



**Land and Environment  
Court**  
of New South Wales

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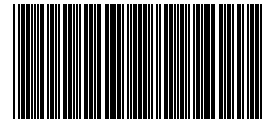
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Your Ref:



D0001MZATN

4 November 2022

### NOTICE OF ORDERS MADE

Case number 2021/00333120  
Case title Harry Ghamraoui v Tweed Shire Council

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On 4 November 2022 the following orders (and/or directions) were made:

The Court orders that:

- (1) The appeal is upheld.
- (2) Development application DA 21/0689 for the demolition of existing buildings and the construction of a 12 storey residential flat building containing 96 units and 3 levels of basement parking (in addition to 2 part levels), tree removal, site consolidation and strata subdivision is determined by the grant of consent, subject to conditions of consent at Annexure A.
- (3) All Exhibits are returned, but for Exhibits A, D and 9.

For the Registrar

## Annexure A

### DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF CONSENT

**Development Application No:** DA21/0689

**Development:** Demolition of existing buildings and the construction of a 12 storey residential flat building containing 95 units and part 3 and part 5 levels of basement parking, tree removal and strata subdivision.

**Site:** Lot's 4-7 DP 23888 (No's. 7-13 Pearl Street, Tweed Heads)

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

**Date of determination:** 04 November 2022

**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's 4-7 DP 23888 (No's. 7-13 Pearl Street, Tweed Heads).

The conditions of consent are as follows:

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and following plans, except where varied by the conditions of this consent:

Plan No.	Rev	Title	Drawn by	Dated
A005	C	Site Plan	Tony Owen Ptnrs	12/08/22
A022	D	Setback Diagram – Ground Floor	Tony Owen Ptnrs	17/08/22
A023	D	Setback Diagram – Level 1	Tony Owen Ptnrs	17/08/22
A024	D	Setback Diagram – Level 2	Tony Owen Ptnrs	17/08/22
A025	D	Setback Diagram – Level 3	Tony Owen Ptnrs	17/08/22
A026	D	Setback Diagram – Levels 4-5	Tony Owen Ptnrs	17/08/22
A027	D	Setback Diagram – Levels 6-10	Tony Owen Ptnrs	17/08/22
A028	D	Setback Diagram – Level 11	Tony Owen Ptnrs	17/08/22
A029	B	Demolition Plan	Tony Owen Ptnrs	14/06/22
A009	C	Basement 3	Tony Owen Ptnrs	12/08/22
A100	C	Basement 2	Tony Owen Ptnrs	12/08/22
A101	C	Basement 1	Tony Owen Ptnrs	12/08/22
A102	D	Ground Floor	Tony Owen Ptnrs	17/08/22
A103	D	Level 1	Tony Owen Ptnrs	17/08/22
A104	C	Level 2	Tony Owen Ptnrs	12/08/22
A105	C	Level 3	Tony Owen Ptnrs	12/08/22
A106	C	Levels 4-5	Tony Owen Ptnrs	12/08/22
A107	C	Level 6	Tony Owen Ptnrs	12/08/22
A107	C	Level 7-10	Tony Owen Ptnrs	12/08/22
A109	C	Level 11	Tony Owen Ptnrs	12/08/22
A109	C	Roof Floor Plan	Tony Owen Ptnrs	12/08/22
A203	C	East Elevation	Tony Owen Ptnrs	12/08/22
A202	C	West Elevation	Tony Owen Ptnrs	12/08/22
A200	C	North Elevation	Tony Owen Ptnrs	12/08/22
A201	C	South Elevation	Tony Owen Ptnrs	12/08/22
A300	C	Section A-A	Tony Owen Ptnrs	12/08/22
A301	C	Section B-B	Tony Owen Ptnrs	12/08/22
A302	B	Detail Sections	Tony Owen Ptnrs	14/06/22

A302	C	Detail Sections 1	Tony Owen Ptnrs	12/08/22
A303	C	Detail Sections 2	Tony Owen Ptnrs	12/08/22
304	D	Ramp Section	Tony Owen Ptnrs	17/08/22
A305	E	Truck Ramp Section	Tony Owen Ptnrs	22/08/22
400	B	Adaptable Unit Plans	Tony Owen Ptnrs	14/06/22
401	B	Adaptable Unit Plans	Tony Owen Ptnrs	14/06/22
950	D	External Finishes Schedule	Tony Owen Ptnrs	17/08/22

[GEN0005]

2. The recommendations of the Pedestrian Wind Environment Statement Revision 0 dated 15 June 2022 prepared by Windtech are to be incorporated into the plans for the Construction Certificate subject to the following changes:

- (i) The plans are to adopt *Communal Pool Option 2: Inclusion of permanent localised canopies/ shelters* as the wind treatment for the Level 2 Communal Open Space. *Communal Pool Option 1: Inclusion of an impermeable awning* is not approved. The awnings to be adopted for Communal Pool Option 2 are to be *Street Umbrellas Australia Centre Series Square S 3.2m x 3.2m x 2.4m high* (to underside), or similar.
- (ii) Where dense planting is shown to manage wind along side boundaries the hedging is to be located on the edge of the raised private open space and not at the boundary line to ensure the dense plantings do not create a negative impact on lower neighbouring properties.
- (iii) The terrace area servicing the bedroom of Apartment 211 is to be deleted and replaced with planter beds so that the dense planting needed for wind can be moved further to the north west away from the windows to preserve reasonable amenity.
- (iv) Where inclusion of a 2m tall impermeable balustrade along the eastern edges of the eastern balconies has been recommended, this must be applied as follows:
  - Solid clear glass balustrade fixed to a height of 1.2m above the finished floor level of the balcony.
  - From the top of the balustrade to the ceiling of the balcony, a retractable glass screen (e.g. bi-fold windows with clear glazing).
- (v) Where inclusion of a 2m tall impermeable balustrade along the perimeter of the Level 11 terraces has been recommended, the balustrade is to be clear glass and installed within and approximately aligned with the centreline of a raised planter that is 2m deep, such that the balustrade is set back 1m from the outer edge of the building

elevations to reduce the visual appearance of these screens from both sides. Where this results in the terrace having a depth of less than 1m, that part of the terrace is to become non-trafficable roof.

