

NORTHERN REGIONAL PLANNING PANEL

Panel Reference	PPSNTH-130
DA Number	DA21/0637
LGA	Tweed Shire
Proposed Development	Development of the recently created lot (under MP06_0258-Mod 10) involving the construction of a 4 storey residential flat building comprising 48 residential units and 1 level of basement car parking.
Street Address	Lot 59 DP 1264557 being 5 Grand Parade, Casuarina
Applicant/Owner	Casuarina JV Pty Ltd C/- Town Planning Alliance (NSW) Pty Ltd
Date of DA lodgement	06 August 2021
Number of Submissions	<p>Three public submissions were received across the notification and advertisement periods.</p> <p>A submission was also received from Essential Energy in accordance with clause 45 of the SEPP (Infrastructure) 2007 (which has since been repealed and replaced with clause 2.48 of the SEPP (Transport and Infrastructure) 2021). The proposal involves the relocation of an existing padmount station.</p>
Recommendation	Approval subject to conditions of consent
Regional Development Criteria (Schedule 7 of the SEPP (Planning Systems) 2021)	<p>Clause 2, Schedule 6 of SEPP (Planning Systems) 2021 (previously Clause 2, Schedule 7 of SEPP (State and Regional Development) 2011).</p> <p>2 General development over \$30 million</p> <p>Development that has a capital investment value (CIV) of more than \$30 million.</p> <p>The development has a capital investment value of \$33,462,335.</p>
List of All Relevant s4.15(1)(a) Matters	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Planning Systems) 2021;</i> • <i>State Environmental Planning Policy (Transport and Infrastructure) 2021;</i> • <i>State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Building;</i>

	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;</i> • <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021;</i> • <i>State Environmental Planning Policy (Resilience and Hazards) 2021;</i> • <i>Tweed Local Environmental Plan 2014;</i> • <i>Tweed Development Control Plan 2008.</i>
List all planning legislation requirements that the consent authority <u>must</u> consider	<ul style="list-style-type: none"> • Clause 4.6 of SEPP (Resilience and Hazards) 2021 (includes prior Clause 7 of SEPP No. 55 – Remediation of Land); • Clause 2.121 of SEPP (Transport and Infrastructure) 2021 (previously Clause 104 of SEPP (Infrastructure) 2007); • Clause 2.3(2), clause 7.1(3), clause 7.2(3), clause 7.6(3), clause 7.8 and clause 7.10 of the Tweed LEP 2014; • Clause 61, clause 62 and clause 64 of the Environmental Planning & Assessment Regulations 2021 <p>All of the applicable consent considerations associated with the abovementioned SEPP's have been addressed within the body of this report.</p>
List all documents submitted with this report for the Panel's consideration	<p>NRPP Section 4.15 Assessment Report including:</p> <ul style="list-style-type: none"> • Attachment 1 - Plans prepared by Plus Architecture - various dates; • Attachment 2 - Site Photos dated 27.10.2021; • Attachment 3 - SEPP 65 Apartment Design Guide Assessment; • Attachment 4 - Solar Diagrams prepared by Plus Architecture dated 2.7.2021 and 14.12.2021; • Attachment 5 - Landscape Architect Statement prepared by Laud ink and dated 3.2.2022; • Attachment 6 - Landscape Concept Plans prepared by Laud ink and dated 4.3.2022.
Report prepared by	Alyssa Norton – Town Planner, Development Assessment Unit.
Report date	9 May 2022

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?

Yes

e.g. Clause 7 of SEPP55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Not Applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

Not Applicable

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Areas may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment?

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

Yes

Assessment Report and Recommendation

FILE NO: DA21/0637

REPORT TITLE:

Development Application DA21/0637 for a residential flat building comprising of 48 units (NRPP) at Lot 59 DP 1264557; No. 5 Grand Parade CASUARINA

SUMMARY OF REPORT:

Council is in receipt of a proposed development application seeking consent for the construction of a four storey residential apartment comprising 48 apartments and one level of basement car parking at 5 Grand Parade, Casuarina.

The proposal includes a dual-key apartment to be located at ground floor level containing 1x 3 bedroom and 1 x 1 bedroom apartments.

The proposal seeks consent for:

- Construction of a four storey residential flat building comprising 48 units and one level of basement car parking;
- Excavation, to a depth of 4.7m, to facilitate construction of the proposed basement car park (consisting of 108 car spaces including 96 resident spaces and 12 visitor spaces) and house the proposed lift pit;
- Relocation of the existing padmount substation to the north-eastern section of the site;
- Provision of landscaping and deep soil zones around the perimeter of the subject site, landscaping within the central communal open space and elevated podium planters on the upper levels;
- Provision of communal open space located centrally to the eastern portion of the site comprising of a swimming pool, wet deck, beach and sun lounges, lawn, landscaping, outdoor kitchen, BBQ, beach bar, dog wash, beach shower, surfboard storage and storage for 'vintage' bicycles.

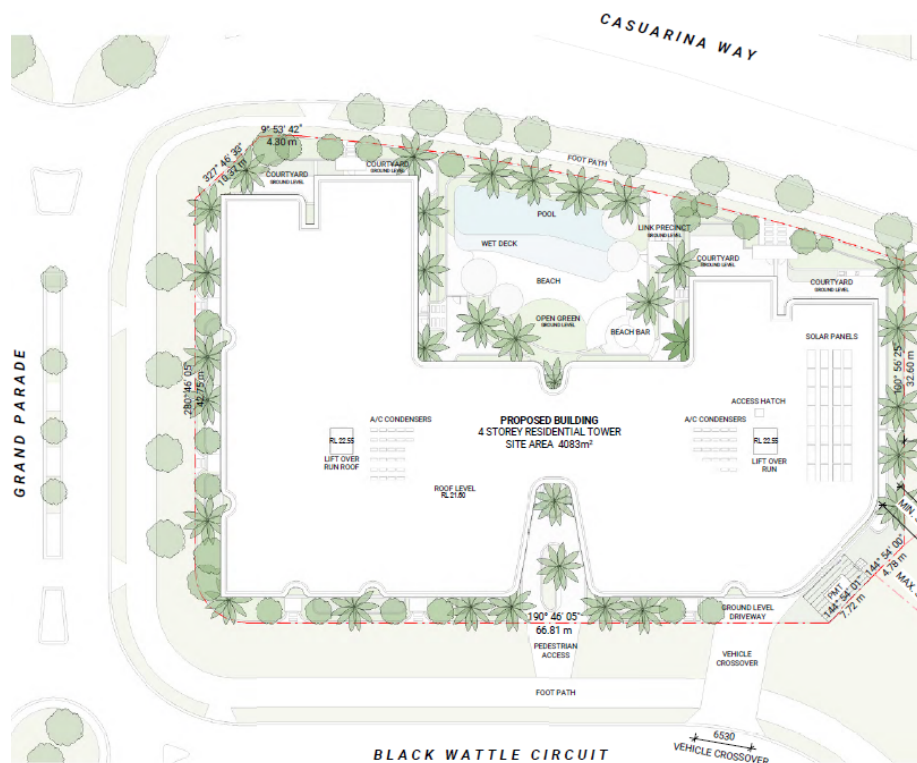


Figure 1: Proposed site plan (source: Drawing No. DA030 - DA Plans by plus architecture June 2021)

The development has an estimated capital investment value of \$33,462,335 excluding GST.

The proposed development was lodged on 6 August 2021 and was notified to adjoining and nearby properties for fourteen (14) days from Wednesday 29 September 2021 to Wednesday 13 October 2021. Three submissions from the public were received during the notification period.

At the time of notification, the estimated CIV was under \$30 million and so notification was consistent with Council's Community Participation and Engagement Plan 2019-2024 as Council was the determining authority.

An updated CIV Report was submitted to Council on 20 September 2021 identifying the estimated CIV to be above \$30 million, thereby triggering referral of the proposal to the NRPP.

As a result of the change in determining authority and in accordance with Council's Community Participation and Engagement Plan 2019-2024, the proposal was advertised in the Tweed Link for a period of fourteen (14) days from 2 March 2022 to 16 March 2022. No additional submissions were received during the advertised period.

The application was referred to Essential Energy on 3 November 2021 in accordance with clause 45 of SEPP (Infrastructure) 2007 (repealed 1 March 2022 and replaced with clause 2.48 of SEPP (Transport and Infrastructure) 2021).

Council's initial assessment sought further information from the applicant in relation to a number of elements including non-compliance with the Apartment Design Guide (in respect of natural cross ventilation, solar and daylight access, deep soil zones and

apartment layout), clarification of apartment layout, urban design, waste management, stormwater and development in proximity to Essential Energy infrastructure. The Request for Further Information (RFI) included matters to be addressed by the Development Engineering Unit, Resource Recovery Unit, Roads & Stormwater Unit and Strategic Planning and Urban Design Unit.

The applicant submitted a package responding to all matters raised by Council in the RFI.

The response to Council's RFI did not require any amendments to the proposed development however, amended plans for ground floor level, levels 1 -2 and level 3 were provided identifying the apartments which achieved the Liveable Housing Guideline's silver level universal design features.

A second request for information was provided to the applicant following the NRPP Briefing Meeting held on 15 February 2022.

The applicant submitted a package responding to all matters raised by the NRPP and raised with the applicant by Council.

The amended Landscape Concept Plan incorporated additional areas of podium planting along the eastern edge of the proposed communal pool and beach area and increased the height of the western wall between the proposed pool and Casuarina Way from 600mm to 1.9m in accordance with Australian Standards AS 1926.1-2012.

It is acknowledged that the proposal remains non-compliant with the following sections of the ADG:

- 3E Deep Soil Zones (minimum dimension of 3m instead of 6m);
- 3F Visual Privacy (minimum setback "between habitable rooms and balconies" of 5m proposed instead of 6m);
- 4A Solar and Daylight Access (60.4% of apartments (29 out of 48) achieving a minimum of 3 hours sunlight access in mid-winter instead of 70% (34 units);
- 4B Natural Ventilation (56.2% of apartments (27 out of 48) achieve natural cross ventilation instead of 60% (29 units);
- 4D Apartment Size and Layout (4 apartments exceed maximum 8m depth for open plan living, kitchen, dining rooms by 6.25%).

It is considered the variations sought are generally minor in nature and any potential impacts arising from the variations can be easily and appropriately mitigated or managed. The variations are considered acceptable.

The originally submitted DA plans (with the exception of the Ground Floor Plan, Levels 102 Floor Plan and Level 3 Floor Plan), the updated Ground Floor Level Plan, Levels 1-2 Floor Plan and Level 3 Floor Plan, additional 3D shadow study and updated Landscape Concept Plan form the plans to be stamped in accordance with condition 1 of the recommended conditions of consent, should the Panel support the application.

The proposal was supported by a number of documents including (but not limited to): Architectural Plans; SEPP 65 Design Verification Statement; Stormwater Management Plan; Traffic Report; Operational Waste Management Plan; Acid Sulfate Soils Investigation; Environmental Noise Assessment Report; Landscape Concept Plan; Basix

Report; Engineering Services Report and Acoustic Report. A detailed assessment of the potential impacts associated with the development is provided within the body of this report.

The following Council Units have assessed the proposed development:

- Development Assessment Unit – additional information requested.
- Development Engineering Unit – additional information requested.
- Environmental Health Section – no objections raised subject to relevant conditions of consent.
- Roads and Stormwater Unit – additional information requested.
- Water and Wastewater Unit – additional information requested.
- Strategic Planning and Urban Design Unit – additional information requested.
- Traffic Engineer – no objections raised subject to relevant conditions of consent.
- Building Unit – additional information requested.
- Resource Recovery Unit – additional information requested.

All requests for additional information raised by Council's Units were responded to in the applicant's response to the first request for information. Most units noted their requests had been satisfied and raised no further concerns or objections to the proposal however, the Strategic Planning and Urban Design Unit encouraged the installation of external operable blinds to areas of private open space of western and south-western facing units. A condition of consent has therefore been recommended requiring the installation of external operable blinds on western and south-western facing units.

Appropriate conditions of consent have been recommended to ensure that potential impacts arising from the proposed development can be appropriately controlled and managed.

There are a number of planning legislation requirements that the consent authority must consider. A detailed assessment of the relevant clauses has been provided within the body of the report however, a summary has been provided below:

- **Clause 4.6 of SEPP (Resilience and Hazards) 2021** - (includes clause 7 of repealed SEPP No. 55 – Remediation of Land). The applicant's assessment of the subject site noted that the potential contamination of land was assessed under MP06_0258 which concluded that the site was not considered to be at risk of containing contaminated soils and was appropriate for residential development.

Given the subject site has remained vacant, Council is satisfied that the proposed development meets the provisions of clause 4.6 of the SEPP.

- **Clause 2.121 of SEPP (Transport and Infrastructure) 2021** - (replaces repealed clause 104 of SEPP (Infrastructure) 2007). Clause 2.121 requires the consent authority to consider accessibility of the site as well as traffic / transport impacts associated with the development. Subject to conditions of consent, Council officers are satisfied that the proposed development meets the provisions of clause 2.121 of the SEPP (noting that RMS stated the project did not require referral to them Under Schedule 3 of the SEPP as none of the three streets that the site fronts are Classified Roads).
- **Clause 28 of SEPP 65 – Determination of Development Applications**
The consent authority is to take into consideration the design quality of the development when evaluated in accordance with the design quality principles and the

Apartment Design Guide. The proposed application is considered to satisfy the provisions of the SEPP.

