

Annexure A

DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF CONSENT

Development Application No:	DA21/0517
Development:	Demolition of existing structures, construction of a four storey residential flat building with basement carpark, swimming pool and landscaping
Site:	Lot 26 DP 1253093, also known as 2-6 Tweed Coast Road, Cabarita Beach

The above development application has been determined by the granting of consent subject to the conditions specified in this consent.

Date of determination: 1 June 2023

Date from which consent takes effect: Date of determination.

TERMINOLOGY

In this consent:

- (a) Any reference to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to such a certificate as defined in the *Environmental Planning and Assessment Act 1979*.
- (b) Any reference to the “applicant” means a reference to the applicant for development consent or any person who may be carrying out development from time to time pursuant to this consent.
- (c) Any reference to the “site”, means the land known as Lot 26 DP 1253093, also known as 2-6 Tweed Coast Road, Cabarita Beach.

The conditions of consent are as follows:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects prepared by Mecone and dated 16 June 2021 and the following plans, except where varied by the conditions of this consent.

Drawing Name	Drawing No.	Revision No.	Date	Prepared By
Site Plan & Project Information	DA-0010	16	7/03/2023	Ellivo
Ground Floor Plan – Context	DA-0011	17	7/03/2023	Ellivo
Basement Plan	DA-1200	30	7/03/2023	Ellivo
Ground Floor Plan	DA-1201	35	7/03/2023	Ellivo
Level 01 Floor Plan	DA-1202	35	7/03/2023	Ellivo
Level 02 Floor Plan	DA-1203	31	7/03/2023	Ellivo
Level 03 Floor Plan	DA-1204	35	7/03/2023	Ellivo
Roof Plan	DA-1205	31	7/03/2023	Ellivo
Building Elevations	DA-2100	15	7/03/2023	Ellivo
Building Elevations	DA-2101	15	7/03/2023	Ellivo
Street Elevations	DA-2110	3	7/03/2023	Ellivo
Building Sections	DA-3100	24	7/03/2023	Ellivo
Building Sections	DA-3101	22	7/03/2023	Ellivo
BASIX Certificate	1395685M_02		25/5/23	

[GEN0005]

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

[GEN0115]

3. Approval is given subject to the location of, protection of, and/or any necessary approved modifications to any existing public utilities situated within or adjacent to the subject property. Any necessary adjustment or modification of existing services is to be undertaken in accordance with the requirements of the relevant authority, at the Developer's expense.

[GEN0135]

4. Sewer manholes are adjacent to this site. Manholes are not to be covered with soil or other material.

Should adjustments be required to the sewer manhole, then applications for these works must be submitted on Council's standard Section 68 Application form accompanied by the required attachments and the prescribed fee. Works will not be approved until prior separate approval to do so has been granted by Council under Section 68 of the Local Government Act.

[GEN0155]

5. The development is to be carried out in accordance with Council's Development Design and Construction Specifications.

[GEN0265]

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

[GEN0300]

7. Prior to demolition of the structure is commenced all asbestos material shall be identified and removed from the site by an asbestos removalist who is licensed to carry out the work by SafeWork NSW. All asbestos waste shall be disposed at a facility that is licensed to receive asbestos waste (all receipts related to disposal must be kept on site and provided to a Council Authorised Officer upon request).

[GEN0360]

8. The exportation or importation of waste (including fill or soil) from or to the site must be in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the NSW Environment Protection Authority "Waste Classification Guidelines".

The importation of waste to the site is restricted to the following:

- (a) Virgin excavated natural material (as defined in Schedule 1 of the Protection of the Environment Operations (POEO) Act);
- (b) Any other waste-derived material subject to a resource recovery exemption under Part 9 Clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014 that is permitted to be used as fill material.

The exportation of waste must be transported to a licenced waste facility or an approved site subject to a resource recovery order and exemption.

Any virgin excavated natural material or waste-derived fill material subject to a resource recovery exemption must be accompanied by documentation as to the material's compliance and must be provided to the Principal Certifier or Council on request

[GENNS01]

9. All vegetation occurring on adjacent land identified in the Arboricultural Impact Assessment (AIA) & Tree Constraints Management Plan (TCMP) dated December 2021 prepared by Treescience shall be managed and protected during the construction stage of the development.

[GENNS02]

10. Asset Protection Zones

Intent of measure: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

From the start of building works, and in perpetuity to ensure ongoing protection from the impact of bush fires, the entire property must be managed as an inner protection area (IPA)

in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019. When establishing and maintaining an IPA the following requirements apply:

- tree canopy cover should be less than 15% at maturity;
- trees at maturity should not touch or overhang the building;
- lower limbs should be removed up to a height of 2 m above the ground;
- tree canopies should be separated by 2 to 5 m;
- preference should be given to smooth barked and evergreen trees;
- large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
- shrubs should not be located under trees;
- shrubs should not form more than 10% ground cover;
- clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation;
- grass should be kept mown (as a guide grass should be kept to no more than 100 mm in height); and
- leaves and vegetation debris should be removed.