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

[GEN0115]

4. 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]

5. The applicant shall arrange for a site inspection to be carried out with Council's Environmental Health Officer and key representatives involved in the dewatering activity including consultants and personnel responsible under any Dewatering Management Plan approved by Council's General Manager or delegate. Such site inspection shall be arranged and carried out prior to the commencement of any offsite dewatering activity occurring.

[GEN0180]

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

[GEN0265]

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

[GEN0300]

8. Any air-handling system, hot water system, humidifying system, warm-water system, water-cooling system or any other 'regulated system' as defined in Section 26 of the Public Health Act 2010 shall be installed in accordance with the relevant requirements of Part 2 Legionella Control of the Public Health Regulation 2012.

[GEN0315]

9. Prior to demolition work commencing a sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm by 300mm shall be erected in a prominent visible location on the site. The sign shall remain in place until all asbestos has been removed from the site.

[GEN0345]

10. Prior to the commencement of construction of the new structure or use of the site a 'clearance inspection' shall be conducted for the site and a 'clearance certificate' issued by a licensed asbestos assessor or competent person which states that the site 'does not pose a risk to health and safety from exposure to asbestos' in accordance with Clause 474 of the Work Health and Safety Regulation 2017. A copy of this certificate shall be forwarded to the Principal

Certifier and Council within 7 days of completion of the 'clearance inspection'.

11. All works shall comply with AS2601-2001 Demolition of Structures and the Work Health and Safety Regulation 2017. [GEN0350]
12. 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]
13. Waste Management including bin/waste storage and collection services shall be undertaken in accordance with the Operational Waste Management Plan Report No. SO1095 Revision E dated 13 June 2022 prepared by Elephants Foot. [GEN0365]
14. The internal carpark design and access to the site is to comply with the requirements of AS2890.1:2004 Off Street car parking, AS2890.2:2018 Off Street commercial vehicle facilities, AS2890.3:2015 Bicycle Parking facilities and AS2890.6:2009 Off Street parking for people with Disabilities. [GENNS01]
15. The Applicant shall submit an 'Application for Sewer Junction Installation' to Council's Water & Wastewater Unit to facilitate a sewer junction for proposed development from the existing sewer pipeline in Pearl Street. The sewer junction works approved by Council's Water & Wastewater Unit must be completed before a S68 approval to Connect to Sewer (SEW) can be issued by Council's Building and Environmental Health Unit. [GENNS02]
16. The development shall take into consideration all existing easements and restrictions burdening the subject allotment. [GENNS03]
17. Tree removal, retention and tree protection measures are to be undertaken in accordance with *Arboricultural Impact Assessment Rev. B dated 15 June 2022*, prepared by CPS.
18. Removal or pruning of vegetation must be carried out in accordance with *AS 4970-2009 Protection of trees on development sites*. [GENNS04]
19. Prior to any demolition works commencing, any service line/s to the properties must be disconnected.
20. Essential Energy's records indicate that there is existing overhead powerlines affected by the proposal:
  - (a) The proposed building must be clear of the nearest conductor/s (under blowout conditions) plus a 2.1 metre (HV) and 1.5 metres (LV open wire) safety clearance (horizontal clearances). The Applicant should engage the

services of an ASP3 to assist to ensure compliance. A list of Level 3 Accredited Service Providers is available at <https://energysaver.nsw.gov.au/households/youand-energy-providers/installing-or-altering-your-electricity-service>.

- (b) The Applicant will need to re- consider their landscaping plans, as several species proposed near the powerlines in the street are between 6.0 metres to 15.0 metres in height. Vegetation of this height should be the same distance away from the powerlines to remove issues of fire and falling trees damaging the infrastructure and must comply with the latest industry guideline currently known as *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*.
  - (c) Minimum safety clearance requirements are to be maintained at all times for the proposed driveways access and/or exit (concrete crossovers), as such driveways will pass under Essential Energy's existing overhead powerlines located at the front of the property. The driveways must comply with clearances for trafficable land, ground clearances must be maintained. Refer Essential Energy's policy *CEOM7106.25 Minimum Clearance Requirements for NSW* and *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*.
  - (d) Any proposed driveway access and/or exit (concrete crossovers) must remain at least 1.0 metre away from any electricity infrastructure (power pole, streetlight) at all times, to prevent accidental damage.
  - (e) Any excavation works in this area or works on the driveways must comply with the latest industry guideline currently known as *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*. 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) to locate the existing underground powerlines.
21. The Applicant will need to engage the services of an Accredited Service Provider to ensure adequate provision of power is available to all proposed units in accordance with the NSW Service and Installation Rules.
22. Essential Energy also 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 properties should be complied with.
  - (c) In addition, Essential Energy's records indicate there is electricity infrastructure located within the properties and within close proximity of the properties. 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.* Approval may be required from Essential Energy should activities within the property encroach on the electricity 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](http://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*.

