 – 1541m^2.
Dual occupancy lots minimum 900m^2 or 1000m^2 for corner lots.	Not applicable.
Solar access – 70% of lots oriented from 340^o to 20^o or 70^o to 120^o.	Complies – see **Annexures 4** and **21**.
Generally rectangular shaped lots.	Complies – see Application Plans at **Annexure 4**.
East – west lots must have a minimum width of 14m.	Complies – see Application Plans at **Annexure 4**. All lots generally 15m to 17m wide.

TABLE 9 – SECTION A5-10 – SUBDIVISION INFRASTRUCTURE REQUIREMENTS			
Infrastructure Required	**Where Required**	**Standard of Infrastructure**	**Comments**
Sealed road frontage with kerb and gutter both sides	All lots for private occupation, community facilities lots and public open space lots.	See Development Design Specification D1.	Complies see **Annexure 11**.
Landform			Generally complies see **Annexure 11**.
Water Supply	All lots for private occupation, community facilities lots, sports fields, parks, play areas, other utility facilities (pump stations etc.).	See Development Design Specification D11.	Complies see **Annexure 11**.
Sewerage	As above.	See Development Design Specification D12.	Complies see **Annexure 11**.
Electricity	As above.	Must be underground and provided in accordance with suppliers and Australian standards. Verge service location is to comply with Development Design Specification D1.	Complies – internal reticulation will be underground.
Telecommunications	All lots for private occupation, community facilities lots and sports fields. As required for other utility facilities).	As above, service must be such that standard connection is available to local/national/ overseas networks.	Complies – telecommunication facilities will be provided underground.
Gas	Optional	As above.	Not applicable.
Drainage system	Must provide Q100 local flooding immunity for all lots for private occupation and community facilities. Major/minor system required, roads public open space may (subject to other development standards) be used for Q100 overland flow paths. Must be equipped with stormwater treatment facilities to meet Chapter 3, PC7.15 standards.	See Development Design Specifications D5 and D7.	Complies see **Annexure 8**.
Flood Immunity	All lots for private occupation must have surface levels above the Q100 level for regional creek/river flooding. See section 4.26 of this chapter for public open space standards.	See Section A3 - Development of Flood Liable Land for detailed requirements.	Complies see **Annexure 8**.
External Connections and/or upgrades	The subdivider must provide all external connections required to connect subdivision infrastructure and upgrade external infrastructure to cater for the additional subdivision load. See also D1, D5, D7, D11, D12.		Complies see Application Plans and **Annexure 11**.

3.3 Draft Section 94 Contribution Plan No. 31 – Tweed Area E and Voluntary Planning Agreement

In November 2011, Tweed Shire Council publicly exhibited Draft Section 94 Contribution Plan No. 31 – Terranora Area E. Subsequently, following public exhibition and consideration of submissions, Council at its meeting on 13 November 2011 resolved as follows:

"1. In accordance with Clause 31 of the Environmental Planning and Assessment Regulation 2000
(a) Council not proceeds with S94 Plan No. 31 – Terranora Area E Version 1.0
(b) The reason for not proceeding with the plan is that there are legislative obstacles to approving the plan.
(c) Notice to be given within 28 days of Council's decision in the Tweed Link.

2. The works program and estimates in Draft S94 Plan No. 31 – Terranora Area E to be used as the basis of negotiations with the proponents of "Altitude Aspire" Part 3A Application and other Area E landowners for the purpose of reaching agreement on a Voluntary Planning Agreement to fund necessary infrastructure for Area E."

Accordingly, Tweed Shire Council and Newland have agreed in principle to enter into a Voluntary Planning Agreement (VPA) for Altitude Aspire to enable the Project Application to be determined promptly.

Negotiations are continuing between Tweed Shire Council and Newland in relation to the content of the Voluntary Planning Agreement. Council's Planning and Infrastructure Engineer has advised by email dated 18 April 2013 (see **Annexure 23**) that a report will be submitted to Council's meeting on 16 May 2013 in relation to the amended Draft Voluntary Planning Agreement. At this stage it is likely that it will be recommended to Council that water and sewerage infrastructure be removed from the Voluntary Planning Agreement and that these will be dealt with by way of consent conditions. The Revised Statement of Commitments includes a requirement that the Voluntary Planning Agreement be finalised prior to the issue of a Subdivision Certificate for the first residential lot.

Therefore, the Minister is invited to include a condition in the Project Approval, in accordance with Section 75R(4) (which remains in force under the transitional provisions) and Section 93L(3) of the Act, requiring the VPA to be finalised prior to the issue of a Subdivision Certificate for the first residential allotment.

3.4 Casual Open Space

In accordance with the provisions of the Draft VPA, Newland proposes to dedicate and embellish proposed Lots 712 (4695m^2), 451 (6032m^2) and Lot 610 (1.605ha), Lot 927 (911m^2), Lot 820 (2549m^2) and Lot 1001 (4.29ha) having a total area of 7.6087 hectares.

Section A5.4.7 of Tweed Development Control Plan 2008, Section A5 – Subdivision Manual requires 1.13 hectares per 1000 population (11.3m^2 per person) to be dedicated and embellished as usable casual open space.