- **Clause 2.3(2) of Tweed Local Environmental Plan 2014 – Zone objectives and Land Use** The clause states the development consent must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone. The subject application has considered the zoning of the site however, it is acknowledged that MP06_0258-Mod 10 approval for use of the site for medium-density residential development overrides zoning under the TLEP 2014.
- **Clause 4.3 (2) of Tweed LEP 2014 – Height of Buildings.** The clause stipulates that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. The Tweed LEP 2014 provides a maximum building height for the site of 13.6m. However, Condition C1 of approved MP06_0258-Mod 10 stipulates that residential flat buildings proposed over the site are required to demonstrate buildings have been designed in accordance with relevant standards of the Tweed LEP 2014 except in respect of height and number of storeys where Condition B8 and C2 apply. As Conditions B8 and C2 apply to the site, the height specified for the site under Tweed LEP 2014 is not applied, and the four storey approval over the site by MP06_0258 takes precedence.
- **Clause 4.4 (2) of Tweed LEP 2014 – Floor Space Ratio.** The clause stipulates that the maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map. The site is afforded a maximum FSR of 2:1. The proposal seeks a maximum FSR of 1.78:1 and is compliant with the requirements of the clause.
- **Clause 7.1(3) of Tweed LEP 2014 – Acid Sulfate Soils.** The clause states development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority. An *Acid Sulfate Soils Investigation* prepared by Geotech Investigations Pty Ltd and dated 1 July 2021 was submitted with the development application and was supported by Council's Environmental Health Section.
- **Clause 7.2(3) of Tweed LEP 2014 - Earthworks** The clause requires the consent authority to consider effects and potential impacts on the site and surrounding locality as a result of proposed earthworks. Subject to the implementation of relevant conditions of consent, the proposal is considered to have met the requirements of the clause.
- **Clause 7.6(3) of Tweed LEP 2014 – Stormwater Management.** The clause dictates that consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development will have adequate stormwater management. Subject to the implementation of relevant conditions of consent, the proposal is considered to have met the requirements of the clause.
- **Clause 7.8 of Tweed LEP 2014 – Airspace Operations.** The clause states that the consent authority must be satisfied that the proposed development will not penetrate the Gold Coast Airport's Obstacle Limitation Surface (OLS). The site is within the 149.5m Take Off/Approach OLS. The development proposes a maximum height of RL22.55 which is attributed to the lift overruns. The maximum height of the proposed development is 14.3m (lift overrun). Council officers consider that the provisions of the Clause have been met.
- **Clause 7.10 of Tweed LEP 2014 – Essential Services.** The clause requires the consent authority to consider essential services for the proposed development. Subject

to conditions of consent, Council officers are satisfied the proposal meets the requirements of the clause.

The proposed development adheres to the four storey medium density requirements approved for the site under MP06_0258-Mod 10 and complies with the FSR requirements stipulated by TLEP 2014.

The assessment of the proposed development has adequately addressed all consent considerations required by the abovementioned SEPPs and LEP clauses. It is considered that the Panel can proceed with determining the application, subject to the recommended conditions of consent, as the development is consistent with the existing and desired future character of the area and responds to a community need for greater housing density and types.

REPORT:

Applicant: Casuarina JV Pty Ltd C/- Town Planning Alliance (NSW) Pty Ltd
Owner: Casuarina JV Pty Ltd
Location: Lot 59 DP 1264557; No. 5 Grand Parade CASUARINA
Zoning: B2 - Local Centre; R1 - General Residential
Cost \$30,116,101.50
CIV: \$33,462,335.00

BACKGROUND:

The Site

The site is legally defined as Lot 59 in Deposited Plan (DP) 1264557 and is commonly referred to as 5 Grand Parade, Casuarina. The site is located to the east of Casuarina Town Centre on a newly subdivided allotment.

The site has a frontage to three streets being Casuarina Way to the west, Grand Parade to the south and Blackwattle Circuit to the east. The site adjoins an existing car park and resort (Santai Resort) to the north.

The site has a total area of 4,083m² by DP and is relatively level topographically, with a slight fall from north to south.

An existing padmount substation is located in the south eastern corner of the site. The dimensions of the easement extend 4.2m west and 7m north when measured from the southernmost extent of the sites eastern straight line boundary. The site is currently vacant with the exception of the padmount substation and is covered with low grass.

The site forms part of the Casuarina Town Centre and was created as part of the Casuarina Town Centre Subdivision. The subject site and surrounding lots are to be developed in accordance with the Concept Plan Approval under Major Project Approval MP06_0258. This includes a combination of residential lots and medium density and mixed use lots with heights ranging from 3 to 4 storeys. The site and directly adjacent lot on Grand Parade are identified as 4 storey medium density lots intended to bookmark the entry to Grand Parade with the balance of Grand Parade to be lined with 3 and 4 storey medium density / mixed use lots.

Site History

The site forms part of the Casuarina Town Centre which was granted project approval by the Minister for Planning on the 20th of September, 2009 (MP06_0258). The approval included the subdivision of land within the Casuarina Town Centre, resulting in the allotment that is the subject of the Development Application. Approved MP06_0258 has been subject to multiple modifications with the most recent modification approved on 16 February 2021 (MP06_0258-Mod-13).

The modification most relevant to the proposed Residential Flat Building is Modification 10 – Modified Layout & Density (MP06_0258 MOD 10) under which it was proposed to modify the Concept Plan and Stage 1 Project Approval for the Casuarina Town Centre:

“by replacing a hotel and medium density residential lots with low density residential development, increasing the maximum building height along the main street from

three to four storeys, amending the road layout, open space and other supporting infrastructure.” (Quoted from NSW DPIE Department’s Assessment Report dated September 2018).

Modification 10 was approved on 7 November 2018 and identified the site for a four storey, medium density residential development with an indicative yield of 40 dwellings. Conditions B8, C1 and C2 of Mod 10 are of particular relevance and read as follows:

B8 Future Development of Medium Density Lots

The future built forms shown in the Casuarina Beach Town Centre Vision and Landscape document approved as part of Modification 10 are only approved to the extent that they indicate the location of where three and four storey building envelopes can be developed. The GFA of the proposed building envelopes indicated on the plans is not approved as the buildings will be subject to further design refinement as part of the assessment of future development applications.

C1 Residential Flat Buildings

All future applications involving the development of a residential flat building (within the definition of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings) is to include a Design Verification Statement from a qualified designer, verifying that the plans and specifications achieve the design quality of the development, having regard to the design quality principles set out in Part 2 of *State Environmental Planning Policy No. 65—Design Quality of Residential Flat Development*.

Future applications are to demonstrate the buildings have been designed in accordance with the relevant building siting, configuration, and amenity design criteria and guidance of the Apartment Design Guide and the built form controls of Tweed LEP 2014 (excluding height and number of storeys provisions where Condition B8 and C2 apply).

C2 Overshadowing

Future applications for all three or four storey buildings are to include an assessment of the potential for overshadowing of both adjoining buildings and public open space areas (in particular, areas of public open space).



Figure 2: MP06_0258-Mod 10 – Stamped Casuarina Beach Concept Plan



Figure 3: MP06_0258-Mod 10 – Stamped Density Plan



Figure 4: MP06_0258-Mod 10 – Stamped Yield Estimate Plan

The Proposal

The proposal seeks consent for construction of four storey residential flat building with basement car park.

Specifically, the proposal involves:

- Construction of a four storey residential flat building comprising 48 units and one level of basement car parking;
- Excavation, to a depth of 4.7m, to facilitate construction of the proposed basement car park (consisting of 108 car spaces including 96 resident spaces and 12 visitor spaces) and house the proposed lift pit;
- Relocation of the existing padmount substation to the north-eastern section of the site;
- Provision of landscaping and deep soil zones around the perimeter of the subject site, landscaping within the central communal open space and elevated podium planters on the upper levels;
- Provision of communal open space located centrally to the eastern portion of the site comprising of a swimming pool, wet deck, beach and sun lounges, lawn, landscaping, outdoor kitchen, BBQ, beach bar, dog wash, beach shower, surfboard storage and storage for 'vintage' bicycles.

Whilst the proposal specifies 48 units are to be constructed, it is noted that Apartment 00.07, located in the south western corner of the ground floor level is a dual key apartment and has the capacity to be utilised as a three bedroom unit and a single bedroom unit. The development has therefore been assessed as proposing 48 units, particularly in respect of car parking requirements and section 7.11 and section 64 contributions.

Recommended Conditions of Consent

A copy of the draft recommended conditions of consent were provided to the applicant on Friday 1 April 2022.

Comments were received from the applicant on Wednesday 6 April 2022 in respect of four of the following draft conditions, being condition numbers:

- 18 (permanent stormwater quality treatment)
- 19 (disposal of stormwater by infiltration devices)
- 51 (restrictions on the use of vibration compaction equipment);
- 52 (requirements pertaining to the removal of materials).

The applicant's comments on conditions 18 and 19 were referred to Council's Roads and Stormwater Unit for review whilst the comments on conditions 51 and 52 were referred to Council's Development Engineering Unit.

Council's Roads and Stormwater Unit responded by noting the current infiltration based solution to be in line with conditions 18 and 19 and that there were no issues.

The applicant's engineers requested further clarification in respect of condition 19 requesting that the last sentence of the condition be re-written to suit a site that has a piped stormwater discharge pit as the LPD (legal point of discharge).

Council's Roads and Stormwater Unit agreed and recommended the removal of the final sentence from condition 19.

Condition 18 is recommended to be retained. Condition 19 has been modified to read as follows:

Disposal of stormwater by means of infiltration devices must be carried out in accordance with Section D7.09 of Tweed Shire Councils Development Design and Construction Specification – Stormwater Quality.

Council's Development Engineering Unit provided the following response:

In respect of Condition No. 51:

'This is a standard condition and is to remain. The same would have been imposed on the subdivision, only difference is that now there may be dwellings, structures nearby making compliance with the condition even more important.'

In respect of Condition No. 52:

'This is a standard condition and is to remain. As per the condition, they need to specify to Council the volume to be removed, where it is being taken and by what route, etc. And obtain Council's endorsement, prior to such material being removed from site.'

Conditions 51 and 52 are therefore recommended to be retained.

Additional comments were received from the applicant on Friday 29 April 2022 in respect of draft condition number 28 which pertained to pool fencing.

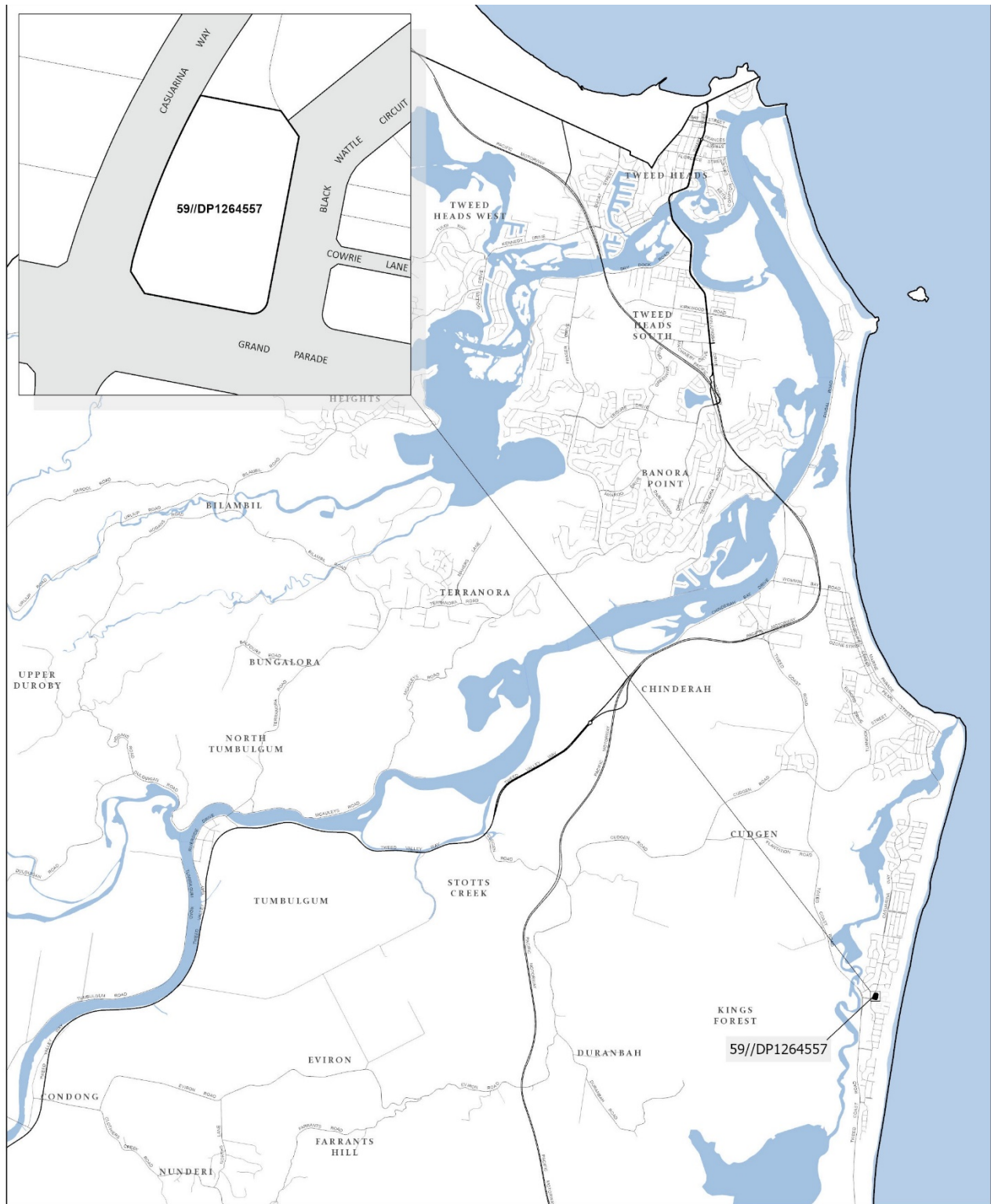
The applicant requested the condition be amended to remove the requirement that the beach bar, kitchen and bbq area must not be located within the extents of the pool fence. The applicant's request was considered however, it is recommended the condition be retained in full in accordance with the Swimming Pools Act 1992.