## **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

23. Prior to issue of a Construction Certificate the drawings are to be amended as follows:
- (a) The baffles indicated within the bedroom or living room walls of the following apartments are to be deleted and replaced with a solid wall – G04, G06, 104, 206, 304, 305, 310, 404, 407, 504 and 507 to ensure there are no acoustic privacy or visual privacy impacts for these apartments or adjacent units.
  - (b) The corner north facing bedroom windows to Apartments 703, 803, 903 and 1003 are to have a sill height of 1.6m to ensure visual privacy to apartments to the north.
  - (c) The second bedroom window of these units is also to be amended so that the window is relocated from the north facing wall to the narrower west facing portion of the façade to avoid overlooking of the bedroom windows for the apartments to the north.
  - (d) The treatment along the boundary courtyard edge of Apartments 201, 202 and 210 is to be amended by providing a fence on the boundary at ground level with a maximum height of 1.8m, with any retaining walls to take up the level difference for the courtyard level in the development setback a minimum of 1m. Retaining walls are not to exceed 1.2m in height with planting strips not less than 0.8m in depth. This is to avoid high retaining walls and fences impacting the amenity of neighbouring properties.
  - (e) The CAR RAMP SECTION (Drawing No. 304 Ramp Section, Revision D, dated 17 August 2022) and the ramp plans (shown on Drawing No.'s A009, A100, A101, A102 & A103 for B3, B2, B1, Ground & Level 1, respectively) are to clearly indicate the proposed levels at each change in gradient in order to validate that the plotted Ramp Sections for the INNER Radius (shortest) and OUTER Radius (longest) for each of the curved ramps comply with AS2890.1:2004.



24. The developer shall provide off street parking, in accordance with Tweed Shire Council Development Control's Plan Part A2 - Site Access and Parking Code, for a minimum of:
- (a) 171 parking spaces including car parking for the disabled (as required), comprising a minimum of 147 resident spaces and a minimum of 24 visitor spaces
  - (b) 107 bicycle parking spaces, comprising a minimum of 95 resident spaces [AS2890.3:2015 Class 1 Type] and a minimum of 12 visitor spaces [AS2890.3:2015 Class 3 Type]

Full design detail of the proposed parking and manoeuvring areas including integrated landscaping shall be submitted to the Certifier (Council or a Registered Certifier) with the Construction Certificate application.

Unrestricted access to the allocated Visitor Car Parking Space needs to be made available to the public at all times, unless agreed otherwise by Council.

Council will only accept tandem car parks if each pair of tandem spaces is allocated to an individual unit.

While motorcycle parking is not strictly required, any off-street motorcycle parking provided must comply with AS2890.1:2004.

[PCC0065]

## 25. 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 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.**

a.	Contribution Plan No 4 - Tweed Road Contribution Plan:	
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	344.5 trips @ \$993.00 per trip (\$815.00 base rate + \$178.00 indexation)	\$342,089.00
	CP04 Road Contributions (1-Tweed Heads)	
b.	Contribution Plan No 11 - Tweed Shire Library Facilities:	
	64.625 ETs @ \$1,007.00 per ET (\$792.00 base rate + \$215.00 indexation)	\$65,077.00
	CP11 Libraries	
c.	Contribution Plan No 12 - Bus Shelters:	
	64.625 ETs @ \$76.00 per ET (\$60.00 base rate + \$16.00 indexation)	\$4,912.00
	CP12 Bus Shelters	
d.	Contribution Plan No 13 - Eviron Cemetery:	
	64.625 ETs @ \$143.00 per ET (\$101.00 base rate + \$42.00 indexation)	\$9,241.00
	CP13 Cemeteries	
e.	Contribution Plan No 15 - Developer Contributions for Community Facilities:	
	64.625 ETs @ \$1,661.00 per ET (\$1,305.60 base rate + \$355.40 indexation)	\$107,342.00
	CP15 Comm Facilities	
f.	Contribution Plan No 18 - Council Administration Offices and Technical Support Facilities:	
	64.625 ETs @ \$2,252.11 per ET (\$1,759.90 base rate + \$492.21 indexation)	\$145,542.61
	CP18 Council Admin Facilities	
g.	Contribution Plan No 22 - Cycleways:	
	64.625 ETs @ \$568.00 per ET (\$447.00 base rate + \$121.00 indexation)	\$36,707.00
	CP22 Cycleways	
h.	Contribution Plan No 26 - Shirewide Regional Open Space:	
	64.625 ETs @ \$1,311.00 per ET (\$1,031.00 base rate + \$280.00 indexation)	\$84,723.00
	CP26 (Regional OS) Casual	

i.	Contribution Plan No 26 - Shirewide Regional Open Space:	
	64.625 ETs @ \$4,601.00 per ET (\$3,619.00 base rate + \$982.00 indexation)	\$297,340.00
	CP26 (Regional OS) Structured	
j.	Section 94 Plan No 27 - Tweed Heads Master Plan - Local Open Space/Streetscaping:	
	91 MDUs @ \$1,047.00 per MDU (\$1,047.00 base rate + \$0.00 indexation)	\$95,277.00
	CP27 TH Master Plan Open Space	

[PCC0215]

26. 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 the Environmental Planning and Assessment Regulations, 2021, 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:	44.86 ET @ \$11,728.00	= \$526,118.0
Sewer:	69.25 ET @ \$7,585.00	= \$525,261.25

[PCC0265]

27. Any site re-grading or re-shaping shall at no time result in additional runoff or ponding occurring within neighbouring properties.

All earthworks shall be contained wholly within the subject land.

[PCC0485]

28. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve, including (but not limited to) the construction of a new, vehicular access in accordance with Council's Development Control Plan - Section A2 "Site Access and Parking Code" and Council's "Driveway Access to Property - Design Specification" (current version), providing compliant sight distance triangles.

Application shall include (but not limited to) engineering plans and specifications undertaken in accordance with Council's Development Design and Construction Specifications for the following required works:

- Road works/furnishings
- Stormwater drainage

- Water and sewerage works
- Sediment and erosion control plans
- Location of all services/conduits
- Traffic and Pedestrian Management Plan

[PCC0895]

29. Details from a Structural Engineer are to be submitted to the Certifier (Council or a Registered Certifier) for approval for all retaining walls/footings/structures etc taking into consideration the zone of influence on the sewer main or other underground infrastructure and include a certificate of sufficiency of design prior to the issue of a construction certificate.