11. Construction Standards

Intent of measure: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

- (a) The building must be setback a minimum of 8 metres from the northern boundary.
- (b) Any structures within the 8 metre building line to the rear, e.g., BBQs, are to be constructed of non-combustible materials.
- (c) A minimum 1.8 metre high radiant heat shield made of non-combustible materials must be constructed along the northern boundary adjacent to the bush fire hazard. All posts and rails shall be constructed of steel. The bottom of the fence is to be in direct contact with the finished ground level or plinth. An access gate swinging into the subject property is to be provided within the fence to allow for potential fire fighting access to the hazard, if it is safe to do so.
- (d) New construction must comply with section 3 and section 7 (BAL 29) Australian Standard AS3959-2018 Construction of buildings in bush fire-prone areas or the relevant BAL 29 requirements of the NASH Standard - Steel Framed Construction in Bushfire Areas (incorporating amendment A - 2015). New construction must also comply with the construction requirements for BAL 29 in section 7.5 of Planning for Bush Fire Protection 2019.
- (e) The internal wall and openings (see broken red line in Figure 16 of the 'Bush Fire Assessment Report' prepared by Bushfire Certifiers, revision B, dated 7th June, 2021) is to be compliant with the requirements of Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2018 Construction of buildings in bush fire-prone areas or the relevant BAL 12.5 requirements of the NASH Standard - Steel Framed Construction in Bushfire Areas (incorporating amendment A - 2015). New construction must also comply with the construction requirements for BAL 12.5 in section 7.5 of Planning for Bush Fire Protection 2019. This requirement is to prevent embers entering the primary

carparking area on the lower ground floor level. The final plans are to be assessed by the Accredited Building Certifier as being compliant with the recommendations of this advice prior to the issue of a Construction Certificate.

- (f) Fire doors into fire isolated stairways and the external door leading from the fire isolated stairway to open space are to be compliant with the smoke seals. Confirmation of compliance is to be provided by an Accredited Practitioner (Fire Safety) and issued to the Accredited Building Certifier.
- (g) A design certificate is to be provided from an Accredited Practitioner (Fire Safety - Mechanical) certifying the mechanical design is protected to comply with the relevant sections of AS 3959-2018 as reflected in the development consent (when issued) and BCA Part G5.2. It is noted this is primarily relating to ember screening required over vents and the like, pursuant to AS 3959-2018.
- (h) Fences and gates are to be made of either hardwood or non-combustible material. Where a fence or gate is constructed within 6 metres of a habitable building, it is to be made of non-combustible material only.
- (i) A Bushfire Management Plan (BMP) must be prepared detailing the Bushfire Protection Measures required by the development consent to be assessed by the certifying authority prior to the issue of the Construction Certificate and included in the Fire Safety Schedule (FSS). The BMP must include triggers to remove all combustible material from external balconies prior to a bushfire event i.e., relating to days with an 'extreme' or 'catastrophic' fire danger rating or days declared as a total fire ban.

12. Water and Utility Services

Intent of measures: to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

The provision water, electricity and gas must comply with Table 5.3c of Planning for Bush Fire Protection 2019.

13. Landscaping Assessment

Landscaping is to comply with the principles of Appendix 4 of Planning for Bush Fire Protection 2019.

14. Emergency Management Planning

Intent of measures: to provide suitable emergency and evacuation arrangements for occupants.

Any fire safety evacuation plan required under the BCA shall consider evacuation pathways from bush fire on the adjoining National Park.

Essential Energy

15. Strictly based on the documents submitted, Essential Energy has the following comments to make as to potential safety risks arising from the proposed development:

- (a) The building must be clear of the powerline, clearance distance from the nearest conductor must be maximum blowout distance plus a safety clearance of 1.5 metres from the low voltage. A Level 3 Accredited Service Provider will need to be engaged to

calculate the blowout distances.

- (b) Poles must be clear of any driveway by a minimum of 1.0 metres.
- (c) There is a transformer pole with high voltage connected on the corner of the property. Appropriate clearances must be maintained from this structure and its earthing system.

16. Essential Energy makes the following general comments:

- (a) if the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment;
- (b) Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with; and
- (c) In addition, Essential Energy's records indicate there is electricity infrastructure located within the property. Any activities within this location must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.
- (d) Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW).
- (e) Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice - Work near Overhead Power Lines and Code of Practice - Work near Underground Assets.

[GENNS03]

17. In accordance with the Geotechnical Investigation Report prepared by Construction Sciences and dated 19/5/2021, should excavations extend beneath the groundwater table, further assessment in respect of acid sulfate soils is to be undertaken. Where an additional assessment is undertaken, the findings of that assessment are to be provided for the written satisfaction of the General Manager or his delegate prior the continuation of works.

[GENNS04]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

18. Section 7.11 Contributions

Payment of the following contributions pursuant to Section 7.11 of the Act and the relevant Contribution Plan.

A Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 7.11 Contributions have been paid and the Certifying Authority has sighted Council's receipt confirming payment.

a.	Contribution Plan No 4 - Tweed Road Contribution Plan:	
	16 trips @ \$1,395.00 per trip (\$1,145.00 base rate + \$250.00 indexation)	\$22,320.00
	CP04 Road Contributions (7-Duranbah/Cab)	

b.	Contribution Plan No 5 - Local Open Space:	
	4.21 ETs @ \$732.00 per ET (\$502.00 base rate + \$230.00 indexation)	\$3,081.72
	CP05 (Local OS) Casual Open Space	
c.	Contribution Plan No 5 - Local Open Space:	
	17.75 ETs @ \$838.00 per ET (\$575.00 base rate + \$263.00 indexation)	\$14,874.50
	CP05 (Local OS) Structured Open Space	
d.	Contribution Plan No 11 - Tweed Shire Library Facilities:	
	4.21 ETs @ \$1,007.00 per ET (\$792.00 base rate + \$215.00 indexation)	\$4,239.47
	CP11 Libraries	
e.	Contribution Plan No 12 - Bus Shelters:	
	4.21 ETs @ \$76.00 per ET (\$60.00 base rate + \$16.00 indexation)	\$319.96
	CP12 Bus Shelters	
f.	Contribution Plan No 13 - Eviron Cemetery:	
	17.75 ETs @ \$143.00 per ET (\$101.00 base rate + \$42.00 indexation)	\$2,538.25
	CP13 Cemeteries	
g.	Contribution Plan No 15 - Developer Contributions for Community Facilities:	
	4.21 ETs @ \$2,083.00 per ET (\$2,083.00 base rate + \$0.00 indexation)	\$8,769.43
	CP15 Comm Facilities	
h.	Contribution Plan No 18 - Council Administration Offices and Technical Support Facilities:	
	4.21 ETs @ \$2,252.11 per ET (\$1,759.90 base rate + \$492.21 indexation)	\$9,481.38