On Tuesday 26 April 2022 the applicant was made aware of the inclusion of an additional condition of consent (condition No. 13) requiring a minimum of 80% of the total plant numbers be native to the local area.

The applicant requested the condition be excluded as the Tweed DCP did not specify that this was a requirement of the site. The condition is a standard condition imposed by Council on developments proposing planting and seeks to promote the planting of local native species to ensure the landscape character is reflective of the Tweed. It is recommended the condition be retained in full.

On Tuesday 3 May 2022 the Applicant was made aware of the inclusion of an additional condition of consent (condition No. 107) requiring the green waste generated by common landscaped areas be collected, stored and disposed of in accordance with any approved Waste Management Plan or to the written satisfaction of the General Manager or his delegate. No comments from the applicant were received in respect of this condition.

SITE DIAGRAM:



Locality Map

LAND TITLE	LAND ADDRESS	LAND TENURE	LAND AREA (approx.)
Lot 59 on DP1264557	5 Grand Parade CASUARINA 2487	Freehold	4,080 sqM

<p>Civic and Cultural Centre 3 Tumbulgum Road Murwillumbah NSW 2484 PO Box 816 Murwillumbah NSW 2484</p>	<p>T (02) 6670 2400 1300 292 872 F (02) 6670 2429 W www.tweed.nsw.gov.au E planningreform@tweed.nsw.gov.au</p>	<p>Coordinate System MGA Zone 56 Datum - GDA 94</p>	<p>0 0.4 0.8 1.2 1.6 2 km</p> <p>Approx. Scale @ A4 Portrait</p>	<p>Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representations or warranties expressed or implied, statutory or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and disclaim all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which may be incurred as a result of data being inaccurate in any way and for any reason.</p> <p>- This information is supplied for the general guidance and is to be considered indicative and diagrammatic only. It should not be used for survey or construction purposes and prior to any excavations a "Dig before You Dig" enquiry must be made by following https://www.1100.com.au/. The information contained on this document remains valid for 30 days only from the date of supply.</p>
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DEVELOPMENT/ELEVATION PLANS:

Refer to Attachment 1.

CONSIDERATIONS UNDER SECTION 4.15 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

(a) (i) The provisions of any environmental planning instrument

Tweed Local Environmental Plan 2014

Clause 1.2 - Aims of the Plan

- (1) *This Plan aims to make local environmental planning provisions for land in Tweed in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.*
- (2) *The particular aims of this Plan are as follows—*
 - (aa) *to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
 - (a) *to give effect to the desired outcomes, strategic principles, policies and actions contained in the Council's adopted strategic planning documents, including, but not limited to, consistency with local indigenous cultural values, and the national and international significance of the Tweed Caldera,*
 - (b) *to encourage a sustainable local economy and small business, employment, agriculture, affordable housing, recreational, arts, social, cultural, tourism and sustainable industry opportunities appropriate to Tweed,*
 - (c) *to promote the responsible sustainable management and conservation of Tweed's natural and environmentally sensitive areas and waterways, visual amenity and scenic routes, built environment, and cultural heritage,*
 - (d) *to promote development that is consistent with the principles of ecologically sustainable development and to implement appropriate action on climate change,*
 - (e) *to promote building design which considers food security, water conservation, energy efficiency and waste reduction,*
 - (f) *to promote the sustainable use of natural resources and facilitate the transition from fossil fuels to renewable energy,*
 - (g) *to conserve or enhance the biological diversity, scenic quality and geological and ecological integrity of Tweed,*
 - (h) *to promote the management and appropriate use of land that is contiguous to or interdependent on land declared a World Heritage site under the Convention Concerning the Protection of World Cultural and Natural Heritage, and to protect or enhance the environmental significance of that land,*
 - (i) *to conserve or enhance areas of defined high ecological value,*
 - (j) *to provide special protection and suitable habitat for the recovery of the Tweed coastal Koala.*

The construction of a residential flat building on the subject site is consistent with the strategic principles for the locality and is in alignment with the approval of MP06_0258 which identifies the site for a four storey, medium density residential development. The proposal will result in increased residential density and will provide additional housing choice in an area that is dominated by detached and semi-detached dwellings.

Clause 2.3 – Zone objectives and Land use table

The consent authority must have regard to the objectives for development in a zone when determining an application in respect of land within that zone.

The subject site has two zonings, with a portion of the site at the northern end zoned R1 – General Residential, and the remainder of the site zoned B2 – Local Centre.

The objectives of the R1 zoning are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage the provision of tourist accommodation and related facilities and services in association with residential development where it is unlikely to significantly impact on amenity or place demands on services beyond the level reasonably required for residential use.*

The proposed residential flat building is permissible within the R1 zone and is consistent with the first two objectives in that it provides additional housing opportunities for the community, in a medium-density format that is considered to be appropriate for the area.

The objectives of the B2 zoning are:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To provide for tourism and residential opportunities that contribute to the vitality of the local centre.*

Despite the proposal being consistent with objective 4 by providing residential opportunities that contribute to the vitality of the local centre, residential accommodation (with the exception of boarding houses and shop top housing) is listed as being a prohibited use within the B2 zoning.

However, the approval of medium density residential development over the site by MP06_0258-Mod 10 overrides the zoning of the subject site under the TLEP 2014. As such, the proposed medium density residential flat building is permissible, with consent, on the subject site. See Figure 2 over.

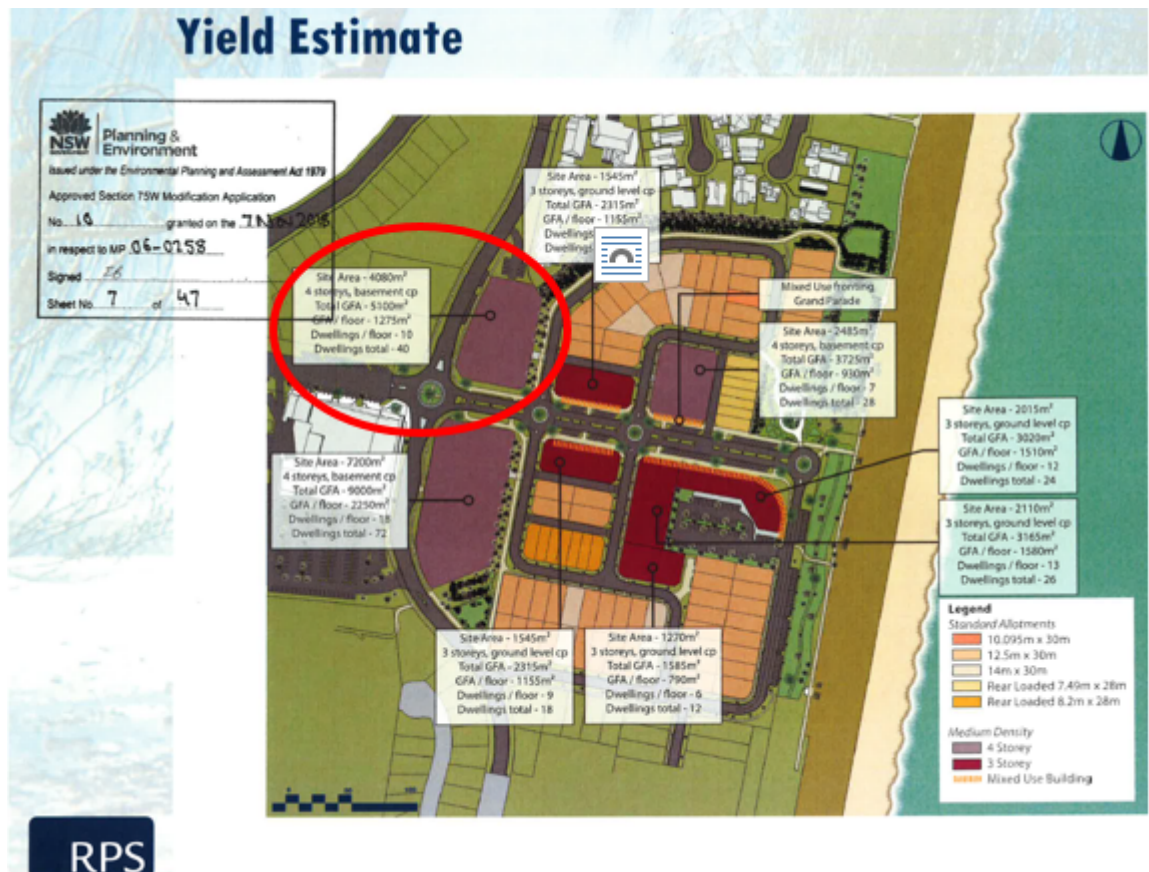


Figure 5: MP06_0258-Mod 10 - stamped plans showing the subject site (circled in red) as approved for 3 storey, medium density residential development

Clause 4.3— Height of Buildings

The objectives of this clause are as follows:

- (1) *The objectives of this clause are as follows—*
 - (a) *to establish the maximum height for which a building can be designed,*
 - (b) *to ensure that building height relates to the land's capability to provide and maintain an appropriate urban character and level of amenity,*
 - (c) *to ensure that taller development is located in more structured urbanised areas that are serviced by urban support facilities,*
 - (d) *to encourage greater population density in less car-dependant urban areas,*
 - (e) *to enable a transition in building heights between urban areas comprised of different characteristics,*
 - (f) *to limit the impact of the height of a building on the existing natural and built environment,*
 - (g) *to prevent gross overshadowing impacts on the natural and built environment.*
- (2) *The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

As per the Height of Buildings Map, the subject site is afforded a maximum building height of 13.6m.

As with land zoning discussed previously, the approval of MP06_0258-Mod 10 overrides clause 4.3 of the TLEP 2014. The subject site is approved for a building with a maximum of four storeys. It should be noted that no height in metres has been approved under MP06/0258-Mod 10 as per Condition of Consent No. C1 (refer to site history section earlier in this report).

The proposal seeks to construct a four storey residential flat building with one level of basement car parking. In this regard, the proposed development is consistent with the approved building height granted under MP06_0258-Mod 10.

It is worth noting that, in addition to meeting the building height specified under MP06_0258-Mod 10, the proposed development generally complies with the 13.6m height limit dictated by TLEP 2014, with some minor exceptions in relation to the lift overruns, plant (A/C condensers) and a small section of the south western corner of the overall roof.

It is noted that the lift overruns and plant are located centrally to the roof form and are not visible from the public domain. The portion of the roof that breaches 13.6m does so by approximately 300mm. This breach is attributed to existing natural ground levels, is unlikely to be perceptible at street level and is considered to be minor in nature.

The application was referred to Council's Strategic Planning and Urban Design Unit who provided the following comments:

"The dropping or redesign of the roof in this location to achieve the building height would negatively impact the architectural form of the building's roof."

And

"The building height variation which relates to the roof form of the south-west corner and services is considered relatively minor and unlikely to negatively impact the streetscape by way of overshadowing or visual amenity."

Whilst the proposal does breach the 13.6m height limit, a clause 4.6 variation is not required as the four storey building height stipulated by MP06_0258-Mod 10 takes precedence over the TLEP 2014 in this regard.

Clause 4.4 – Floor Space Ratio

The objectives of this clause are as follows:

- (1) *The objectives of this clause are as follows—*
- (a) to define the allowable development density of a site and for particular classes of development,*
 - (b) to enable an alignment of building scale with the size of a site,*
 - (c) to provide flexibility for high quality and innovative building design,*
 - (d) to limit the impact of new development on the existing and planned natural and built environment,*
 - (e) to encourage increased building height and site amalgamation at key locations in Tweed.*

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

As per the Floor Space Ratio Map, the subject site is permitted a maximum FSR of 2:1. The subject site has an overall area of 4083m² (by DP 1246557) and is therefore allowed a maximum gross floor area (GFA) of 8,166m².

The submitted Statement of Environmental Effects notes the proposal seeks an FSR of 1.78:1 which equates to an overall GFA of approximately 7,267m². Calculations done using Objective Trapeze shows the proposed FSR to be less than that noted in the SEE. According to these calculations, the total proposed FSR comes in at 1.76:1 which equates to an overall GFA of approximately 7,192m².