Based on the occupancy rates contained in the exhibited Draft Section 94 Plan No. 31 of 2.4 persons per lot/ET; 1.7 persons per 2 bedroom unit and 1.3 persons per 1 bedroom unit, the total area of usable casual open space required will be as follows:

Dwelling House Lots

251 lots @ 2.4pp/lot @ 11.3m^2 pp = 6807m^2

Medium Density Lots

Lot 926 – 7729m^2 @ say one 2 bedroom dwelling/370m^2 = 21 dwellings
Lot 925 – 2938m^2 @ say one 2 bedroom dwelling/378m^2 = 8 dwellings
Lot 711 – 3745m^2 @ say one 2 bedroom dwelling/374m^2 = 10 dwellings
Lot 701 – 5269m^2 @ say one 2 bedroom dwelling/376m^2 = 14 dwellings

Total medium density dwellings = 53

53 dwellings at 1.7pp/dwelling @ 11.3m² pp results in a requirement for 1018m² of usable casual open space.

Based on the anticipated dwelling yield and population within Altitude Aspire, to comply with Council's Subdivision Manual a total usable casual open space area of 7825m² is required. The following Table 10 summarises proposed casual open space provisions.

TABLE 10 – SUMMARY OF CASUAL OPEN SPACE PROVISIONS

LOT NO.	AREA	TOTAL COMPLYING AREA (FIGURE 3 OF ANNEXURE 5)
712	4695m²	2356m²
610	1.9ha	1954m²
451	6032m²	2786m²
820	2549m²	610m²
927	911m²	Nil
1001	4.29ha	Nil
Total	**7.6087ha**	**7706m²**

In summary, the usable area of casual open space contained in public reserves will be 119m² less than is required under Section A5. In addition to casual open space areas to be provided to meet the demands of the new population, which areas will also be available for use by the general public, Newland propose to establish a community recreation facility on proposed Lot 713 which has an area of 3658m². The recreation facility will be for the use and enjoyment of residents and their guests. The facility will include a tennis court, gym, pool, playground equipment and meeting rooms.

The Department of Planning and Infrastructure has advised that the facility cannot be counted as a contribution towards open space or community facilities as the proposed end use of the facility will, in effect, be a private club, open only to residents and not the general public.

The proposed community recreation facility should be taken into account in determining usable areas of casual open space provided on site on the basis that the development is only required to provide usable casual open space to meet the demand generated by the additional population and not to make up any existing shortfalls to benefit the wider community, notwithstanding that the dedicated reserves will be available to the general public.

There is likely to be less use of the public casual open space areas by the new residents because of the availability of the community recreation facility (for which the new residents will pay a fee under the community scheme). This should lead to lower maintenance costs for the public reserves and potential for greater use by the general public.

Accordingly, it is submitted that the provision of the community recreation facility should be taken into account in the assessment of both the quantity and quality of usable casual open space and recreation facilities to be established to satisfy the demand generated by the projected population of Altitude Aspire. It is therefore proposed that the community facility be accepted as satisfying the numerical shortfall of 119m² of usable casual open space.

In addition, whilst only approximately 610m² of Lot 820 is identified as usable in terms of Council's Subdivision Manual, the lot has a total area of 2549m² and will provide an entry statement and public viewing areas over the vistas to the northeast and it is therefore submitted that at least 1000m² of Lot 820 should be counted as usable. On this basis, casual open space complies with Council's Subdivision Manual.

Compliance with the requirements of Section A5 is addressed in Table 11.

TABLE 11 – CASUAL OPEN SPACE COMPLIANCE

REQUIREMENT OF SECTION A4.5.7	COMMENTS
Casual parks – 1.13 hectares/1000 population (11.3m²/person). Desirable minimum area 2500m² – 4000m².	Substantially complies – see above. In addition to the dedication and embellishment of Lots 439, 451, 610, 712, 820, 927 and 1001, Lot 713 having an area of 3658m² will be created as community association property and will include the following recreational facilities: • 25m lap pool • Gymnasium • Children's playground • Tennis court • Barbeque facilities • Residents' lounge The facilities will be managed and maintained by the community association and will be available for use by owners, occupiers and their guests.
95% of residences within 400m walking distance of casual parks.	Complies – all lots are within 400m walking distance (see Layout Plan).
Land form of casual park – slopes less than 8%.	Complies – see **Annexures 5** and **11**.
Access from more than one local road.	Complies – see **Annexure 4**.
Road frontage – 50% of perimeter.	Complies – see **Annexure 4**.
Embellishment.	Complies – the local parks will be embellished in accordance with Table A5-8.2.1 of Section A5.

3.5 Proposed Further Stakeholder Engagement

Further stakeholder engagement will be undertaken in accordance with the Stakeholder Engagement for Altitude Aspire Preferred Project Report strategy contained at **Annexure 22**.

4.0 CONCLUSION

As reflected in the foregoing sections and the Annexures, the final Project Application addresses all relevant key issues and substantially complies with Council's recently adopted Tweed Development Control Plan 2008, Section B24. Agreement in principle has been reached with Tweed Shire Council in relation to the preparation of a Voluntary Planning Agreement for Altitude Aspire to facilitate land dedications, contributions and infrastructure works to meet demand generated by the Altitude Aspire development. The Revised Statement of Commitments includes an undertaking to finalise the Voluntary Planning Agreement prior to release of a Subdivision Certificate for the first residential lot.

In summary, the final Project Application is considered to achieve a high level of compliance and is consistent with ESD principles. It also achieves a sound balance between the site's opportunities and constraints and the need to achieve commercially viable outcomes.

Approval of the application is considered to be sustainable and in the public interest and the Department is therefore respectfully requested to grant Project Approval subject to appropriate conditions.