[PCC0935]

30. The reinforced concrete elements and associated site works are to be designed by a practising Structural Engineer after consideration of a soil report from a suitably qualified geotechnical engineer and shall be submitted to and approved by the Certifier (Council or a Registered Certifier) prior to the issue of a construction certificate.

[PCC0945]

31. Council will not permit ground/rock anchors (to retain sacrificial sheet piling for basement excavations) within Council or neighbouring private property or within 200mm of the subject site's property boundary, without prior consent from Council or the applicable neighbouring property owner being obtained. If the land is owned by Council, approval is required from the General Manager or his delegate.

Prior to the issue of a Construction Certificate for the basement, the Proponent must: provide a plan indicating the location of ground/rock anchors within Council or neighbouring private properties; enter into a contract regarding liability for the ground anchors; and lodge an application under Section 138 of the Roads Act (with applicable fee) plus a bond for each road frontage (as per Council's current fees and charges). This bond will be refunded upon the removal of the ground anchors to the satisfaction of Council. If the ground anchors are not removed prior to the occupation/use of the development, the bond shall be forfeited to Council.

[PCC0955]

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

- (c) The stormwater and site works may incorporate Water Sensitive Urban Design principles and where practical, integrated water cycle management.
- (d) Specific Requirements to be detailed within the Construction Certificate application include:
- (e) Shake down area shall be installed within the property, immediately prior to any construction vehicles entering or exiting the site, prior to any earthworks being undertaken.
- (f) Runoff from all hardstand areas, (including car parking and hardstand landscaping areas and excluding roof areas) must be treated to remove oil and sediment contaminants prior to discharge to the public realm. All permanent stormwater treatment devices must be sized according to Council's Development Design Specification D7 - *Stormwater Quality*, Section D7.12. Engineering details of the proposed devices, including maintenance schedules, shall be submitted with a s68 Stormwater Application for approval prior to issue of a Construction Certificate.
- (g) Roof water does not require treatment, and should be discharged downstream of treatment devices, or the treatment devices must be sized accordingly.

[PCC1105]

33. A Construction Certificate/Subdivision Works 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.
- b) Where Council is requested to issue a Subdivision Works Certificate for subdivision works associated with this consent, the abovementioned works can be incorporated as part of the Subdivision Works Certificate application, to enable one single approval to be issued. Separate approval under Section 68 of the Local Government Act will then NOT be required.

[PCC1145]

34. 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".

A detailed Erosion and Sediment Control Plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*

shall be submitted with the Section 68 stormwater drainage application.

[PCC1155]

35. 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 200 l/s/ha. 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.

All stormwater must initially be directed to the DCP unless it is demonstrated that an alternative configuration can achieve the same objective. Details are to be submitted with the S68 stormwater application.

[PCC1165]

36. 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. An application for the bulk meter shall be made to the supply authority detailing the size in accordance with Plumbing Code of Australia (PCA) and BCA requirements.

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

[PCC1185]

37. 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.

The s68 application for stormwater is to include assessment of the capacity of the downstream drainage network relied upon, including any upgrading required to meet the standards of Council's Design Specification D5 Stormwater Drainage Design.

[PCC1195]

38. 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]

39. The multiple basements for the proposed development may disturb/impact upon the existing 150mm sewer main within the western verge of Pearl Street. Applications for the protection of the existing sewer infrastructure must be submitted on Council's standard Section 68 Application to Carry out Water Supply or Sewerage Work 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.

[PCCNS01]

40. Regular discharge of groundwater to the public stormwater system is not permitted. The proposed basement shall be designed so that groundwater discharge is not required.

[PCCNS03]

41. A detailed landscape plan prepared by a suitably qualified landscape architect or landscape consultant shall be submitted and approved by Council's General Manager or delegate prior to the issue of a construction certificate. The detailed landscape plan shall generally be consistent with Landscape Concept Design, Landscape Concept Package 7-13 Pearl St, Tweed Heads NSW 2485 dated 31 August 2022, prepared by CPS and include the following details:
- a. A site plan (1:100 or 1:200) showing the existing features. All existing trees to be located to scale and identified by botanical and common names;
  - b. Proposed and existing site services to remain, including water, gas, electricity, sewer, etc;
  - c. Ensure that all stormwater drainage requirements have been taken into consideration such that the landscaping will not interfere with the operation and maintenance of the stormwater management system. Particular regard is to be had to property perimeter and easement drainage requirements including the locations of pits, pipes and overland flow paths, and how these may be affected by any proposed landscaping.
  - d. Ensure that Essential Energy requirements are taken into consideration.
  - e. Alterations and additional survey plan showing the location, canopy spread, trunk diameter, height and names of those existing tree/s and significant tree/s adjacent to the site likely to be affected by the development. The plan shall also include the existing ground levels at the base of the trunk of the tree/s as well as at the drip lines of the tree/s;
  - f. Existing and proposed ground levels (shown as spot heights and/or contours over the site); showing the site boundaries, and the base of the trees that are to be retained;
  - g. Detail recognised best practice arboricultural management measures and approaches prescribed in the *Australian Standard AS 4970 - 2009 Protection of trees on development sites* to ensure retention of existing trees identified on the *Landscape Concept Design*;
  - h. Sectional elevations through the site showing the existing and proposed ground lines, building elevations and proposed plantings;
  - i. Planting plans at a scale of 1:100 or 1:200 indicating the location of all proposed and existing planting to be retained. The plan is to include a detailed plant schedule which shall include species listed by botanical and common names; quantities of each species; pot sizes; the estimated size of the plant at maturity, and proposed staking methods (if applicable); and
  - j. Minimum of 80% of total plant numbers to be comprised of local native species. No noxious or environmental weed species are to be proposed.