Irrespective of the discrepancy in calculations, the proposal is compliant with the maximum FSR permissible.

Clause 4.6- Exceptions to development standards

- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—*
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) Development consent must not be granted for development that contravenes a development standard unless—*
- (a) the consent authority is satisfied that—*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) the concurrence of the Planning Secretary has been obtained.*

No exceptions to Development Standards are sought.

Clause 5.10 – Heritage Conservation

The subject site is not identified as a known heritage item nor is it located within a Heritage Conservation Area.

The site is not mapped as a known or predictive site on Council's Aboriginal Cultural Heritage Mapping (Tweed Aboriginal Cultural Heritage Management Plan 2018).

Clause 5.11 – Bush fire hazard reduction

The clause states that bush fire hazard reduction work authorised by the Rural Fires Act 1997 may be carried out on any land without development consent.

Bush fire hazard reduction work is not proposed as maintained grass cover is the only vegetation currently on the site.

Clause 5.21 – Flood Planning

The subject site is not mapped as being prone to either the 1:100 year flood or to Probable Maximum Flood (PMF) levels.

Clause 7.1 – Acid Sulfate Soils

The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.

The subject site is mapped as containing Class 4 Acid Sulfate Soils. An Acid Sulfate Soil Investigation Report prepared by Geotech Investigations Pty Ltd was submitted with the Development Application and included field and NATA laboratory testing of samples collected at the site. The report concludes *“Results indicate that the encountered sands are neither PASS or ASS, and no specific management or treatment will be required during disturbance of the basement excavation and other excavations above this level.”*

The DA was referred to Council’s Environmental Health Section who reviewed the Acid Sulfate Soil Investigation Report and noted that the *“assessment and proposed management of ASS appears to be in general accordance with the Australian Acid Sulfate Soil Manual (Stone et. al. 1998). No further consideration is required.”*

The proposal is not considered to be inconsistent with the Clause subject to the imposition of recommended conditions of consent.

Clause 7.2 – Earthworks

The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

The proposal includes excavation for the establishment of a single level of basement car parking which will be located under the building footprint. In respect of groundwater, Council’s Environmental Health Section noted it is unlikely groundwater will be intercepted by the basement construction and that dewatering was not proposed. No further consideration in this regard was required.

Council’s Development Engineering Unit reviewed the proposal and identified the Engineering Services Report prepared by ADG Engineers (Australia) Pty Ltd acknowledged that the excavation for the basement is anticipated to require sheet piles to retain the sand material. The DEU raised no objections and have provided recommended conditions of consent.

The proposal is not considered to be inconsistent with the Clause subject to the imposition of recommended conditions of consent.

Clause 7.4 – Floodplain risk management

Not applicable. Refer to Clause 5.21 above.

Clause 7.5 – Coastal risk planning

The subject site is not mapped as being subject to Coastal Risk Planning.

Clause 7.6 – Stormwater Management

The objective of this Clause is to minimise the impacts of stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.

The proposal was referred internally to Council's Roads and Stormwater Unit for their review. A request for additional information was made, requiring the preparation of a preliminary Erosion and Sediment Control Plan and for the proposed basement GPT (gross pollutant trap) to be increased to meet the minimum storage requirements.

The requested information was provided as part of the applicant's overall response to Council's RFI. The additional information was referred back to the Roads & Stormwater Unit who confirmed the submitted information was acceptable and raised no further concerns, subject to commended conditions of consent.

It is therefore considered the proposed development is not in conflict with the objectives of this Clause.

Clause 7.8 – Airspace operations

The objectives of this clause are as follows:

- (a) To provide for the effective and ongoing operation of the Gold Coast Airport by ensuring that such operation is not compromised by proposed development that penetrates the Limitation or Operations Surface for that airport,*
- (b) To protect the community from undue risk from that operation.*

The subject site is mapped as being within the Take Off/Approach surface and is subject to the Obstacle Limitation Surface (OLS) Contour of RL149.5m. The proposed residential flat building has a maximum height level of RL22.55m and is attributed to the lift overruns.

The proposal is therefore not considered to pose any undue risk to the safe and continued operation of the Gold Coast Airport.

Clause 7.9 – Development in areas subject to aircraft noise

The subject site is not mapped as being within an area that is subject to aircraft noise.

Clause 7.10 – Essential Services

This Clause notes the following:

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the disposal and management of sewage,*
- (d) stormwater drainage or on-site conservation,*
- (e) suitable vehicular access.*

The submitted SEE notes the proposal will achieve connections to the required essential services. Subject to the imposition of recommended conditions of consent, it is considered the development will be able to achieve connectivity to the required services.

State Environmental Planning Policies

SEPP (Resilience and Hazards) 2021

Chapter 2 Coastal management (previously SEPP (Coastal management) 2018).

The aims of this chapter are to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area, by—

- (a) managing development in the coastal zone and protecting the environmental assets of the coast, and*
- (b) establishing a framework for land use planning to guide decision-making in the coastal zone, and*
- (c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.*

The subject site is mapped as being within the coastal use area and the coastal environment area.

Division 3 Coastal Environment Area

2.10 Development on land within the coastal environment area

(1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following—

- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*
- (2) *Development consent must not be granted to development on land to which this section applies unless the consent authority is satisfied that—*
- (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or*
 - (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*
- (3) *This section does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

Division 4 Coastal Use Area

2.11 Development on land within the coastal use area

- (1) *Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*
- (a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*
 - (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
 - (iv) *Aboriginal cultural heritage, practices and places,*
 - (v) *cultural and built environment heritage, and*
 - (b) *is satisfied that:*
 - (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
 - (ii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*

- (iii) *if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
- (c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*
- (2) *This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*

It is not considered the proposed residential flat building will result in any unacceptable impacts on the coastal environment or areas of coastal use. The proposal is not in conflict with the SEPP and is considered acceptable in this instance.

Chapter 4 Remediation of Land (previously SEPP No. 55 – Remediation of Land)

The objective of Chapter 4 is to provide a Statewide planning approach to the remediation of contaminated land and to require that remediation works meet certain standards and conditions.

4.6 Contamination and remediation to be considered in determining development application

- (1) *A consent authority must not consent to the carrying out of any development on land unless—*
 - (a) *it has considered whether the land is contaminated, and*
 - (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
 - (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*
- (2) *Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*
- (3) *The applicant for development consent must carry out the investigation required by subsection (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*
- (4) *The land concerned is—*
 - (a) *land that is within an investigation area,*
 - (b) *land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
 - (c) *to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land—*

- (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
- (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

Contamination and remediation of land was considered in the assessment of the original Major Projects application (MP06_0258) with relevant conditions imposed, and additional conditions imposed by MP06_0258-Mod 10. The site has remained vacant since the approval of MP06_0258 and, as such, no activities that could result in the contamination of the site have been undertaken.

Council's Environmental Health Section reviewed the proposal in respect of contamination and concluded that contamination is not considered to be a constraint for the proposed development. It is therefore considered that the site remains suitable for residential development as determined by the MP06_0258 assessment.

SEPP No. 65 - Design Quality of Residential Flat Development

SEPP No. 65 applies to the proposal. The aims and objectives of the SEPP are as follows:

- (1) This Policy aims to improve the design quality of residential apartment development in New South Wales.*
- (2) This Policy recognises that the design quality of residential apartment development is of significance for environmental planning for the State due to the economic, environmental, cultural and social benefits of high quality design.*
- (3) Improving the design quality of residential apartment development aims—*
 - (a) to ensure that it contributes to the sustainable development of New South Wales—*
 - (i) by providing sustainable housing in social and environmental terms, and*
 - (ii) by being a long-term asset to its neighbourhood, and*
 - (iii) by achieving the urban planning policies for its regional and local contexts, and*
 - (b) to achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define, and*
 - (c) to better satisfy the increasing demand, the changing social and demographic profile of the community, and the needs of the widest range of people from childhood to old age, including those with disabilities, and*
 - (d) to maximise amenity, safety and security for the benefit of its occupants and the wider community, and*
 - (e) to minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions, and*

- (f) *to contribute to the provision of a variety of dwelling types to meet population growth, and*
- (g) *to support housing affordability, and*
- (h) *to facilitate the timely and efficient assessment of applications for development to which this Policy applies.*
- (4) *This Policy aims to provide—*
 - (a) *consistency of policy and mechanisms across the State, and*
 - (b) *a framework for local and regional planning to achieve identified outcomes for specific places.*

This policy applies to the proposed development as the development is for the erection of a residential flat building in accordance with the definition under the SEPP.

SEPP 65 states that development consent must not be granted if, in the opinion of the consent authority, the development or modification does not demonstrate that adequate regard has been given to:

- (a) *The design quality principles, and*
- (b) *The objectives specified in the Apartment Design Guide for the relevant design criteria.*

SEPP 65 establishes nine design principles to be applied in the design and assessment of residential apartment development. The Apartment Design Guide provides greater detail on how residential development proposals can meet these principles through good design and planning practice. The proposed residential flat building has been designed by Registered Architect Danilo Juric (no. 10397) who included a Design Verification Statement with the original application that stated the development was designed in accordance with the nine key principles of the SEPP. An updated Design Verification Statement was provided to Council in response to the comments received by the NRPP during the Briefing Meeting held on 15 February 2022.

Clause 29(2) requires an assessment of the proposal against the design quality principles and the Apartment Design Guide. Council's assessment against the design quality principles is provided below whilst an assessment against the Apartment Design Guide has been provided under Attachment 3.

Principle 1: Context and Neighbourhood character

The subject site is located within the Casuarina Beach precinct of the Tweed DCP B5 – Casuarina Beach and forms part of the Casuarina Town Centre.

The Casuarina Beach Coastal area is noted as being one of the most significant remaining coastal sites zoned for substantial development in New South Wales. Under MP06_0258-Mod 10, the subject site and the adjacent site on the southern side of Grand Parade have been approved for four storey medium density residential developments which are intended to bookmark the entry to Grand Parade. To the east of the site are a range of allotments of varying shapes and sizes that have been approved under MP06_0258-Mod 10 for standard 1-2 storey detached residential products as well as three storey medium density mixed-use developments. A number of the allotments approved for detached residential products are currently under construction.

Land immediately to the west of Casuarina Way is currently occupied by an existing mixed-use development known as 'The Commons' and comprises a mix of restaurants, commercial and retail businesses and an early learning childhood centre. Located to the south-west of the site is Casuarina Square shopping centre which contains a supermarket, pharmacy, retail businesses and restaurants/cafes. The northern boundary of the subject site adjoins an existing three storey resort known as the Oaks Santai Resort.

An established low density residential neighbourhood is located north of the subject site and generally comprises detached residential dwellings.

The proposal seeks to construct the first residential flat building on land created by MP06_0258 and it is considered that the proposed development responds sympathetically to the coastal nature of the locality and is in line with the desired future character of the area.

The proposal is considered acceptable in respect of the design principle.

Principle 2 – Built Form and Scale

The subject site is unique in that it contains a street frontage to Casuarina Way to the west, Grand Parade to the south and Blackwattle Circuit to the east. The proposed development has been designed to respond to each of these street frontages by providing perimeter landscaping and building articulation which reduces perceived scale and mass of the four storey development.

Communal entry points to the development from Blackwattle Circuit and Casuarina Way, and private entry points to ground floor apartments along all three street frontages, allow for a natural delineation between public and private domains.

The building materials and colours proposed are reflective of the coastal nature of Casuarina Beach and allow for a development that is consistent with the existing context of the locality. Whilst the proposed planting is in keeping with coastal areas, a condition of consent has been included to ensure 80% of all proposed plants are native to the local area.

Balcony planters, steps in building façades, curved elements of upper level balconies and changes in materials create visual interest and articulate the building so as to reduce massing.

Targeted landscaping along the western boundary and a recess in the western elevation of the building ensure massing is reduced and visual interest is provided when viewed from Casuarina Way.

The proposal is compliant with the height limit imposed by MP06_0258-Mod 10 and largely complies with the height limit imposed by the Tweed Local Environmental Plan 2014, despite MP06_0258-Mod 10 being the dominant height requirement. The proposal also complies with the FSR requirements imposed by the TLEP 2014.

The proposal is considered acceptable in respect of the design principle.

Principle 3 – Density

The proposal provides a four storey residential flat building comprising 48 units (with one unit being dual-key) which will result in an increased number of residents in a locality that has satisfactory access to a variety of commercial, community and recreational facilities. The proposal is compliant with the requirements of the site stipulated under MP06_0258 and is compliant with the relevant provisions of TLEP 2014.

The proposal is considered acceptable in respect of the design principle.

Principle 4: Sustainability

A BASIX Certificate has been provided for the development.

The architect has outlined the following energy efficiency measures incorporated into the development design:

‘The longitudinal orientation and a solar advantage of an east west access allow low angle morning and afternoon sun in winter months. Summer sun is sheltered from exterior glazing by the structural slab overhangs and the engaging overhang of the roof structure. The arched and battened façade can control, filter and create shade and shadows through the vertical elements within this device through the duration of the day.’

And

‘Natural cross ventilation is achieved for the majority apartments which also provide dual aspect. Apartments with more than one aspect allow positive and negative air pressure to draw wind through the apartments – operable windows are provided and when these are open this action can take place. Moreover, the apartment depths are limited as generally deeper apartments are less effective in the flow of air.’

Recycling is provided to the residence in a central location on ground floor.