	CP18 Council Admin Facilities	
i.	Contribution Plan No 22 - Cycleways:	
	4.21 ETs @ \$568.00 per ET (\$447.00 base rate + \$121.00 indexation)	\$2,391.28
	CP22 Cycleways	
j.	Contribution Plan No 26 - Shirewide Regional Open Space:	
	4.21 ETs @ \$1,311.00 per ET (\$1,031.00 base rate + \$280.00 indexation)	\$5,519.31
	CP26 (Regional OS) Casual	
k.	Contribution Plan No 26 - Shirewide Regional Open Space:	
	17.75 ETs @ \$4,601.00 per ET (\$3,619.00 base rate + \$982.00 indexation)	\$81,667.75
	CP26 (Regional OS) Structured	

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

These charges include indexation provided for in the Section 7.11 Contribution Plan and will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 7.11 Contribution Plan current at the time of the payment.

A copy of the Section 7.11 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

NOTE: All Section 7.11 Contribution payments are non-refundable

[PCC0215]

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

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

BELOW IS ADVICE ONLY

The Section 64 Contributions for this development at the date of this approval have been

estimated as:

Water: 0.9 ET @ \$11,422 = \$10,297.80

Sewer: 5.0 ET @ \$7,400 = \$37,000.00

[PCC0265]

20. Construction details of the overhanging (700 mm) eave on the topmost slab/roof edge (Level 3) are to be submitted and approved by Council's General Manager or delegate prior to the issue of construction certificate. Construction details must demonstrate a method of achieving a tapered or thin roof edge profile. The tapered roof edge must be provided on the south, east and north facing portions of the roof with the exception of the north and southwestern corners where the slab above the balcony is of a different expression.
21. Updated architectural plans that demonstrate materials and colours for the roof, underside of the eaves, glass, window frames and walls of Level 3 are to be submitted and approved by Council's General Manager or delegate prior to issue of construction certificate. The materials and colours must be of a recessive or darker tone, but complementary to the rest of the elevations i.e., steel, Spanish grey or wrought iron, with the objective of making the upper-level recess further from the rest of the elevations.
22. A detailed plan of landscaping is to be submitted and approved by Council's General Manager or delegate prior to the issue of construction certificate. The detailed plan of landscaping shall meet the following specifications:
 - (a) A minimum of 80% locally occurring Australian native species and maximum of 20% non-locally occurring Australian native species to apply to all trees;
 - (b) A minimum of 80% locally occurring Australian native species and maximum of 20% Australian native or exotic species to apply to other plants (shrubs, ground cover and similar);
 - (c) No environmental weed species;
 - (d) Blueberry Ash and Bennett's Ash Trees listed and depicted as part of the "plant species selected" under Section 4 – Planting and Materials intent – 4.2 Planting Palette – Ground Level of the Landscape Concept are to be specified and implemented within the frontages facing the public domain;
 - (e) The 2.5 metre strip of land next to the common eastern boundary is to be planted with tall mature vegetation suitable to the coastal environment and soil condition of at least 3-5m for the length of the interface next to elevated terraces above the vehicle driveway to create a buffer, screening and landscape transition next to the common eastern boundary;
 - (f) Additional mature trees and buffer planting must be included (subject to compliance with Australian Standard AS3959-2018) on the public domain and planting strip along the outside of the proposed fencing to provide further buffering to the 4-storey built form on the north-western corner as seen on approach from the north on Tweed Coast Road; and
 - (g) Existing driveway crossing (bitumen) and kerb servicing the existing north-western gate as shown on Contour and Detail Survey Plan by RPS (Amendment C dated 10/12/2020) is to be removed on the landscape plan. Kerb, planting strip to both sides of the footpath

and footpath to be made good in accordance with Council's Tweed Shire Council Landscaping Standards Dwg. No. S.D.701 Issue C Tree and Shrub Planting Details;

- (h) Additional street trees are to be provided along Cypress Crescent and labelled as part of *Urbex's Landscape Concept Sec 3 – Landscape Concept, 3.1 Ground Floor* to complement the existing planting to verge to be retained subject to general compliance with the Essential Energy publication 'Essential Energy Planting Guideline'
- (i) Existing driveway crossing servicing the existing southwestern gate on Cypress Crescent as shown on Contour and Detail Survey Plan by RPS (Amendment C dated 10/12/2020) is to be removed as per landscape plan. Kerb, planting strip to both sides of the footpath and footpath are to be made good in accordance with Tweed Shire Council Landscaping Standards Dwg. No. S.D.701 Issue C Tree and Shrub Planting Details and subject to general compliance with the Essential Energy publication 'Essential Energy's Planting Guideline';
- (j) A replacement tree is to be provided for the removal of the small bush/palm located within the Council Controlled reserve and scheduled for removal as per the Arboricultural Impact Assessment & Tree Constraints Management Plan (AIA) by Treescience dated December 2021, (page 7 of 78). The tree must be replaced with a suitable shade casting coastal approved street tree species.