[PCCNS04]

42. Prior to the issue of a construction certificate, the Applicant shall submit and

obtain approval from Council's General Manager or delegate, a detailed "Design" certificate from an experienced and qualified traffic engineer with tertiary qualifications. The certification shall certify that the design of the following matters comply with relevant clauses of AS2890.1-2004 (cars and motorcycles), AS2890.2:2018 (commercial vehicles, restricted in length to Council's 9.5m long Waste Collection Vehicle), AS2890.6-2009 (disabled parking) and AS2890.3-2015 (bicycles):

- (a) The vehicular access to and from the site.
  - (b) Internal vehicular circulation ramps.
  - (c) Off-street commercial vehicle loading area / bay and associated access / manoeuvring area, limited to a maximum rigid truck length of 9.5m.
  - (d) Off-street parking provision and compliant access / manoeuvring for cars, motorcycles and bicycles.
  - (e) That the above listed matters have been designed in accordance with the approved plans and specifications.
  - (f) That all vehicles outlined above can enter and leave the site in a forward direction.
  - (g) The sight line for drivers of vehicles leaving the Site complies with *Clause 3.2.4* and *Figure 3.3* of *AS2890.1-2004* with design certification of that aspect included.
43. Prior to the issue of a construction certificate, a Strata Plan must be submitted and approved by Council's General Manager or delegate. The Plan is to clearly indicate all residential car parking within Common Property of each basement level.
44. Prior to the issue of a construction certificate, details of the car parking intercom system are to be submitted and approved by Council's General Manager or delegate. The intercom is to be positioned to allow visitors access to the visitor car spaces located behind the roller shutter.
- [PCCNS05]
45. Prior to the issue of a construction certificate, a detailed Groundwater Monitoring Management Plan is to be submitted and approved by Council's General Manager or delegate. The plan is to enable sufficient groundwater data to be collected to confirm the predictions made in the Hydrogeological Assessment prepared by EIAustralia and dated 31 August 2022, and must include:
- (a) The location of the groundwater monitoring wells to be monitored during the basement construction phase of the development to determine that off-site groundwater level drawdown is within levels as predicted by EIAustralia.
  - (b) The location of the groundwater monitoring wells to be monitored for a period of 2 years after completion of the basement to determine that groundwater level increases are within levels predicted by EIAustralia.



- (c) Details of remedial actions to be undertaken to be implemented if monitored groundwater levels are outside of the ranges predicted for the basement construction or post-construction period.
- 46. Prior to the issue of a construction certificate, a detailed construction staging plan for the basement work must be provided.
- 47. Prior to the issue of a construction certificate, a detailed analysis of the proposed shoring system undertaken by a suitably qualified structural engineer that is to be submitted and approved by Council's General Manager or delegate. The analysis shall be generally in accordance with the Structural Design Review prepared by ACSES Engineers and dated 22 August 2022, the outcomes of the joint report and must certify that the proposed laterally braced secant pile wall solution around the perimeter of the below ground levels is appropriate for the proposed development or provide detailed design for an alternative solution.
- 48. Prior to the issue of a Construction Certificate for each relevant stage of the development, an application for airspace approval under the Airports (Protection of Airspace) Regulations is to be made via Gold Coast Airport Pty Ltd, for any proposed temporary penetration of the OLS by use of construction cranes or other equipment, with a minimum of 8 weeks' notice.

[PCC0415]

## **PRIOR TO COMMENCEMENT OF WORK**

- 49. The following recommendations of the EI Australia report entitled 'Detailed Site Investigation and Acid Sulfate Soil Assessment' dated 16 June 2022 is to be complied with to the satisfaction of the certifier prior to the issue of the construction certificate.
  - a) Before commencement of any demolition works and after the current occupants (tenants) vacate the properties, a Hazardous Materials Survey (HMS) should be completed by a suitably qualified consultant, to confirm the presence / location of any hazardous materials within the existing building fabrics.

All identified hazardous materials must be appropriately managed during future demolition works, to maintain worker health and safety and prevent the spread of hazardous substances onto the site surface.
- 50. 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]

51. Where any pumps used for dewatering operations are proposed to be operated on a 24-hour basis, the owners of adjoining premises shall be notified accordingly prior to commencement of such operations.

[PCW0125]

52. 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]

53. 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]

54. 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]

55. 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]

56. **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]

57. 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]

58. 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]

59. 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]

60. 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]

61. Where any existing sewer junctions are to be disused on the site, the connection point shall be permanently removed 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 prior to commencing any building works.

[PCW1135]

62. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of a new (or

modification of the existing) driveway access (or modification of access).

Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.

[PCW1170]

## **DURING CONSTRUCTION**

63. 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.
64. During the construction phase the following conditions are to be complied with, in accordance with the recommendations of the EI Australia report entitled 'Detailed Site Investigation and Acid Sulfate Soil Assessment' dated 16 June 2022.
- a) Following building / pavement demolition and removal of associated wastes, an inspection of the exposed surface should be performed by a suitably qualified environmental consultant. This inspection form part of the asbestos clearance program.
  - b) Site-wide bulk excavation is to be performed, in order to construct the basement. This will result in the removal of all asbestos-impacted soil materials, alleviating any concerns regarding residual (ACM) contamination. All soil materials that are designated for off-site disposal, including any VENM, must be pre-classified in accordance the EPA (2014) Waste Classification Guidelines. In designing the SAQP for waste classification, the EPA (1995) Sampling Design Guidelines should be referred to and the analytical suite is to include the identified COPC (Section 4.5).  
  
Note: The topsoil filling of 9, 11 and 13 Pearl Street is expected to include the sub-category Special Waste (Asbestos) in its classification.
  - c) During the bulk (basement) excavation phase, all tipping dockets supplied by the landfill companies are to be retained, to confirm the appropriate (lawful) disposal of waste soils.
  - d) An asbestos clearance inspection and certificate must be completed by a suitably qualified professional (SafeWork NSW Licensed Asbestos Assessor) following the removal of all ACM, including impacted fill soils. The clearance is to be initiated once the topsoil filling of 9, 11 and 13 Pearl Street has been disposed (as Special Waste (Asbestos)).  
  