Deep soil planting has been provided with the intension of infiltration of rainwater, habitat for local species, reduce storm water runoff and infiltration of water to the water table. Similarly, social and economic benefits such as shading for pedestrians on street, parked cars, units and microclimatic conditions designed to reduce solar gain, and radiant heat.’

Solar panels are also proposed at the northern end of the roof providing an additional energy efficient measures to the overall development.

The proposal is considered acceptable in respect of the design principle.

Principle 5: Landscape

The proposal is accompanied by a Landscape Concept Plan (as amended) which identifies areas of deep soil zones, soft landscaping, deep podium planters, podium planters and balcony planters.

The proposal provides for 11.4% of the site as deep soil zones which exceeds the 7% required by the ADG and is located around the perimeter of the site, softening the overall development when viewed from the public domain. The minimum dimensions of the deep soil zone are proposed to be 3m and thus do not meet the 6m minimum specified by the ADG. Podium planters and deep podium planters are proposed throughout the ground floor, particularly in the principle area of communal open space providing increased amenity for residents when utilising these spaces or overlooking them from upper floor balconies. The trees proposed in the communal open space will provide shade during warmer months which aid in optimising the useability of the communal open space.

Balcony planters provided to majority of the upper level apartments, and podium planters proposed in the hallway of Levels 1-3, provide added amenity for upper level residents as they have access to a landscaped area separate from the communal open space at ground floor level.

The arrangement of proposed planting is considered to be appropriate for the subject site and contributes to the locality in respect of added vegetation. Trees proposed along the perimeter of the site will provide shade over footpaths along Casuarina Way, Grand Parade and Blackwattle Circuit, helping to reduce heat loading during the summer months.

As above, it is recognised that the dimensions of the deep soil zone are reduced to 3m however, the area specified by the ADG has been met and the reconfiguration of this area, distributed around the perimeter of the site, can be considered to be an acceptable outcome recognising the island nature of the site.

The proposed landscaping is considered acceptable in respect of the design principle, subject to relevant conditions of consent.

Principle 6: Amenity

Good design positively influences internal and external amenity for residents and neighbours.

The development incorporates suitable communal areas and facilities that include free bike sharing, surfboard storage, a pool, makeshift beach, outdoor kitchen/BBQ area, beach bar and turfed areas for recreational activities. Each of these aspects contribute to the overall amenity of future residents.

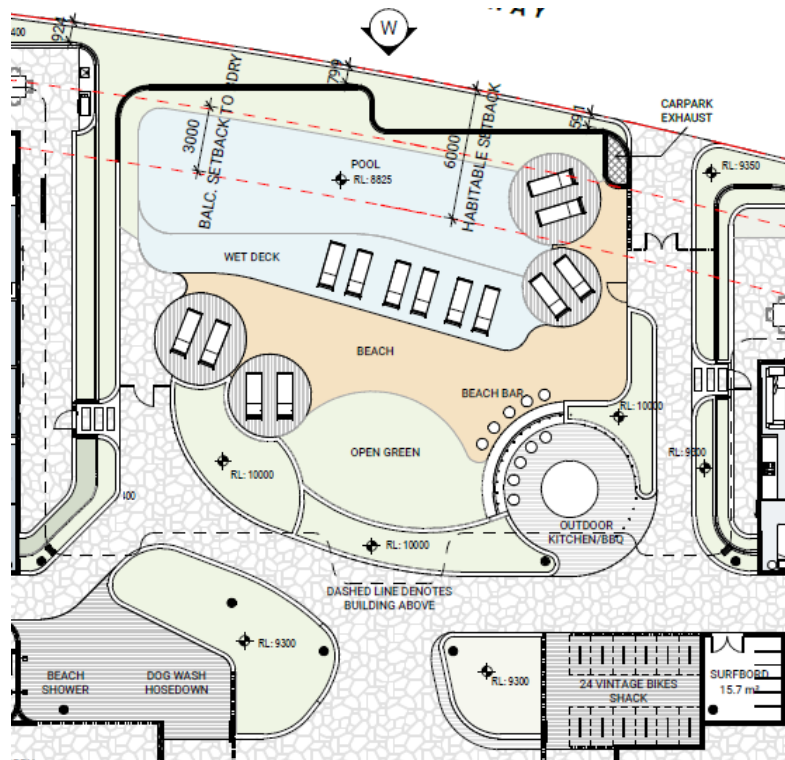


Figure 6: Excerpt from Drawing No. DA100 - Da Plans by plus architecture June 2021

The submitted Design Verification Statement notes:

'The internal amenity of each unit contributes to positive living and healthy environments through recessed balconies, privacy between apartments, views to surrounding natural features, balconies located off living and meal preparation areas - outdoor living and social activities - and specific apartment that comply to the Liveable Housing Design Quality Silver Standard.'

In addition to the above, the units generally achieve good natural cross ventilation, room sizes are generally appropriate and proposed glazing allows for prevailing breezes and natural light penetration. Each unit will have individual car parking within the basement.

The non-compliances proposed by the development in respect of amenity include the following:

- The amount of solar amenity for each of the units: 60.41% (29 out of 48 apartments) receive 3 hours sunlight instead of 70% (34 units); 6.91 % (3 apartments) receive 2 hours whilst 8.3% (4 apartments) are not afforded any direct sunlight (which is below the maximum 15% afforded by the ADG);
- Four apartments exceed the maximum habitable room depth of 8m by 6.25% (being 500mm);
- Three apartments have a 5m setback from the northern extent of their wrap-around balconies to the southern wall of the adjoining Santai Resort resulting in a 1m variation or 16.66%;

- The number of apartments achieving natural cross ventilation: 56.2% (27 out of 48 apartments) achieve natural cross ventilation instead of 60% (29 units).

Whilst the development does not achieve strict compliance with the design controls of the ADG, the variations proposed are generally minor, affect a limited number of units and are not considered to warrant refusal of the application, given the overall positive amenity outcome.

The proposal is considered acceptable in respect of the design principle.

Principle 7: Safety

A positive relationship between public and private spaces is achieved through clearly defined and secure access points along all three street frontages. Well-lit and visible areas can be easily maintained and are appropriate to the location of the development.

Passive surveillance over all three street frontages and the internal area of communal open space are achieved from areas of private open space on the western, southern and eastern sides of the built form, as well as from the public domain.

The Design Verification Statement notes the following in respect of this design principle:

‘The primary entrance to the new development is located on Black Wattle Circuit. While a gate provides a threshold between public and private, the gated entrance is set back from the street frontage. The intention is to reduce the threshold between private to public. It will allow occupants to walk and gather off street and street footpaths.

The form the building has been designed to clearly illustrate the main entrance through a large cut in the building form. Mailboxes have been located at Black Wattle Circuit, within the building cut for occupants gather, informally socialise and recognise residents.

Apartment have been designed to allow casual surveillance of the street. Living, dining and kitchens have been orientated toward balconies, and a balcony is visible to all three street frontages. Social activity around the perimeter of the development will allow for activity to be present to both people on the street and people on their balcony.’

The proposal is considered acceptable in respect of the design principle.

Principle 8: Housing diversity and social interaction

The local neighbourhood currently consists generally of detached and semi-detached residential dwellings only. The Oaks Santai Resort offers a number of different apartment types however, these are holiday rentals and do not permit permanent residents.

The proposed development offers a mix of unit types across four storeys. Apartment types proposed within the development include:

Unit Type	Number of Units
1 bedroom	1
2 bedroom	25
3 bedroom	15
4 bedroom	7
Total	48

The 1 bedroom unit and one 3 bedroom unit are contained within the dual key unit.

The proposed development will provide additional housing diversity within the existing neighbourhood and provides housing types that cater to a broader range of residents when compared to what is currently available.

The proposed development will create a greater differential in the age and social demographics of the local area.

The proposal is considered acceptable in respect of the design principle.

Principle 9: Aesthetics

The proposal features a varied material composition which provides interest to the built form whilst being appropriate for the residential seaside location. The building is suitably articulated with a number of recessed sections in the balconies and the roof. Balcony and podium planting further articulate the built form.

It is considered that the design of the proposed development exhibits suitable regard for the SEPP 65 design quality principles and demonstrates good practice in urban design. The modern appearance of the building is in keeping with the desired future character of the area whilst the light colour scheme and proposed plantings reflect the coastal nature of the site and the locality.

ADG Variations

The proposal seeks variations to the ADG in respect of solar access, natural cross ventilation, deep soil zones, visual privacy and apartment size and layout. The variations sought are noted below:

- 3E Deep Soil Zones (minimum dimension of 3m instead of 6m);
- 3F Visual Privacy (minimum setback between habitable rooms and balconies of 5m proposed instead of 6m);
- 4A Solar and Daylight Access (60.4% of apartments (29 out of 48) achieving a minimum of 3 hours sunlight access in mid-winter instead of 70% (34 units);
- 4B Natural Ventilation (56.2% of apartments (27 out of 48) achieve natural cross ventilation instead of 60% (29 units);

- 4D Apartment Size and Layout (4 apartments exceed maximum 8m depth for open plan living, kitchen, dining rooms by 6.25%).

As discussed in the SEPP 65 Assessment under Attachment 3, the proposed variation are considered acceptable in this instance and are not considered to result in substantial adverse impacts on the proposed development or the existing locality.

SEPP (Building Sustainability Index: BASIX) 2004

The aim of this policy is to encourage sustainable residential development (the BASIX scheme). The development application included a BASIX certificate.

The SEPP is therefore satisfied.

SEPP (Transport and Infrastructure) 2021

Subdivision 2 Development likely to affect an electricity transmission or distribution network

2.48 Determination of development applications – other development (previously clause 45 of SEPP (Infrastructure) 2007).

(1) This section applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following—

- (a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,*
- (b) development carried out—*
 - (i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or*
 - (ii) immediately adjacent to an electricity substation, or*
 - (iii) within 5m of an exposed overhead electricity power line,*
- (c) installation of a swimming pool any part of which is—*
 - (i) within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or*
 - (ii) within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool,*
- (d) development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned.*

(2) Before determining a development application (or an application for modification of a consent) for development to which this section applies, the consent authority must—

- (a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and*
- (b) take into consideration any response to the notice that is received within 21 days after the notice is given.*

In accordance with clause 2, the development application was referred to Essential Energy who provided the following comments:

Essential Energy notes that an existing 11kV/LV pad/kiosk substation (and easement) and various underground cables (across the street frontages of the property) are impacted by the proposed development and it has safety concerns in relation to the proximity of the proposed development to its infrastructure.

Essential Energy's technical officer has reviewed the plans provided, commenting as follows:

- *The plans do not show the padmount substation or its easement. Please have this information provided.*
- *Can they include any potential encroachment of the padmount easement e.g. building balconies etc?*
- *Can they provide a report stating they meet fire segregation requirements for the building referencing the padmount substation e.g. meeting the requirements of AS2067.*
- *Access to the easement and padmount substation will also be required.*
- *Can they include information on any planting activities around our infrastructure including underground cables, the padmount substation and its easement.*

The applicant submitted the requested information as part of the overall package that responded to Council's RFI. The applicant's response was referred back to Essential Energy who advised the following:

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

1. The Applicant proposes to re-locate the existing substation and relevant cables. Such re-location works MUST meet:
 - a. Essential Energy's Contestable Works process (including creation of the required easements). Refer Essential Energy's Contestable Works Team for requirements via email contestableworks@essentialenergy.com.au;
 - b. AS2067 requirements; and
 - c. any of Essential Energy's design requirements.
2. Minimum separation / clearances and segregation for fire risk from the substation to any building, fence, planting, retaining walls or other development must be maintained at all times. Access to the easement, cables and substation must be available at all times. Refer to AS2067, Essential Energy's policy *CEOM7098 Distribution Underground Design Construction Manual* and the latest industry guideline currently known as *ISSC 20 Guideline for the Management of Activities within Electricity*

Easements and Close to Infrastructure prior to any works being carried out in this location.

3. Essential Energy also has existing high voltage and low voltage underground cables located across all street frontages of the property:
 - a. Prior to carrying out any works in this location and/or within 1.0 metre either side of the cables, 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 cables.
 - b. Works around the cables must be managed. If the ground levels over the cables are to be altered, clearances must be maintained and cable integrity protected.
 - c. Any excavation works in this area for the proposed new driveway/s must comply with *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*.
 - d. The cables should be in conduit under any proposed driveway/s and driveway/s should not be placed over the top of any joints and spare conduit should be available - refer Essential Energy’s policy *CEOM7098 Distribution Underground Design and Construction Manual*. Note that approval is not possible where the driveway/s are proposed to be located with an impact on existing cables, cable joints, pits, pillars and the like - refer *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*.
 - e. The cables are to maintain a minimum clearance of 1.0 metre to any activity.
4. The Applicant will need to engage the services of an Accredited Service Provider to ensure adequate provision of power is available to all units in accordance with the NSW Service and Installation Rules.

Essential Energy also makes the following general comments:

1. If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.
2. Any existing encumbrances/easements in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.
3. If a subdivision is proposed:
 - a. As part of the subdivision, easement/s are to be created for any existing electrical infrastructure, using Essential Energy’s

standard easement terms current at the time of registration of the plan of subdivision. Refer Essential Energy's Contestable Works Team for requirements.