[PCC0585]

23. Permanent stormwater quality treatment shall be provided in accordance with the following:
- (a) Stormwater management to be generally in accordance with the 'Concept Stormwater Plan', drawing SK01 Rev B dated 14 March 2022 and drawing titled 'stormwater outlet section, Rev A prepared by Empower Engineers and Project Managers Pty Ltd.
 - (b) Stormwater quality and quantity treatment to be generally in accordance with the 'Conceptual Site Based Stormwater Management Plan' dated 14 December 2021 prepared by Empower Engineers and Project Managers Pty Ltd.
 - (c) The Construction Certificate Application for building works shall include a detailed Stormwater Management Plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.B2 of Councils *Development Design Specification D7 - Stormwater Quality*.
 - (d) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils Development Design Specification D7 - Stormwater Quality.
 - (e) It is encouraged that Water Sensitive Urban Design principles such as bio-retention facilities in accordance with "Water By Design" guidelines (being a program of the South East Queensland Healthy Waterways Partnership) are utilised, instead of installing an "end of line" proprietary Gross Pollutant Device.
 - (f) Specific Requirements to be detailed within the Construction Certificate application include:
 - (i) Where possible, runoff from all hardstand areas, (including car parking and hardstand landscaping areas and excluding roof areas) must be treated to remove oil and sediment contaminants prior to discharge to the public realm, with treatment provisions designed in accordance with Council's Development Design Specification D7 - *Stormwater Quality*, Section D7.12. Engineering details of

proposed “end of line” devices, including maintenance schedules, shall be submitted with a s68 Stormwater Application for approval prior to issue of a Construction Certificate.

- (ii) Roof water does not require treatment, and should be discharged downstream of treatment devices, or the treatment devices must be sized accordingly.

[PCC1105]

24. A Construction Certificate application for works that involve any of the following:

- connection of a private stormwater drain to a public stormwater drain
- installation of stormwater quality control devices
- erosion and sediment control works

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

- a) Applications for these works must be submitted on Council's standard Section 68 stormwater drainage application form accompanied by the required attachments and the prescribed fee. The Section 68 Application must be approved by Council prior to the associated Construction Certificate being issued.

[PCC1145]

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

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

[PCC1155]

26. The peak stormwater flow rate that may be discharged from the site to the public realm, in events of intensity up to the ARI 100 year design storm, shall be no greater than pre-development rates. This can be achieved by On site stormwater detention (OSD) utilising above and/or below ground storage. OSD devices including discharge control pits (DCP) are to comply with standards in the current version of The Upper Parramatta River Catchment Trust "On-Site Stormwater Detention Handbook" except that permissible site discharge (PSD) and site storage requirements (SSR) in the handbook do not apply to Tweed Shire.

[PCC1165]

27. Medium density/integrated developments, excluding developments containing less than four attached or detached dwellings and having a Building Code classification of 1a, will be required to provide a single bulk water service at the road frontage. Individual metering beyond this point shall be managed by occupants. Application for the bulk metre shall be made to the supply authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements.

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for compliance certificates under the Water Management Act, 2000 to be issued by a Registered Certifier.

[PCC1185]

28. An application shall be lodged together with any prescribed fees including inspection fees and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water, sewerage, on site sewerage management system or drainage works including connection of a private stormwater drain to a public stormwater drain, installation of stormwater quality control devices or erosion and sediment control works, prior to the issue of a Construction Certificate.

[PCC1195]

29. Where any existing sewer junctions are to be disused on the site, the connection point shall be capped off by Council staff. Applications shall be made to Tweed Shire Council and include the payment of fees in accordance with Councils adopted fees and charges.

[PCC1235]

30. If the development is likely to disturb or impact upon water or sewer infrastructure (eg: extending, relocating or lowering of pipeline), written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Certifier (Council or a Registered Certifier) prior to the issue of a Construction Certificate or any works commencing, whichever occurs first.

Applications for these works must be submitted on Council's standard Section 68 Application form accompanied by the required attachments and the prescribed fee. The arrangements and costs associated with any adjustment to water and wastewater infrastructure shall be borne in full by the applicant/developer.

The Section 68 Application must be approved by Council prior to the associated Construction Certificate being issued.

[PCC1310]

31. A Section 138 Roads Act application, with detailed engineering plans, is to be submitted to Council for approval for the following works external to the site:
- (a) A gutter and footpath crossing is to be constructed to the Cypress Crescent frontage in accordance with Council Standard Drawing SD017.
 - (b) A concrete footpath is to be constructed along the full frontage of Cypress Crescent.
 - (c) Disused gutter and footpath crossings are to be reinstated to standard kerb and gutter.
 - (d) Minimum 2.0 m sight line triangles are to be provided at the driveway interface with the footpath along Cypress Crescent.
 - (e) The removal of the existing driveway crossing (bitumen) and kerb servicing the existing north-western gate as shown on Contour and Detail Survey Plan by RPS (Amendment C dated 10/12/2020).
 - (f) The removal of the existing driveway crossing servicing the existing southwestern gate on Cypress Crescent as shown on Contour and Detail Survey Plan by RPS (Amendment C dated 10/12/2020).
32. The Section 68 stormwater application for a new stormwater line and gully pit is to provide the following engineering details for protection of the existing water and sewer infrastructure:
- (a) sewer and water mains which will be above the proposed stormwater line are supported during excavation and installation.

- (b) sewer main is to be encased in concrete.

[PCCNS02]