The asbestos clearance will be assisted by laboratory analysis of representative (remaining) soil samples for asbestos.  
  
Where the clearance indicates ACM remain on the site, further removal, re-inspection and sampling / analysis must be undertaken.
  - e) Any soil material to be imported to the site (i.e. for backfilling and/or landscaping purposes) must be confirmed by documentary evidence as suitable for the proposed land use, in accordance with EPA guidelines.

[DUR0005]

65. 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]

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

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

67. All pumps used for onsite dewatering operations are to be installed on the site in a location that will minimise any noise disturbance to neighbouring or adjacent premises and be acoustically shielded to the satisfaction of Council's General Manager or his delegate so as to prevent the emission of offensive noise as a result of their operation.

[DUR0225]

68. All waters pumped from the site in the dewatering process are to be treated with an effective deodoriser to the satisfaction of Council's General Manager or his delegate to neutralise any offensive odours. The point of discharge shall be approved by Council's General Manager or his delegate prior to installation and shall include a water sampling outlet.

[DUR0235]

69. Pumps used for dewatering operations are to be electrically operated. Diesel pumps are not to be used unless otherwise approved by the Tweed Shire Council General Manager or his delegate.

[DUR0255]

70. 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]

71. 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]

72. 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]

73. 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]

74. 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]

75. 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/subdivision 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]

76. To ensure that the development 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]

77. 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 the WorkCover NSW, Work Health and Safety Regulation 2017.

The proponent shall also observe the guidelines set down under the Department of Environment and Climate Change publication, "A Renovators Guide to the

Dangers of Lead” and the Workcover Guidelines on working with asbestos.

[DUR0645]

78. Minimum notice of 48 hours shall be given to Tweed Shire Council for the capping of any disused sewer junctions. Tweed Shire Council staff in accordance with the application lodged and upon excavation of the service by the developer shall undertake the works.

[DUR0675]

79. The use of vibratory compaction equipment, including high impact methods, (other than hand held devices) within 100m of any existing dwelling house, building or structure is strictly prohibited.

[DUR0815]

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

[DUR0985]

81. 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 deposited on the roadway by construction vehicles will be at the Developers expense and any such costs are payable prior to the issue of an Occupation Certificate.

[DUR0995]

82. 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]

83. 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]

84. Any air-handling system, hot or warm water system or water-cooling system and any other regulated system as defined in Part 3 Section 26 of the Public Health Act 2010 shall be installed in accordance with the requirements of Part 2, Clauses 6, 10, 13D and 13I of the Public Health Regulation 2012.

[DUR1645]

85. Where a building or part of a building is required, under the provisions of Section D of the Building Code of Australia, to be accessible to permit use by people with disabilities, prominently displayed signs and symbols shall be provided to identify accessible routes, areas and facilities. The signage, including Braille or tactile signage, should be installed in accordance with the relevant provisions of the Building Code of Australia and achieve the minimum design requirements provided under AS1428.



[DUR1695]

86. Pursuant to the provisions of the Disability Discrimination Act, 1992 (Commonwealth) the design of the proposed development shall facilitate access for the disabled in accordance with the relevant provisions of AS1428- Design for Access and Mobility.

[DUR1725]

87. A concrete footpath 1.2 metres wide is to be constructed on a compacted base along the entire frontage of the site to Pearl Street in accordance with Councils Development Design and Construction Specifications and Standard Drawing SD013.

24 hours notice is to be given to Council's Roads and Stormwater Unit before placement of concrete to enable formwork and subgrade to be inspected.

[DUR1735]

88. 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]

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

[DUR1905]

90. 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]

91. 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 enclosed and located in a position 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](http://www.swimmingpoolregister.nsw.gov.au).

[DUR2075]

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

[DUR2085]

93. The spa filter and any pumps or aerators are to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.
- [DUR2135]
94. 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]
95. 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]
96. The guttering downpiping and roof waste water disposal system is to be installed and operational before the roofing is installed.
- [DUR2245]
97. Council's Environmental Health Officer shall be advised within 24 Hours in the event of detection of any failure associated with the dewatering activity being carried out on the site.
- [DUR2315]
98. During construction, a "Satisfactory Inspection Report" is required to be issued by Council for all s68h2 permanent Stormwater Control Devices, including onsite detention, prior to backfilling. The proponent shall liaise with Councils Engineering Division to arrange a suitable inspection.
- [DUR2445]
99. 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]
100. 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]
101. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.
- [DUR2505]

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

[DUR2525]

103. 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]

104. 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]

105. 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]

106. The Applicant shall submit the appropriate 'Application for Water Service Connection' form to Council's Water Unit to facilitate a property service water connection for the proposed development, from the existing water main in Pearl Street. The connection shall be undertaken by Tweed Shire Council, with all applicable costs and application fees paid by the Applicant.

[DUR2800]

107. 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]

108. Written notice shall be provided to the 'regulator' at least 5 days before the removalist commences licensed asbestos removal work in accordance with Clause 466 of the Work Health and Safety Regulation 2017.

[DUR2840]

109. Works in the vicinity of public infrastructure must comply with the following requirements;
- a) No portion of any habitable 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 connection shall be limited to soft landscaping, non-interlocking 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.
- d) Trees and other landscaping that will grow to over one metre in height at maturity are not permitted to be planted within the one metre of the sewer and sewer connection, to prevent the tree roots intruding into sewer mains and internal sewer pipes.

[DURNS01]

110. 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.

111. Groundwater monitoring must be undertaken in accordance with the approved Groundwater Monitoring Management Plan around the perimeter of the basement excavation during the basement construction phase to ensure that groundwater drawdown levels are as modelled, and if not, that suitable remedial action can be taken to return groundwater levels to predicted levels. At the completion of the basement construction phase, a construction

groundwater monitoring report should be provided to Council which documents the monitoring undertaken, any remedial actions undertaken in respect of groundwater levels, and where there was a significant deviation from the predicted drawdown levels, an explanation for such differences and demonstration that no significant impacts were caused by any such deviation.