- b. Council should ensure that a Notification of Arrangement (confirming satisfactory arrangements have been made for the provision of power) is issued by Essential Energy with respect to all proposed lots which will form part of the subdivision, prior to Council releasing the Subdivision Certificate. It is the Applicant's responsibility to make the appropriate application with Essential Energy for the supply of electricity to the subdivision, which may include the payment of fees and contributions. Despite Essential Energy not having any safety concerns, there may be issues with respect to the subdivision layout, which will require Essential Energy's approval.
4. In addition, Essential Energy's records indicate there is electricity infrastructure located within the property and within close proximity to the property. Any activities within these locations must be undertaken in accordance with *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.

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*.

Essential Energy's comments as to potential safety risks and the additional comments as noted above have been conditioned.

Clause 2.48 is considered satisfied.

SEPP (Planning Systems) 2021

The SEPP nominates a range of developments for which the Minister or the local Council is the consent authority and the circumstances where the Northern Regional Planning Panel may have the role of determining an application, depending on the class of development (type of use and value).

Schedule 6 Regionally Significant Development (previously schedule 7 of SEPP (State and Regional Development) 2011).

2 General development over \$30 million

Development that has a capital investment value of more than \$30 million.

The proposed residential flat building has a proposed capital investment value of \$33,462,335 which is above the \$30 million threshold for general development.

Therefore, in this case the Northern Regional Planning Panel (NRPP) will have the determining powers of the Consent Authority and will be responsible for determining the application.

SEPP (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in non-rural areas (previously SEPP (Vegetation in Non-Rural Areas) 2017).

The aims of this chapter are:

- (a) To protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and
- (b) To preserve the amenity of non-rural areas through the preservation of trees and other vegetation.

The site has previously been cleared of any significant vegetation to facilitate the subdivision of land as approved under MP06_0258. Existing vegetation on the site consists of grass groundcover only and is proposed to be removed to facilitate construction of the proposed development. The proposal is not in conflict with the aims of Chapter 2 of this SEPP.

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

There are no draft EPIs relevant to the proposal.

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

Tweed Development Control Plan

Clause 6A of SEPP 65

6A Development control plans cannot be inconsistent with Apartment Design Guide

- (1) *This clause applies in respect of the objectives, design criteria and design guidance set out in Parts 3 and 4 of the Apartment Design Guide for the following—*
 - (a) *visual privacy,*
 - (b) *solar and daylight access,*
 - (c) *common circulation and spaces,*
 - (d) *apartment size and layout,*
 - (e) *ceiling heights,*
 - (f) *private open space and balconies,*
 - (g) *natural ventilation,*
 - (h) *storage.*
- (2) *If a development control plan contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect.*
- (3) *This clause applies regardless of when the development control plan was made.*

A1-Residential and Tourist Development Code - Part C – Shop Top Housing and Residential Flat Buildings

Whilst TDCP A1 Part C applies to the proposed development, it only applies in part as a number of the development controls for this development type are addressed in SEPP 65 Design Quality of Residential Flat Development. A detailed assessment of the proposed development against SEPP 65 has been provided elsewhere in this report.

In respect of the applicable development controls outlined in TDCP A1 Part C, the proposed development has been designed to generally be in accordance with these controls. The proposed development seeks a variation to the following development controls:

Chapter 1- Building Types

Building Types: Block Edge Flat Building – control a.

The objectives for this section read as follows:

- *To ensure larger developments are well proportioned and scaled.*
- *To provide more compact housing in proximity to centres.*
- *To create an urban building form and strong built edge along the street.*
- *To define the street space.*

Control a. stipulates a maximum building and elevation length along the street is 35m. Along Grand Parade, the proposal seeks a 46m elevation length. The variation is considered acceptable as articulation of the elevation is achieved via a mix of methods which aid in achieving the objectives of the control. These methods include providing differing materials and colours, the use of straight and curved lines to create recesses in the façade (see left image below) and landscaping and podium planting (see right image below) which soften the appearance of the elevation. Each of these methods contribute to the visual interest of the elevation and assist in breaking down the appearance of a single elevation. See perspective of Grand Parade over.

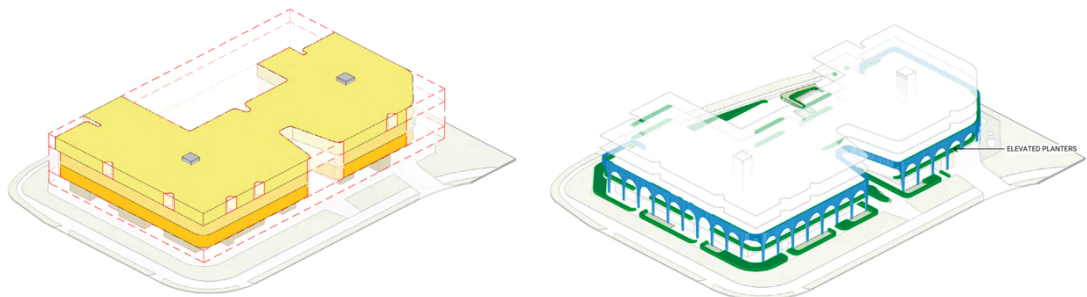


Figure 7: Building massing showing building recess (left) and podium screening and elevated planters (right) (Source: DA Plans by plus architecture dated June 2021)



Figure 8: Grand Parade perspective (Source: DA Plans by plus architecture dated June 2021)

Despite the variation, the proposed development is considered to generally be in alignment with the objectives designated to block edge flat buildings. The proposal has been proportioned in a manner sympathetic to the size of the subject site and the existing built forms that surround the site. The perceived scale of the proposal has been reduced by the use of different materials, landscaping, colour scheme and the inclusion of recesses in the main elevations of the building. The proposal will provide an additional 48 residences within the built form in an area typically dominated by low density, detached dwellings thereby providing increased housing opportunity and type. As the subject site has three street frontages, it has a unique opportunity to define the streetscape and does so by using private pedestrian access and landscaping to clearly delineate between public and private spaces.

The variation is considered acceptable in this instance.

Chapter 2 – Site and Building Design Controls

Design Control 2: Site Configuration – Deep Soil Zones

The objectives for deep soil zones reads as follows:

- *To ensure that land retains its ability to permeate water.*
- *To ensure that each building lot has a deep soil zone of adequate area and dimension.*
- *To retain and enhance fauna and flora corridors throughout suburban areas.*
- *To provide space for mature tree growth and vegetation.*
- *To retain existing mature vegetation.*

The proposal seeks to provide 11.4% or 465.46m² of deep soil zones across the subject site. Control b requires one deep soil zone to be located at the front of the property and one at the rear. The site is unique in that it has three street frontages and so the 'front' and 'rear' of the site is not traditionally defined. As a result, the deep soil zones have been proposed around the perimeter of the site, extending the width of the three street frontages except for where the driveway and entry paths are located. This is consistent with Control e which requires front deep soil zones to extend the width of the site boundary and also allows for landscaping treatment to be provided along all street frontages and

in order to provide landscaped treatments to each street frontage. The proposed deep soil zones are considered acceptable.

Design Control 2: Site Configuration – Impermeable Site Area.

The objectives for impermeable site area reads as follows:

- *To promote residential development that is sympathetic with the existing topography, water cycle and amenity of the site and neighbourhood.*
- *To retain the lands ability to infiltrate water.*

Control g. stipulates the maximum areas for impervious surfaces for developments depending on the size of the allotment. On lot sizes greater than 750m², the maximum area for impervious surfaces are 60% of the allotment.

<i>Surface type</i>	<i>Material</i>	<i>Impermeable factor</i>
Roof surfaces	Metal, Tile, slate and other impermeable materials	1.0
	"Green roofs"/roof gardens	0.5
Ground surfaces	Concrete/paving (non-porous)	1.00
	Gravel	0.75
	Porous paving	0.50
	Grid pavers	0.20
	Seep Soil Zones	0.0
	Landscaping/vegetation	0.0
	Planting on structures	1.0
Decks	Concrete/paving (non-porous)	1.00
	Timber (over natural soil)	0.50
Swimming pools	All types	0.50

Table 1 – Impermeable surface factors

The development site has a total site area of 4083m², requiring a maximum impervious area of 2449.8m².

The development application proposes a total impermeable site area of 3470.55m² which equates to 85% of the site's total area. The proposal therefore seeks a variation to the control.

Whilst a variation is sought, the objectives of the control are considered to have been achieved. The development site is relatively flat topographically and is located within a newly formed subdivision where stormwater infrastructure has been recently created and so the proposal is considered to be sympathetic with the existing neighbourhood. Furthermore, as stated, the recently created stormwater infrastructure retains the ability of the site to infiltrate stormwater. Deep soil zones and podium planting provide additional water absorption opportunities, which aid in minimising stormwater runoff.

The application was referred to Council's Roads and Stormwater Unit who requested the following additional information:

1. *The proposed basement GPT does not meet the minimum storage requirements of Development Design Specification D7 – Stormwater Quality.*
2. *No Erosion and Sediment Control Plans have been submitted. Please provide a preliminary ESCP in accordance with Development Design Specification D7 – Stormwater Quality.*

The additional information was provided to Council by the applicant, and was referred back the Council's Roads and Stormwater Unit who accepted the applicant's response and raised no further objections.

Despite the variation sought, it is considered the proposed development will not have an adverse impact on the site's ability to infiltrate stormwater. Furthermore, the proposed development is considered to be sympathetic to the topography of the site and will not adversely impact the amenity or water cycle of the neighbourhood.

Design Control 3: Setbacks – Front Setbacks (Building Lines)

The objectives of this section read as follows:

- *To establish the desired spatial proportions of the street and define the street edge.*
- *To enable a transition between public and private space.*
- *To create a landscape setting for residential buildings*
- *To ensure compatibility with other buildings in the street.*

Control g. specifies that basement garages cannot be located forward of the building footprint.

The proposed basement protrudes beyond the building footprint in three instances: at the western end, beneath the proposed communal beach and grassed area; in the south-western corner of the site and in the north eastern corner of the site. Refer to the image over.

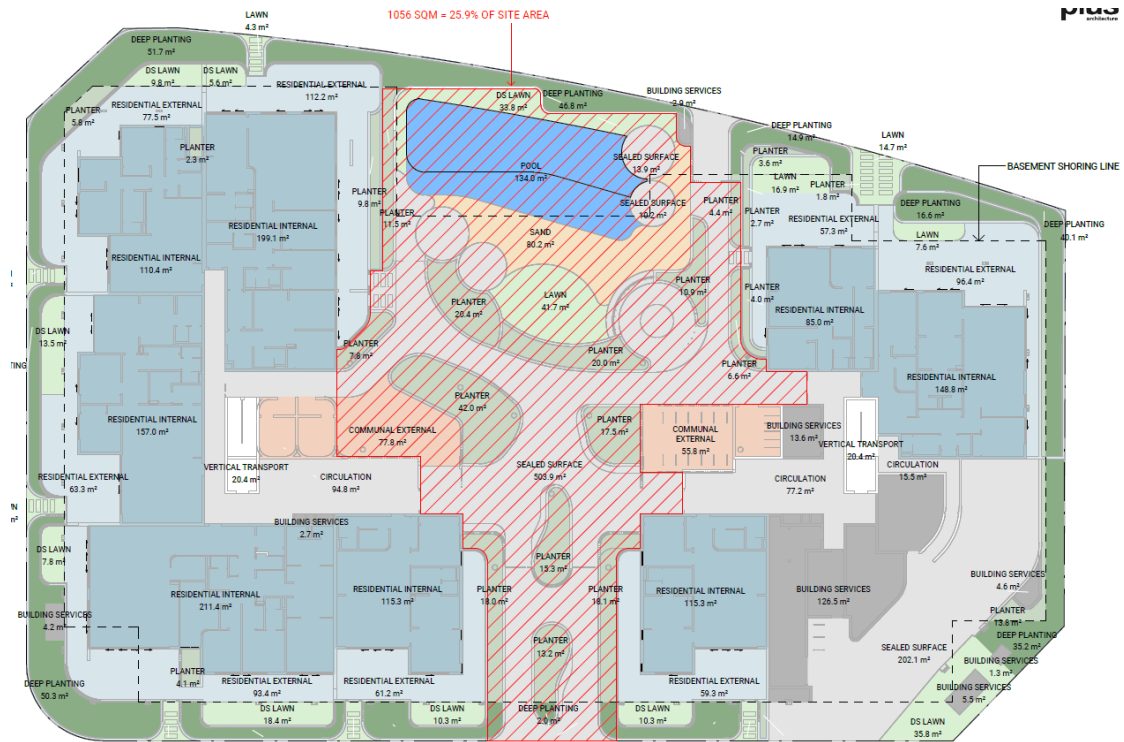


Figure 9: Basement footprint indicated by black dashed line (Source: Drawing No. DA551 DA Plans by plus architecture June 2021)

The protrusion beyond the north eastern and south western corners are minor and generally result as a design response to the splayed boundaries of the site in these two areas.

A substantial recess in the western elevation has been provided, allowing for a generous area of communal open space comprising a pool, beach and grassed area. As a result, the western extent of the basement protrudes beyond the western wall of the building at ground floor level. Whilst this protrusion limits the amount of deep soil zone provided within the communal open space and results in a variation to the minimum dimension for deep soil zones (along the central western boundary), the proposal is still able to provide total areas of deep soil zones, and landscaping, in excess of the requirements specified in the ADG. Furthermore, the main protrusion occurs along a portion of the site that adjoins Casuarina Way and will not result in any adverse impacts on neighbouring land uses.