33. Prior to the issue of construction certificate, exploratory root investigation shall be carried within the part of the tree protection zone (TPZ) occurring within the site (as calculated in accordance with Australian Standard AS4970-2009 Protection of trees on development sites) of all trees whose trunk is located on adjacent Lot 5 Section 1 DP31209 to the east of the site, where the TPZ is to be encroached upon by the development including any excavation for basement construction. The exploratory root investigation shall be carried out under the supervision of a minimum Level 5 (Australian Qualification Framework) in Arboriculture. The root investigation shall:
- (a) Be carried out onsite at a distance of 1200 mm parallel to the sites eastern boundary to a minimum depth of 600 mm;
 - (b) Use non-destructive techniques (pneumatic, hydraulic, hand digging or ground penetrating radar). Roots must not be cut, bruised or frayed during the process. Exposed roots are to be kept moist at all times and the excavation back filled as soon as practicable; and
 - (c) Identify and map the distribution of all structural woody roots and lower order roots of those trees with roots encountered.
34. Prior to issue of construction certificate an amended Arboricultural Impact Assessment (AIA) & Tree Constraints Management Plan (TCMP) dated December 2021 prepared by Treescience shall be submitted to Council and approved by Council's General Manager or delegate. The AIA & TCMP shall be amended as follows:
- (a) Include results of the exploratory root investigation on trees whose trunks are located on Lot 5 Section 1 DP31209 to the east of the site as required by this consent;
 - (b) Include as supplementary material the results of the exploratory root investigation carried out on Tree No. 1 – Norfolk Island Pine tree (*Araucaria heterophylla*) and detailed in the report dated 05 February 2023 prepared by Treescience;
 - (c) Provide detailed construction management recommendations to avoid and minimise impact upon trees occurring on Lot 5 Section 1 DP31209 as a result of ground excavation works. All management and mitigation measures recommended shall be provided by a minimum Level 5 (Australian Qualification Framework) Arborist based on sound and proven arboricultural principles and techniques;
 - (d) Specify that all earthworks and retaining structures within the Tree Protection Zone of Tree No. 1 - Norfolk Island Pine tree (*Araucaria heterophylla*) (occurring within the Tweed Coast Road reserve adjacent to the site) shall be limited to the constructed basement footprint and maximum 1200 mm basement excavation horizontal overrun;
 - (e) Where retaining structures are proposed within the Tree Protection Zone to Tree No. 1 - Norfolk Island Pine tree (*Araucaria heterophylla*) to conform to excavation restrictions, include arboricultural recommendations for the installation of any retaining structure/s to avoid and minimise adverse tree impact;
 - (f) Specify that any pruning of Tree No. 1 - Norfolk Island Pine (*Araucaria heterophylla*) shall be undertaken to the minimum extent necessary to avoid canopy conflict with the built form of the development to the satisfaction of Council's General Manager or delegate under the supervision of a Level 5 (AQF) arborist. Any such pruning shall be completed in accordance with Australian Standard AS4373-2007 Pruning of amenity

trees; and

- (g) Provide recommendations for potable water connection pipe alignment and installation method to avoid impact upon local native trees occurring within the Tweed Coast Road reserve.
35. Prior to issue of construction certificate, civil engineering and bulk earthworks plans shall demonstrate that all earthworks and retaining structures (where applicable) are not to extend beyond the constructed basement footprint as shown on the approved plan and maximum 1200 mm basement excavation horizontal overrun where occurring within the Tree Protection Zone of Tree No. 1 - Norfolk Island Pine tree (*Araucaria heterophylla*) (occurring within the Tweed Coast Road reserve adjacent to the site) to the satisfaction of Council's General Manager or delegate.
36. All construction management measures detailed in the approved Arboricultural Impact Assessment & Tree Constraints Management Plan shall be reflected in the Construction Management Plan as required by conditions of this consent.
37. A detailed plan of landscaping is to be submitted and approved by Council's General Manager or delegate prior to the issue of construction certificate. The detailed plan of landscaping shall meet the following specifications:
- (a) A minimum of 80% locally occurring Australian native species and maximum of 20% non-locally occurring Australian native species to apply to all trees;
 - (b) A minimum of 80% locally occurring Australian native species and maximum of 20% Australian native or exotic species to apply to other plants (shrubs, ground cover and similar); and
 - (c) No environmental weed species.
- [PCCNS03]
38. Prior to the issue of Construction Certificate a Noise and Vibration Management Plan shall be submitted and approved by Tweed Shire Council. The plan shall consider the Construction Noise and Vibration Management Plan (CNVMP) submitted by SLR (ref: 620.30326.00100-R01) dated December 2021 and include:
- (a) Identification of nearby residents and other sensitive receivers.
 - (b) Expected noise impacts.
 - (c) Reasonable work practices to minimise noise impacts.
 - (d) Strategies to promptly deal with and address noise complaints.
 - (e) Details of performance evaluating procedures (e.g. noise monitoring, reporting etc.).
 - (f) Procedures and schedule for notifying residents of forthcoming works.
 - (g) Reference to any conditions of consent relating to noise control.
- [PCCNS04]
[PCCNS05]

PRIOR TO COMMENCEMENT OF WORK

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

[PCW0005]

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

[PCW0215]

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

[PCW0225]

42. Residential building work:
- (a) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - * in the name and licence number of the principal contractor, and
 - * the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - * the name of the owner-builder, and
 - * if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.

- (b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0235]

43. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one closet for every 15 persons or part of 15 persons employed at the site. Each toilet provided must be:

- (a) a standard flushing toilet connected to a public sewer, or
- (b) if that is not practicable, an accredited sewage management facility approved by the council

[PCW0245]

44. **Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2021**, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifier for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the site is prohibited.

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

[PCW0255]

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

[PCW0665]

46. It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land or is likely to effect the integrity of the adjoining land, the person causing the excavation to be made must comply with the following:

- (a) The person must, at the person's own expense:
 - (i) preserve and protect the building / property from damage; and
 - (ii) if necessary, underpin and support the building in an approved manner.
- (b) The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.

[PCW0765]

47. A Dilapidation Report detailing the current general condition (including the structural condition) of the adjoining buildings/sites, infrastructure and driveways is to be prepared and certified by a suitably qualified and experienced structural engineer. The Report (supported by recent photos) is to be submitted to and accepted by the Principal Certifier prior to commencement of ANY works on the site.

[PCW0775]

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

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

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

[PCW0985]

49. Prior to the commencement of works, the applicant is to indicate their compliance with the provisions of the Noise Level Impact Assessment - Impact of Road Noise for 2- 6 Tweed Coast Road, Cabarita prepared by SLR (Ref: 620.30326-R03) and dated June 2021 and the maximum indoor design sound levels as prescribed in section 2.120(3) of the *State Environmental Planning Policy (Transport and Infrastructure) 2021* by providing to the Principal Certifier appropriate details on the building components and systems intended to be used in the construction of the dwelling with the corresponding Rw ratings. Such details shall also reference the window and door systems to be installed with the corresponding Rw ratings.