112. Groundwater dewatering is to be undertaken generally in accordance with the principles outlined in the Dewatering Management Plan Report Ref. E25227.E16\_Rev0, dated 16 June 2022 prepared by EI Australia.

### **PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

113. 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]

114. 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]

115. Prior to occupation of the building the property street number is to be clearly identified on the site by way of painted numbering on the street gutter within 1 metre of the access point to the property.

The street number is to be on a white reflective background professionally painted in black numbers 75-100mm high.

On rural properties or where street guttering is not provided the street number is to be readily identifiable on or near the front entrance to the site.

For multiple allotments having single access points, or other difficult to identify properties, specific arrangements should first be made with Council and emergency services before street number identification is provided.

The above requirement is to assist in property identification by emergency services and the like. Any variations to the above are to be approved by Council prior to the carrying out of the work.

[POC0265]

116. 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 Certifying Authority.

[POC0355]

117. 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]
118. Prior to the issue of an Occupation Certificate, the applicant shall produce a copy of the "Satisfactory Inspection Report" issued by Council for all works required under Section 138 of the Roads Act 1993.
- [POC0745]
119. Redundant road pavement, kerb and gutter or foot paving including any existing disused vehicular laybacks/driveways or other special provisions shall be removed and the area reinstated to match adjoining works in accordance with Councils Development Design and Construction Specifications.
- [POC0755]
120. The lots are to be consolidated into one lot under one title. The plan of consolidation shall be registered with NSW Land Registry Services (formerly Land and Property Information (LPI)), prior to issue of an Occupation Certificate.
- [POC0855]
121. 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]
122. 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 Control Devices, including onsite detention.
- [POC0985]
123. 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]
124. The swimming pool or spa is required to be registered at [www.swimmingpoolregister.nsw.gov.au](http://www.swimmingpoolregister.nsw.gov.au) prior to the issue of any occupation certificate for the swimming pool or spa.
- [POC1100]
125. 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 Council's Development Design and Construction Specifications, prior to the issue of any Occupation Certificate.
- [POCNS01]
126. A second Dilapidation Report is to be prepared by a suitably qualified engineer at the completion of the works to ascertain if any structural damage has occurred to the adjacent buildings and infrastructure. The Report is to be compared with the first Dilapidation Report (supported by photos cross referenced to the original Dilapidation Report) and recommend a course of action to carry out repairs if required.
- The Report is to be submitted to and endorsed by the Principle Certifying Authority, prior to issue of the Occupation Certificate.

[POCNS02]

127. Prior to the issue of an occupation certificate, the applicant is to provide written evidence that Council and its collections contractor is indemnified against claims for loss or damage to the pavement or other driving surface as well as indemnity against liabilities, losses, damages, and any other demands arising from any on-site collection service. In all cases, a hazard assessment will need to be conducted prior to Council agreeing to undertake the service.

[POCNS03]

128. Prior to the issue of an occupation certificate, the Applicant shall submit and obtain approval from Council's General Manager or delegate, a detailed "As-Constructed" certificate from an experienced and qualified traffic engineer with tertiary qualifications. The certification shall certify that construction of the following matters comply with relevant clauses of AS2890.1-2004 (cars and motorcycles), AS2890.2:2018 (commercial vehicles, restricted in length to Council's 9.5m long Waste Collection Vehicle), AS2890.6-2009 (disabled parking) and AS2890.3-2015 (bicycles):
- (a) The vehicular access to and from the site.
  - (b) Internal vehicular circulation ramps.
  - (c) Off-street commercial vehicle loading area / bay and associated access / manoeuvring area, limited to a maximum rigid truck length of 9.5m.
  - (d) Off-street parking provision and compliant access / manoeuvring for cars, motorcycles and bicycles.
  - (e) That the above listed matters have been constructed in accordance with the approved plans and specifications.
  - (f) That all vehicles outlined above can enter and leave the site in a forward direction.
  - (g) The sight line for drivers of vehicles leaving the Site complies with *Clause 3.2.4 and Figure 3.3 of AS2890.1-2004* with operational certification of that aspect included.

## USE

129. 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]

130. Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.

[USE0145]

131. All air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised. Notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of Council's General Manager or

delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive or intrusive noise.

[USE0175]

132. 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]

133. The servicing of waste facilities shall be limited to between the hours of 7.00am to 6.00pm Monday to Saturday and 8.00am to 6.00pm Sunday and Public Holidays unless otherwise approved by Council's General Manager or delegate.

[USE0285]

134. The development shall be carried out in accordance with the provisions of the Noise Impact Assessment Report prepared by Acoustic Logic dated 13 June 2022 (Ref: 20210571.3/1306A/RO/VF).

[USE0305]

135. All commercial / industrial / residential wastes shall be collected, stored and disposed of in accordance with the Operational Waste Management Plan Report No. SO1095 Revision E dated 13 June 2022 prepared by Elephants Foot. or to the satisfaction of the General Manager or his delegate.

[USE0875]

136. Any air-handling system, hot or warm water system, humidifying system or water-cooling system and any other regulated system as defined in Section 26 of the Public Health Act 2010 shall be operated and maintained in accordance with the requirements of Part 2 Divisions 2, 3, 4, 5 and 6 of the Public Health Regulation 2012.

[USE0945]

137. A backflow containment device will be installed adjacent to Council's water meter installation at the property boundary in accordance with AS3500. The device is to be maintained in accordance with the provisions of AS3500 by the owner of the property at the owner's expense.

[USE1455]

138. Landscaping must be maintained and kept in good condition in perpetuity for the life of the development the subject of the development consent, and generally be in accordance with the approved landscaping plan for the life of the development.