The proposed variation is considered acceptable as the protrusion of the basement is not in conflict with the objectives of the control.

Design Control 3: Setbacks – Side Setbacks – Garages and basement parking

The objectives for this section read as follows:

- *To provide an orientation for windows of ancillary rooms.*
- *To provide access to the rear of the lot.*
- *To provide a location for rainwater tanks.*
- *To facilitate visual and acoustic privacy between neighbouring lots.*

Control g. requires the walls of basements to be setback a minimum of 1.5m from the side boundaries and preferences the walls of basements to be in line with the building above.

As discussed previously, the footprint of the basement protrudes beyond the building line in the north-eastern and south-western corners and for a portion of the western elevation. The protrusion results from design responses to the splayed boundaries at the north east and south west of the site, with the western protrusion resulting from a substantially recessed western façade. As the western portion of the site adjoins Casuarina Way, it is not considered the protrusion will result in any adverse amenity or privacy impacts.

The proposed basement achieves a minimum 1.5m setback to all boundaries and does not conflict with any of the objectives of the control. The proposal is considered acceptable.

Design Control 4: Carparking and Access – Basement Carparking

The objectives of this section read as follows:

- *To provide on site car access, parking and manoeuvring areas.*
- *To minimise the physical and visual dominance of vehicles on sites.*
- *To minimise footpath and street reserve crossings.*

Control d. stipulates the walls of basement carpark are best located in line with the buildings footprint and that basement carparking is not to extend outside the external line of terraces, balconies and porches.

As has been discussed previously, the basement protrudes beyond the buildings footprint in the north-eastern and south-western corners and along a portion of the building's western elevation.

The basement results in a maximum protrusion beyond the outside face of the ground floor patio by approximately 1.3m. The protrusion extends approximately 5m along the 10m patio edge – refer to the image below.

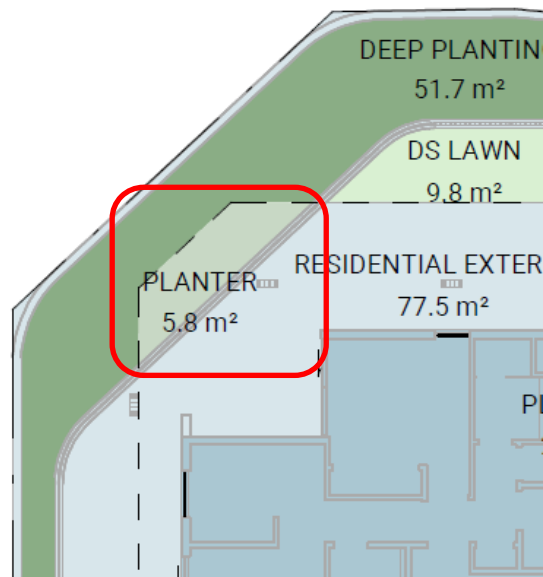


Figure 10: Basement protrusion beyond ground floor patio wall (Source: Drawing No. DA551 DA Plans by plus architecture June 2021)

The protrusion has resulted in a planter area being provided at ground floor level adjoining areas of deep soil zone. It is not considered the protrusion results in any adverse impacts.

In the north eastern corner, the basement protrudes beyond the carpark supply and edge of the driveway at ground floor level. As with the protrusion in the south western corner, areas of landscaping have been proposed above the protrusion. No adverse impacts are anticipated.

As discussed previously, the western elevation has been recessed to allow for visual interest and the provision of communal open space.

The proposal is not considered to conflict with the objectives of the control. As noted previously, the proposed protrusion are considered acceptable.

Design Control 6: Height

The objectives of this section read as follows:

- *To design new development appropriate to the existing building scale in the street and the local area.*
- *To ensure new development maintains an appropriate residential character.*

Control c. stipulates the maximum overall building height for residential flat buildings is 12.2m. The approval of MP06_0258-Mod 10 overrides this control, approving the site for a four-storey residential flat building. No height in metres has been approved under MP06/0258-Mod 10 as per Condition of Consent No. C1 (refer to sit history section earlier in this report).

The proposal seeks to construct a four storey residential flat building with one level of basement car parking. In this regard, the proposed development is consistent with the approved building height granted under MP06_0258-Mod 10.

Control d. specifies the maximum wall plate height for residential flat buildings is 9.6m.

The proposal seeks to provide a maximum wall plate height of approximately 12.5m. It is noted a 9.6m wall plate height is compatible for residential flat buildings up to 3 storeys in height. As noted above and previously in this report, the height limitations for the subject site are stipulated by MP06_0258-Mod 10 which specifies a 4 storey building height over the subject site. It is therefore considered the 9.6m wall plate height is not applicable as it does not allow for a 4 storey residential flat building.

Design Control 9: External Building Elements – Fences & Walls.

The objectives of this section read as follows:

- *To define the boundaries between public and private land.*
- *To define the boundaries between neighbouring properties.*
- *To contribute to the streetscape appearance.*
- *To enhance the usability of private open space.*
- *To offer acoustic and visual privacy on busy roads.*

Fencing along Casuarina Way, Grand Parade and majority of Blackwattle Circuit generally consists of a 600mm high retaining wall with a 1m high aluminium batten fence on top, set behind areas of landscaping. Individual gates provide private access from the three streets to ground floor apartments. This provides a clear delineation between public and private land whilst softening the appearance of the fence through the provision of batten fencing and landscaping.

Control d stipulates front and return fences can be up to a maximum height of 1.5m high with a maximum solid fence height of 600mm, above the solid wall the fence is to have a minimum openness ratio of 60%.

As noted above, the proposal seeks to provide front fencing to ground level apartments that measures 1.6m in height, with a 1m high aluminium batten fence to be constructed atop a 600mm high planter wall. Landscaping is to be provided in planter boxes located in front of the fences. The vegetation planted within these boxes will help to soften to appearance of the aluminium battens and will provide a more visually appealing delineation between public and private land. It is considered the 100mm variation to the control is acceptable as the variation itself is considered minor and the objectives of the control are enforced.

A portion of Casuarina Way, adjoining the proposed pool area, is fenced by a 1.9m high wall (measured from ground level on the eastern side of the wall). As discussed previously, the unique position of the site with three street frontages makes the designation of front, side and rear difficult. As the principle pedestrian access point to the development is proposed via Blackwattle Circuit on the eastern side of the site, the western boundary in this instance is considered to be the rear. Control a. for side and rear fences notes a maximum fence height of 2.0 metres is permissible. The boundary wall adjoining the pool area is consistent with the control. Furthermore, landscaping and planting proposed

along the western side of the wall will help to soften the scale of the wall along Casuarina Way.

The variations to TDCP A1 Part C are considered acceptable in this instance.

A2-Site Access and Parking Code

The development application seeks to provide resident and visitor parking within a single basement level, whilst bicycle parking will be provided across the basement and ground floor levels.

It should be noted that, whilst 48 units are proposed, Apartment 00.07 located on the Ground Floor Level is a dual key apartment. For the purposes of calculating car and bicycle parking requirements, the dual key apartment has been assessed as being two individual units. As such, in respect of parking, the proposal is considered to include 48 units.

Access:

Access to the basement is proposed via a vehicular crossing to be constructed in Blackwattle Circuit. The proposed driveway is to have a width of 6.5m and will provide access for residents and visitors only. No service vehicles are proposed to utilise the driveway as rubbish collection is proposed to be kerbside.

The application was referred to Council's Traffic Engineers and Resource Recovery Units. Council's Traffic Engineer did not raise any concerns with the proposed access.

Council's Resource Recovery Unit raised the following concerns:

'They have said that all bins will be serviced from Black Wattle Circuit. My review of the maps shows this is to be a 6.5m pavement, so traffic and access issues are likely in this area as the truck that collects the large 2000l bulk bins is a large 25 tonne vehicle, with twin steer.'

This concern was put to the Applicant as part of Council's RFI Letter dated 6 December 2021. The applicant provided the following response:

'Black Wattle Circuit accommodates residential lots that will be serviced at the kerbside. Hence, kerbside collection for this development is considered appropriate and consistent with refuse collection arrangements for the other lots in the street.'

The applicant's response was referred back to the Resource Recovery unit who reviewed the RFI response and noted:

'The roads infrastructure would appear adequate to accept the types of waste collection vehicles used.'

Council's Resource Recovery raised no further concerns in respect of access.

Pedestrian Access:

Pedestrian access to the complex for residents and visitors is proposed to be obtained via Blackwattle Circuit (being the primary entry point) and via a gate along Casuarina Way. For residents of ground floor units, access can be obtained via private entry points off Casuarina Way, Grand parade and Blackwattle Circuit.

Grand Parade and Blackwattle Circuit provide 3.5m wide shared paths, whilst a 1.2m wide footpath provides access via Casuarina Way.

Pedestrian access to the basement is via two internal lift cores, ensuring conflicts between pedestrians and vehicles are minimised.

Council's Traffic Engineers noted they had no concerns in respect of potential conflict between vehicles and pedestrians.

Car Parking Requirements:

As per Item A12 of Table 2a – Access & parking Generation – Residential Accommodation Group, the following car parking requirements apply:

Residents

1 bedroom unit – 1 car space per unit

2 bedroom unit – 1.5 car spaces per unit

3+ bedroom unit – 2 car spaces per unit

Visitors

1 car space for every 4 units

If car parking is allocated to specific units (strata), car parking spaces need to be round up to the next whole number.

The calculations of required car parking based on the proposed number of units and unit types is as follows:

Unit type	Number of Units	Number of car spaces required (pooled/unallocated)	Number of car spaces required (allocated)
1 bedroom	1	1 (1x1)	1 (1x1)
2 bedroom	25	37.5 (1.5 x 25)	50 (2 x 25)
3bedroom	15	30 (2 x 15)	30 (2 x 15)
4 bedroom	7	14 (2 x 7)	14 (2 x 7)
Total resident spaces required	48	82.5 (83)	95
Visitor spaces	48	12 (48/4)	12 (48/4)

As strata subdivision does not form part of the proposal, the proposed development is required to provide a total of 83 residential car spaces and 12 visitor car spaces. The proposal seeks to provide 96 residential car spaces and 12 visitor car spaces to be wholly contained within the basement level. The proposal is therefore compliant, exceeding the car parking requirements.

A total of 54 bicycle parking spaces are required for the proposed development, 48 for residents and 6 for visitors. 24 resident bicycle spaces are proposed within the basement with a further 24 bicycle spaces proposed at ground floor level. The bicycle spaces provided at ground floor level will contain bicycles provided by the development for sole use by residents as a free hire scheme. A further 6 bicycle spaces are proposed for visitors and are located on the eastern side of the building's external walls, at ground floor level and are accessed via Blackwattle Circuit.

Council's Traffic Engineer has noted the proposed bicycle parking scheme is satisfactory.

The proposed development is considered to comply with the access and parking requirements stipulated in TDCP A2.

A15 - Waste Minimisation and Management

Council's DCP Section A15 aims to minimise the generation of construction/demolition waste and facilitate effective ongoing waste management practices consistent with the principles of Ecologically Sustainable Development.

A Waste Management Plan (WMP) has been prepared by TTM Group and has considered the waste streams likely to be generated as a result of the demolition, construction and operational phases of the development.

The application was referred to Council's Environmental Health Section and Resource Recovery Unit for review.

Council's Environmental Health Section did not raise any objections to the proposal in respect of waste subject to the implementation of recommended conditions of consent.

However, Council's Resource Recovery Unit raised concerns in respect of the proposed size of the waste bins to be provided; potential traffic and access issues resulting from bin servicing proposed along Blackwattle circuit; provision of waste collection from within the property; provision of bulky waste collection by Council.

These concerns were put to the Applicant as part of Council's RFI Letter dated 6 December 2021. The applicant provided the following response:

The Waste Management Plan by TTM Group has been updated to address the comments raised by Council. Notably:

- Waste Management Plan has been updated to incorporate 6 x 360L recycle bins for collection at kerbside.*
- Building management will transfer bins from the refuse room on the ground floor to the kerbside for collection and return to the refuse room once serviced. Refer to extract from Waste Management Plan...showing collection point locations.*

- *Per the above, bins will be transferred to the street by building management to minimise standing time at the kerbside...*
- *Reference to bulky waste collection by Council has been removed.*

The applicant's response was referred to the Resource Recovery Unit who raised no further objections to the proposal.

The provision for green waste management was raised in the NRPP Briefing Meeting held on 15 February 2022. It is noted the Updated Waste Management Plan dated 15 December 2021 addresses green waste, stating the following:

Green waste is not typically produced from a development of this type other than from surrounding landscaped areas or potted plants. Green waste is usually removed by the designated maintenance contractor. The contractor engaged for this work will be required to send this material to a composting or resource recovery facility rather than to a landfill if locally available.

The applicant also provided the following response:

Section A15 - Waste minimisation and management of the Tweed DCP does not require green waste bins for Residential Flat Building. Thus, the development does not accommodate green waste bins for residents. Notwithstanding, a contractor will maintain the common landscaped areas and planters on the building within the development. The contractor will appropriately manage and dispose of green waste and will send green waste to a composting or resource recovery facility rather than to a landfill. It is also noted that the landscape plan adopts low maintenance planting suitable for the coastal environment with a view towards minimising maintenance associated with the landscape areas.