[PCWNS01]

50. Prior to works commencing, the applicant shall submit an acoustic assessment prepared by a suitably qualified acoustic consultant that confirms that the proposed mechanical plant and equipment has been designed and located to meet the requirements of the *Acoustic Report - SLR (Ref: 620.30326-R03) and dated June 2021* or the satisfaction of Council or their delegate. Mechanical plant and equipment shall be acoustically treated where necessary or required to the satisfaction of Council.

[PCWNS02]

51. Prior to commencing works, a Demolition and Construction Noise and Vibration Management Plan shall be prepared by a suitably qualified acoustic consultant to the satisfaction of Council of their delegate that:
- describes procedures for achieving the noise management levels of the Interim Construction Noise Guideline (EPA, 2009) and vibration management levels of the Environmental Noise Management Assessing Vibration: a technical guideline (DEC, 2006);
 - describes the measures to be implemented to manage high noise or vibration generating works in close proximity to sensitive receivers (amenity);
 - includes a community consultation and complaints management system that would be implemented for the duration of the construction; and

- considers the recommendations of the *Construction Noise and Vibration Management Plan (CNVMP)* has been submitted by SLR (ref: 620.30326.00100-R01) dated December 2021

[PCWNS03]

DURING CONSTRUCTION

52. All proposed works are to be carried out in accordance with the conditions of development consent, any approved Management Plans, approved Construction Certificate, drawings and specifications.

[DUR0005]

53. Should any Aboriginal object or cultural heritage (including human remains) be discovered all site works must cease immediately and the Tweed Byron Local Aboriginal Land Council (TBLALC) Aboriginal Sites Officer (on 07 5536 1763) are to be notified. The find is to be reported to the Biodiversity and Conservation Division of the NSW Department of Planning, Industry and Environment. No works or development may be undertaken until the required investigations have been completed and any permits or approvals obtained, where required, in accordance with the National Parks and Wildlife Act, 1974.

[DUR0025]

54. Commencement of work, including the switching on and operation of plant, machinery and vices is limited to the following hours, unless otherwise permitted by Council:

Monday to Friday from 7.00am to 6.00pm

Saturday from 8.00am to 1.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

55. The development shall be carried out in accordance with the provisions of the;
- Noise Level Impact Assessment for 2- 6 Tweed Coast Road, Cabarita prepared by SLR (Ref: 620.30326-R03) and dated June 2021 (in relation to Road Traffic Noise); and
 - Noise and Vibration Management Plan as approved by Council or their delegate.

[DUR0275]

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

[DUR0375]

57. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.

[DUR0395]

58. The Principal Certifier is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifier via the notice under Section 6.6 of the Environmental Planning and Assessment Act 1979.

[DUR0405]

59. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with SafeWork NSW

requirements and Work Health and Safety Regulation 2017.

[DUR0415]

60. Excavation

- (a) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with WorkCover 2000 Regulations.
- (b) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

[DUR0425]

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

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

a hoarding or fence must be erected between the work site and the public place in accordance with the WorkCover Authority of NSW Code of Practice and relevant Australian Standards.

Where necessary the provision for lighting in accordance with AS 1158 - Road lighting and provision for vehicular and pedestrian traffic in accordance with AS 1742 shall be provided.

Any such hoarding, fence or awning is to be removed prior to the issue of an occupation certificate.

Application shall be made to Tweed Shire Council including associated fees for approval prior to any structure being erected within Councils road reserve.

[DUR0435]

62. A survey certificate from a Registered Surveyor is to be submitted to the Principal Certifier at garage slab or footing stage, prior to pouring concrete, to confirm that the approved driveway gradients will be achieved.

[DUR0475]

63. To ensure that the development is correctly positioned on the site, a report prepared by a registered surveyor is to be submitted to the Principal Certifier at footings/formwork stage and at the completion of the structures indicating that the development has been correctly positioned on the site in accordance with the approved development consent plans/consent conditions and has been located clear of any easements/sewer main.

[DUR0495]

64. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of SafeWork NSW and the Work Health and Safety Regulation 2017.

The proponent shall also observe the relevant guidelines by NSW Environment Protection Authority (EPA) and SafeWork NSW

[DUR0645]

65. The development is to be carried out in accordance with the current BASIX certificate and schedule of commitments approved in relation to this development consent.

[DUR0905]

66. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the

issue of a Subdivision Certificate/Occupation Certificate.

[DUR0995]

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

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

[DUR1005]

68. The burning off of trees and associated vegetation felled by clearing operations or builders waste is prohibited. Such materials shall either be recycled or disposed of in a manner acceptable to Councils General Manager or his delegate.

[DUR1015]

69. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.

[DUR1025]

70. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR1795]

71. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils Development Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

[DUR1875]

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

[DUR1905]

73. The developer/contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times.

[DUR2015]

74. Swimming Pools (Building)

- (a) The swimming pool is to be installed and access thereto restricted in accordance with Australian Standard AS 1926.1 - 2012 & AS 1926.3 -2010 & AS 1926.2-2007, the Swimming Pools Act 1992 and the Swimming Pools Regulation 2008.
- (b) Swimming pools shall have suitable means for the drainage and disposal of overflow water.
- (c) The pool pump and filter is to be located in a position and noise mitigation measures utilized as required so as not to cause a noise nuisance to adjoining properties.

- (d) Warning notices are to be provided in accordance with Part 3 of the Swimming Pools Regulation 2008.
- (e) Once your pool or spa is complete please register it at www.swimmingpoolregister.nsw.gov.au.