[USENS01]

139. Waste Management including bin/waste storage and collection services shall be undertaken in such a manner that preserves local amenity and does not cause a nuisance to residents and adjoining property occupants. s

140. All vehicles must enter and leave the property in a forward direction.

[USENS02]

## PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE



141. Easements for stormwater drainage shall be applied to the sites deposited plan equivalent to the existing easements prior to subdivision/consolidation. These easements must ensure legal continuity of discharge entitlements for the upstream lots through to the site lawful point of discharge

[PSCNS01]

## GENERAL TERMS OF APPROVAL UNDER SECTION 89, 90 or 91 OF THE WATER MANAGEMENT ACT 2000

<b>Reference Number:</b>	IDAS1145020
<b>Issue date of GTA:</b>	08 August 2022
<b>Type of Approval:</b>	Water Supply Work
<b>Description:</b>	80mm submersible pump
<b>Location of work/activity:</b>	7-13 Pearl Street Tweed Heads NSW
<b>DA Number:</b>	DA21/0689
<b>LGA:</b>	Tweed Shire Council
<b>Water Sharing Plan Area:</b>	North Coast Fractured and Porous Rock Groundwater Sources 2016

The GTA issued by WaterNSW do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to WaterNSW for the relevant approval **after development consent** has been issued by Council **and before** the commencement of any work or activity.

Condition Number	Details
	<b>Dewatering</b>
GT0115-00001	Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.
GT0116-00001	Before any construction certificate is issued for any excavation under the development consent, the applicant must: 1. apply to WaterNSW for, and obtain, an approval under the Water Management Act 2000 or Water Act 1912, for any water supply works required by the development; and 2. notify WaterNSW of the programme for the dewatering activity to include the commencement and proposed completion date of the dewatering activity Advisory Note: 3. An approval under the Water Management Act 2000 is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of groundwater, nor do they constitute the grant or the indication of an intention to grant, any required Water Access Licence (WAL). A WAL is required to lawfully take more than 3ML of water per water year as part of the dewatering activity. 4. A water use approval may also be required, unless the use of the water is for a purpose for which a development consent is in force.
GT0117-00001	A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity. Advisory Notes: 1. This approval is not a water access licence. 2. A water year commences on 1 July each year. 3. This approval may contain an extraction limit which may also restrict the ability to take more than 3ML per water year without further information being provided to WaterNSW. 4. Note that certain water sources may be exempted from this requirement - see paragraph 17A, Schedule 4 of the Water Management (General) Regulation 2018.
GT0118-00001	If no water access licence is obtained for the first 3ML / year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must: (a) record water taken for which the exemption is claimed, and (b) record the take of water not later than 24 hours after water is taken, and (c) make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and (d) keep the record for a period of 5 years, and (e) give the record to WaterNSW either via email to Customer.Helpdesk@waternsw.com.au or post completed forms to - PO Box 398 Parramatta NSW 2124 (i) not later than 28 days after the end of
GT0119-00001	the water year (being 30 June) in which the water was taken, or (ii) if WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date. All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste

GT0120-00001	<p>agreement.</p> <p>The design and construction of the building must prevent: (a) any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation; (b) obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and (c) any elevated water table from rising to within 1.0 m below the natural ground surface.</p>
GT0121-00001	<p>Construction phase monitoring bore requirements GTA: a) A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW. b) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW with the water supply work application. c) The monitoring bores must be installed and maintained as required by the water supply work approval. d) The monitoring bores must be protected from construction damage.</p>
GT0122-00001	<p>Construction Phase Monitoring programme and content: a) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW): i. Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW. ii. Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater; iii. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW; iv. QA: Include details of quality assurance and control v. Lab assurance: Include a requirement for the testing by National Association of Testing Authorities accredited laboratories. b) The applicant must comply with the monitoring programme as approved by WaterNSW for the duration of the water supply work approval (Approved Monitoring Programme)</p>
GT0123-00001	<p>(a) Prior to the issuing of the occupation certificate, and following the completion</p>
	<p>of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW. (b) The completion report must, unless agreed otherwise in writing by WaterNSW, include matters set out in any guideline published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the completion report must include the following (unless otherwise agreed in writing by WaterNSW): 1) All results from the Approved Monitoring Programme; and 2) Any other information required on the WaterNSW completion report form as updated from time to time on the WaterNSW website. c) The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website <a href="http://www.watarnsw.com.au/customer-service/water-licensing/dewatering">www.watarnsw.com.au/customer-service/water-licensing/dewatering</a></p>
GT0150-00001	<p>The extraction limit shall be set at a total of 3ML per water year (being from 1 July to 30 June). The applicant may apply to WaterNSW to increase the extraction limit under this condition. Any application to increase the extraction limit must be in writing and provide all information required for a hydrogeological assessment. Advisory note: Any application to increase the extraction limit should include the following: - Groundwater investigation report describing the groundwater conditions beneath and around the site and subsurface conceptualisation - Survey plan showing ground surface elevation across the site - Architectural drawings showing basement dimensions - Environmental site assessment report for any sites containing contaminated soil or groundwater (apart from acid sulphate soils (ASS)) - Laboratory test results for soil sampling testing for ASS - If ASS, details of proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual</p>

GT0151-00001	Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of this approval, unless otherwise agreed in writing by WaterNSW (Term of the dewatering approval). Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
GT0152-00001	This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval, in condition GT0151-00001. Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
GT0155-00001	The following construction phase monitoring requirements apply (Works Approval): a. The monitoring bores must be installed in accordance with the number and location shown, as modified by this approval, unless otherwise agreed in writing with WaterNSW. b. The applicant must comply with the monitoring programme as amended by this approval (Approved Monitoring Programme). c. The applicant must submit all results from the Approved Monitoring Programme, to WaterNSW, as part of the Completion Report