[DUR2075]

75. Backwash from the swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9.

[DUR2085]

76. The builder must provide an adequate trade waste service to ensure that all waste material is suitably contained and secured within an area on the site, and removed from the site at regular intervals for the period of construction/demolition to ensure no material is capable of being washed or blown from the site.

[DUR2185]

77. All waste shall be collected, stored and disposed of in accordance with the provisions of Tweed Shire Council Development Control Plan Section 15 - Waste Minimisation and Management.

[DUR2195]

78. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials. A screened, graded and drained garbage storage area shall be provided within the boundary.

[DUR2205]

79. The guttering downpiping and roof waste water disposal system is to be installed and operational before the roofing is installed.

[DUR2245]

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

[DUR2425]

81. During construction, a "Satisfactory Inspection Report" is required to be issued by Council for the following stormwater infrastructure:

- (a) All s68h2 permanent stormwater quality control devices, prior to backfilling.
- (b) New stormwater gully pit and 375mm RCP connecting to existing public drainage infrastructure in Cypress Crescent, prior to backfilling.

The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.

[DUR2445]

82. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:

- (a) internal drainage, prior to slab preparation;
- (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
- (c) external drainage prior to backfilling.
- (d) completion of work and prior to occupation of the building.

[DUR2485]

83. Plumbing

- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
- (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the Plumbing Code of Australia and AS/NZS 3500.

[DUR2495]

84. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.

[DUR2505]

85. All water plumbing pipes concealed in concrete or masonry walls shall be fully lagged.

[DUR2525]

86. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.

[DUR2535]

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

[DUR2545]

88. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-

- * 45°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
- * 50°C in all other classes of buildings.

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

[DUR2555]

89. Swimming pool pumps, air conditioning units, heat pump water systems and the like shall be located, installed and operated so as not to be heard in a habitable room of a residence during restricted hours or where it would create offensive noise as defined within the **NSW Protection of the Environment Operations (Noise Control) Regulation 2017**

[DUR2835]

90. The occupier of any premises in or on which a swimming pool (not including a spa pool) is being constructed must ensure that a sign is erected and maintained that:

- (a) bears a notice containing the words "This swimming pool is not to be occupied or used", and
- (b) is located in a prominent position in the immediate vicinity of that swimming pool, and
- (c) continues to be erected and maintained until a relevant occupation certificate or a certificate of compliance has been issued for that swimming pool.

Maximum penalty: 5 penalty units.

Note. The signage requirements in subclause (3) are in addition to any signage that may be required under the *Environmental Planning and Assessment Act 1979* or any other Act.

[DUR2845]

91. Where public safety is at risk due to damage of water or sewer infrastructure, it is the responsibility of the applicant to immediately notify Council. Cost to undertake emergency works shall be borne in full by the applicant/developer. If additional works to repair or relocate water or sewer infrastructure due to the damage are required, arrangements and cost shall be borne in full by the applicant/developer.
- [DURNS01]
92. Works in the vicinity of public infrastructure must comply with the following requirements;
- a) No portion of any structure may be erected within any easement or within one metre where no easement exists for public infrastructure over the subject site. All structures shall be designed and sited such that all structure loads will be transferred to the foundation material outside of the zone of influence of any public infrastructure.
 - b) Retaining walls are only permitted over the public sewer at the site boundaries. The structure must be designed to provide structural bridging over the pipe, as specified by Council, so as not to impose load on the pipe and to facilitate maintenance of the pipe without adverse effects on the wall's structural integrity and stability.
 - c) Surface treatment over the sewer pipe shall be limited to soft landscaping, noninterlocking paving, concrete slab with construction joints along the alignment of the sewer easement (or one metre from the sewer if no easement exists) or similar treatments as specified by Council officers, to allow ready access to the pipe for excavation. Council will not be responsible for the reinstatement of plantings, unauthorised structures or decorative surfacing in the vicinity of the pipe in the event of pipe excavation or other maintenance works.
 - c) Any fencing erected across the sewer main shall be designed and constructed with removable panels and footings located at least 1.0 metres horizontally clear of sewer main.
 - d) Trees and other landscaping that will grow to over one metre in height at maturity are not permitted to be planted within the sewer easement or within one metre of the sewer if no easement exists, to prevent the tree roots intruding into sewer mains and internal sewer pipes. Landscaping over the sewer shall be of a minor nature designed to ensure they do not damage or interfere with any part of the pipeline.
 - e) Deep soil planting zones are not permitted within the sewer easement or within one metre of the sewer if no easement exists, to ensure adequate protection of council's public sewer infrastructure.
- [DURNS02]
93. Any new information which comes to light during construction/demolition/excavation works which has the potential to alter previous conclusions about site contamination shall be notified in writing to Council's General Manager or delegate. Should potentially contaminating materials or related information be discovered, all site works must cease immediately. No works shall be undertaken until the required investigations have been completed and any approvals obtained, where required, to the satisfaction of Council's General Manager or delegate.
- [DURNS04]
94. All vegetation management measures detailed in the approved Arboricultural Impact Assessment & Tree Constraints Management Plan shall be complied with at all times during the construction phase of the development.
95. A suitably experienced and qualified Project Arborist (Minimum AQF Level 5 Arborist) must

be appointed prior to commencement of any works on site. The Project Arborist is to be responsible for supervising tree works and completing certification of tree management requirements in accordance with the approved Arboricultural Impact Assessment & Tree Constraints Management Plan and Australian Standard AS4970-2009 Protection of trees on development sites.

96. The applicant must comply with any reasonable directions given by the Project Arborist or Council's General Manager or delegate during the construction phase with respect to vegetation management measures employed onsite.
97. All landscaping shall be carried out in accordance with the approved detailed plan of landscaping.

[DURNS05]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

98. Prior to issue of an Occupation Certificate, all works/actions/inspections etc required at that stage by other conditions or any approved Management Plans or the like shall be completed in accordance with those conditions or plans.

[POC0005]

99. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 6.9 and 6.10 unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0205]

100. An occupation certificate is not to be issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been assessed by a properly qualified person and was found, when it was assessed, to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building.

[POC0225]

101. A Partial or Whole Occupation Certificate is to be obtained prior to the Occupation or the commencement of the use of the building.

Within 5 years from the date of issue of any Partial Occupation Certificate for part of a building an Occupation Certificate for the "Whole Building" must be applied for and obtained from the nominated Principal Certifier.

[POC0355]

102. Prior to the issue of an occupation certificate adequate proof and/or documentation is to be submitted to the Principal Certifier to identify that all commitment on the BASIX "Schedule of Commitments" have been complied with.

[POC0435]

103. Prior to the issue of an Occupation Certificate and following completion of all stormwater works on Cypress Crescent, Work as Executed plans and an accompanying ADAC XML Digital File are to be provided to Council in accordance with Councils Development Design Specification, D13 as well as a CCTV inspection of the stormwater pipes that are to be dedicated to Council as public infrastructure including joints and junctions to demonstrate that the standard of the system is acceptable to Council.

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

- a) The plans accurately reflect the work as executed.

- b) All stormwater lines, sewer lines, services and structures are wholly contained within the relevant easements or boundaries.

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

[POC0765]

104. Upon completion of the pool the builder is to submit to the Principal Certifier a certificate stating that the "Water Recirculation System" has been installed in accordance with AS 1926.3-2010.

[POC0905]

105. Prior to the issue of an Occupation Certificate, the applicant shall produce a copy of the "Satisfactory Inspection Report" issued by Council for all s68h2 permanent Stormwater Quality Control Devices and public stormwater infrastructure constructed in Cypress Crescent as per the approved Section 68 stormwater application including the following works:

- (a) Stormwater gully pit.
- (b) 375mm RCP connection from new stormwater gully pit to existing infrastructure
- (c) S68h2 permanent stormwater quality control device/s.

[POC0985]

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

[POC1045]

107. Prior to the issue of a Whole Occupation Certificate, all conditions of consent are to be met.

[POC1055]

108. Prior to an Occupation Certificate being issued, a Post Construction Noise Impact Compliance Assessment report prepared by a suitably qualified acoustic consultant shall be submitted for consideration and approval by Council's General Manager or delegate.

The assessment report shall consider the Noise Assessment for 2- 6 Tweed Coast Road, Cabarita prepared by SLR (Ref: 620.30326-R03) and dated June 2021 and any addendum(s) or amendment(s) to this report as approved by Council's General Manager or delegate, confirm that the development meets the maximum indoor design sound levels as prescribed in the report, and include any recommended noise amelioration measures to be carried out by the applicant.

The applicant shall carry out any such recommendations as provided within the Post Construction Noise Impact Compliance Assessment report to the satisfaction of the General Manager or delegate within 30 days from the date of the acoustic assessment, provided that the General Manager or delegate may extend the time period for the carrying out of any recommended acoustic treatment to a date which may be determined by the General Manager or delegate.

[POCNS01]

109. Prior to the issue of an occupation certificate the applicant shall provide to Council's General Manager or delegate a certification report prepared by the nominated Project Arborist that includes the following information:

- (a) Confirmation that all works have been undertaken in accordance with the following:

- i. The approved Arboricultural Impact Assessment & Tree Constraints Management Plan as required by this consent;
 - ii. Australian Standard AS4970 - 2009 Protection of trees on development sites;
 - iii. industry best standards;
- (b) Provide details of any remedial actions recommended by the Project Arborist or Council to avoid/minimise disturbance of retained vegetation, and
- (c) Brief assessment of the condition of the trees to be retained, details of any deviations from approved essential tree protection management actions/measures and if applicable evaluation of any remedial actions undertaken to mitigate impact on existing vegetation as a result of project works.
110. All landscaping must be completed in accordance with the approved detailed plan of landscaping to the satisfaction of Council's General Manager or delegate prior to the issue of an occupation certificate.

[POCNS02]

111. In regards to the works to be carried out as required above, prior to the issue of an Occupation Certificate a Defects Liability Bond (*in cash or unlimited time Bank Guarantee*) shall be lodged with Council.

The bond shall be based on 5% of the value of the public infrastructure works approved under Section 138 of the Roads Act and Section 68 of the Local Government Act (*as set out in Councils Fees and Charges current at the time of payment*) which will be held by Council for a period of 6 months from the date on which the Occupation Certificate is issued.

It is the responsibility of the Proponent to apply for refund following the remedying of any defects arising within the 6 month period.

[POCNS03]

USE

112. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust and odours or the like.

[USE0125]

113. All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises meets the requirements of the *Acoustic Report - SLR (Ref: 620.30326-R03) and dated June 2021*. The operation of any air conditioning unit, mechanical plant and or equipment must not result in the emission of offensive noise.

[USE0175]

114. All externally mounted artificial lighting, including security lighting, shall comply with AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting and be shielded to the satisfaction of Council's General Manager or delegate where necessary or required so as to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises.

[USE0225]

115. All plant and equipment installed or used in or on the premises:

- (a) Must be maintained in a proper and efficient condition, and
- (b) Must be operated in a proper and efficient manner.

In this condition, "plant and equipment" includes drainage systems, infrastructure, pollution

control equipment and fuel burning equipment.

[USE0315]

116. All commercial / industrial / residential wastes shall be collected, stored and disposed of in accordance with any approved Waste Management Plan or to the satisfaction of the General Manager or his delegate.

[USE0875]

117. Landscaping shall be maintained at all times to the satisfaction of Council's General Manager or delegate.

[USENS01]

118. Multi purpose rooms are not to be converted to a bedroom at any point.

[USENS02]