It is considered the proposed disposal of green waste is acceptable and a condition of consent has been recommended requiring green waste from common landscaped areas be disposed of via a composting or resource recovery facility and not via landfill.

The proposal is considered to be generally consistent with the requirements of TDCP A15 subject to the implementation of the recommended conditions of consent.

B5-Casuarina Beach

The aim of DCP B5 is to provide design principles that shape the future of the Casuarina Beach locality.

The development is generally compliant with the design principles stipulated in the chapter however, a variation to Section B5.2.2 Urban Design Principle 2(a) is being sought. Principle 2(a) reads as follows:

2(a) The minimum setback from the street front boundary to the wall of a dwelling is to be not less than six (6) metres.

The western external wall of the proposed development is generally setback a minimum of 6m from the Casuarina Way boundary in accordance with the design principle. The exception is a small portion of the two south-western apartments which encroach within the 6m setback by a maximum of approximately 400mm at ground floor level, and a maximum of approximately 200mm at levels 1-3. The encroachments result from the curved nature of the western boundary and the splayed south-western boundary. As the development seeks to locate the communal open space adjoining the western (Casuarina Way) boundary, the total length of built form fronting Casuarina Way is minimal, thereby minimising any perceived impacts of the variation. The variation to the design principle is considered minor in nature and is acceptable in this instance.

(a)(iiia) Any planning agreement or any draft planning agreement under section 7.4

There are no planning or draft planning agreements applicable.

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

Clause 61 Applications for demolition

(Previously clause 92(b) Applications for demolition). Not applicable - demolition does not form any part of the development application.

Clause 62 Consideration of Fire Safety

(Previously clause 93 Fire Safety Considerations). Not applicable – the subject application is not for a change of use.

Clause 64 Buildings to be upgraded

(Previously clause 94 Buildings to be upgraded). Not applicable – the subject application is not for the rebuilding or alteration of an existing building.

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

Tweed Shire Coastline Management Plan 2005

This Plan applies to the Shire's 37 kilometre coastline and has a landward boundary that includes all lands likely to be impacted by coastline hazards plus relevant Crown lands. The primary objectives of the Coastal Management Plan are to protect development; to secure persons and property; and to provide, maintain and replace infrastructure.

The proposed development is not considered to impact upon that coastline with regard to demands and issues identified within the Plan for the whole of the Tweed coastline (Clause 2.4.1) including: recreation; water quality; heritage; land use and development potential; coastal ecology and, social and economic demand. Under this plan, the subject site is not identified as having any key

management actions or specific management strategies. The proposal is considered to be consistent with the objectives of the Management Plan.

The proposed development is not considered to impact upon that coastline with regard to demands and issues identified within the Plan for the whole of the Tweed coastline.

Tweed Coast Estuaries Management Plan 2013

This Plan applies to the Cudgen Creek, Cudgen Lake, Cudgera Creek and Mooball Creek systems. The subject site is located within the study area of Cudgen Lake however, it is not considered the proposed development will adversely impact on the management of Cudgen Lake.

Coastal Zone Management Plan for Cobaki and Terranora Broadwater (adopted by Council at the 15 February 2011 meeting)

This Plan applies to the Cobaki and Terranora Broadwater and does not apply to the subject site.

(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality

Context and Setting

The proposed development is considered to be acceptable, having regard to the established context of the locality and the planned future character of the area as dictated by approved MP06_0258-Mod 10.

The subject application offers an opportunity to deliver an increase in housing supply and type in a setting that is characterised by lower density, detached dwellings. The built form is considered to have been designed so as to be sympathetic to Casuarina's coastal nature and is considered appropriate for the locality. Landscaping and boundary treatments will help to reduce the perceived bulk and scale of the built form and aids in delineating between public and private spaces.

Construction

Amenity impacts to existing residential properties within the vicinity of the subject site are anticipated whilst the proposed development is under construction. Council's Building Unit and Environmental Health Section have reviewed the subject application and did not raise any objections to the proposal, subject to conditions of consent. Amenity impacts resulting from the construction of the development are temporary in nature and it is considered that these can be minimised and/or mitigated through the implementation of relevant conditions of consent.

Utilities

The subject application proposes to relocate the existing padmount substation currently located at the south eastern corner of the subject site.

The application was referred to Essential Energy under clause 2.48 of SEPP (Transport and Infrastructure) 2021 (previously clause 45 of SEPP (Infrastructure) 2007). As discussed previously in this report, Essential Energy required additional information to be provided. The additional information was provided and reviewed by Essential Energy. Essential Energy's comments have been listed previously in this report and have been conditioned.

Council's Development Engineering Unit has also provided the following condition of consent in respect of the above:

Prior to the issue of a Construction Certificate, documentary evidence shall be provided to Council to confirm acceptance of the arrangement to relocate the existing padmount transformer on site from Essential Energy.

Flora and Fauna

The proposed development does not seek the removal of any established trees or vegetation with the exception of existing grass groundcover.

Removal of existing grass across the site to facilitate the proposed development is accepted in this instance.

In respect of the *Biodiversity Conservation Act 2016* provisions, the proposal does not exceed the Biodiversity Offsets Scheme threshold. A Biodiversity Development Assessment Report is therefore not required to accompany the application.

The site is not identified as being within a 'Koala Management Precinct' in the *Tweed Coast Comprehensive Koala Plan of Management*.

The proposed development **Does** satisfy Section 1.7 of the EP&A Act 1979 - Application of Part 7 of Biodiversity Conservation Act 2016 and Part 7A of Fisheries Management Act 1994.

(c) Suitability of the site for the development

Surrounding Landuses/Development

The proposed medium density residential development is considered suitable for the site given its location within the Casuarina Town Centre, its proximity to an established locality that is predominantly residential in nature, and its location in a newly subdivided area that has been approved for residential development ranging from low to medium density.

The proposed development satisfies the requirements of the site as approved under MP06_0258, is generally consistent with the relevant clauses of TLEP 2014 and development controls of TDCP 2008 and is therefore considered appropriate for the site.

Natural Hazards

The subject site is mapped as bushfire prone land and is categorised as being within the vegetation buffer to both category 1 and category 2 vegetation.

It should be noted that the vegetation that existed over the subject site and warranted this categorisation of the site and its surrounds was removed as part of the large subdivision of the area approved under MP06_0258. As such, the site is no longer in close proximity to any category 1 or 2 vegetation and therefore is no longer a vegetation buffer. The nearest areas of categorised vegetation are approximately 262m to the east, along the foreshore, and approximately 191m to the west, on the western side of Tweed Coast Road.

Given the subject site and surrounding land has been cleared of all vegetation, the proposed development was not referred to the Rural Fire Service however, a Bushfire Assessment Report over the site was requested by Council.

A Bushfire Assessment Report, prepared by Anderson Environment and Planning (AEP) and dated 25 February 2022, was submitted to Council on 10 March 2022 and concluded:

“Investigations undertaken for this Bushfire Threat Assessment report have revealed that the proposed special fire protection purpose development will not be affected by hazard vegetation, with the closest hazard vegetation located approx. 200m away.

The location of the Subject Site is in an existing and proposed development area that has undergone significant clearing and earthworks from the time the Bushfire Prone Land Mapping was undertaken. Should such mapping be revisited the Subject Site would not be mapped as Bushfire Prone Land.”

The report also states the proposal *“will need to meet a minimum BAL Low standard to ensure compliance with the relevant requirements of Planning for Bushfire Protection and AS-3959.”*

A recommended condition of consent has been included to this effect.

Flora and Fauna

Vegetation over the subject site presently consists of managed grass cover only. Aside from this grass cover, removal of vegetation is not proposed as this was completed during subdivision works. Deep soil zones and podium planters are proposed to provide adequate landscaping across the subject site.

Topography

The subject site is generally flat topographically, with a slight fall from north to south. The topography of the site is not a constraint on the suitability of the development and does not result in any unacceptable features (excessive retaining walls, battens etc.).

Site Orientation

The subject site front three individual streets, Casuarina Way to the west, Grand Parade to the south and Blackwattle Circuit to the east. The development proposed to interact with each of the three street frontages to ensure street activation is achieved and delineation between public and private land is established.

The proposal generally achieves compliance with SEPP 65, TLEP 2014 and TDCP 2008 in respect of factors that are influenced by site orientation.

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

The application was initially publicly notified from 29 September 2021 until 13 October 2021 during which time three (3) unique submissions were received from the public. In order to ensure compliance with Council's Community Participation and Engagement Plan 2019-2024, the application was advertised in the Tweed Link for 14 days from 2 March 2022 to 16 March 2022. No further public submissions were received whilst the application was advertised. The submissions were provided to the applicant on 29 October 2021 however, the applicant did not provide a response.

Each of the public submissions received objected to the proposal. The issues raised in these submissions included:

Issue Raised	Assessment Officer's Response
Noise	<p>Issues pertaining to noise have not been specified in the submissions (construction/operation) and so a response to both is provided below:</p> <p><u>Construction:</u> An increase in noise will result from the construction of the proposed development, in particular construction of the basement car park however it is considered construction noise will be temporary and will not adversely impact the established residential neighbourhood beyond reasonable limits. The implementation of mitigation and management measures identified in the submitted Noise Report and the implementation of recommended conditions of consent pertaining to hours of operation and the emanation of noise will ensure noise resulting from construction is minimised as far as can be reasonably expected.</p> <p><u>Operation:</u> As the subject site is bound by three street frontages, operation noise is likely the site that will most likely be impacted by any noise emanating from the site will be the</p>

	<p>adjoining Santai Resort to the north of the site. The absence of operable windows or balconies in the southern elevation of the Santai Resort and the placement of bedroom as the northern end of the north-eastern apartments minimises noise sources affecting either site. Conditions of consent pertaining to hours of use of the communal pool have been recommended.</p>
<i>Traffic and parking</i>	<p>The proposal seeks to provide car parking for 108 vehicles including 96 resident spaces and 12 visitor spaces. All carparking is proposed to be contained within a single level of basement car parking and is accessible via a vehicle crossing and driveway in Blackwattle Circuit only. Bicycle parking and a shared bicycle hire scheme are also proposed which will encourage residents to utilise active transport thereby seeking to minimise traffic generation. Proposed access and parking comply with the requirements of the Tweed DCP 2008. The proposal was referred to Council's Traffic Engineers who note a <i>low level increase in traffic generation</i> will result from the proposed development and that the <i>road network will not be adversely impacted</i>. A condition of consent has been recommended requiring a minimum of 96 residential and 12 visitor parking spaces be provided within the basement in accordance with the submitted basement plans.</p>
<i>Visual impacts – large block of flats</i>	<p>The proposal is consistent with the maximum height of building provision stipulated by MP06_0258-Mod 10 and is compliant with FSR requirement specified by TLEP 2014. Deep soil zones are proposed around the perimeter of the site to soften the appearance of the building and elevation articulation including different colours, materials and the inclusion of recesses and curved lines contribute to the visual interest of the built form. A large recess in the western elevation allows for the provision of a large area</p>

	of communal open space whilst simultaneously breaking down any perceived bulk and scale. It is considered the proposal has been designed so as to respond to the coastal nature of Casuarina.
<i>Breach of LEP height</i>	The site is subject to the maximum building height stipulated under MP06_0258-Mod 10 and not the TLEP 2014. The maximum building height is therefore 4 storeys and not the 13.6m stipulated in the LEP.
<i>Height as a precedent</i>	As noted above, the maximum permitted building height for the subject site is 4 storeys, as stipulated by MP06_0258-Mod 10. A 4 storey residential flat building has been proposed and is therefore compliant with the maximum building height permitted.
<i>Not in keeping with 'village' style</i>	The proposed development is compliant with the maximum building height permitted under MP06_0258-Mod 10 (Casuarina Town Centre) is compliant with the relevant clauses stipulated in TLEP 2014, and is generally consistent with the relevant requirements of the ADG and TDCP 2008. Where variations are proposed, these are not considered to result in adverse impacts on the site or the surrounding locality. The colour scheme and materials proposed are considered appropriate for the site and surrounds. A condition of consent has been recommended requiring 80% of total plants be native to the local area to ensure habitat for local fauna is provided and also to ensure cohesion between the proposed development and native vegetation approximately 180m and 200m from the site. Furthermore, the site is located within Casuarina Town Centre and not within a 'village'. The proposed development is considered appropriate for a town centre and is therefore appropriate for the site and the locality.
<i>Not in keeping with prior guarantees</i>	The proposed development is compliant with the maximum building height permitted under MP06_0258-Mod 10, is compliant with the relevant

	<p>clauses stipulated in TLEP 2014, and is generally consistent with the relevant requirements of the ADG and TDCP 2008. Where variations are proposed, these are not considered to result in adverse impacts on the site or the surrounding locality. The proposal is considered appropriate for the site.</p>
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The issues raised by the public in the submissions have been considered during the assessment of the proposal. Concerns pertaining to noise can be resolved through the implementation of relevant conditions of consent. In respect of the other issues raised, the proposal is considered to appropriately respond to the requirements for the site approved under MP06_0258.

Essential Energy

The application was referred to Essential Energy under clause 45 of the ISEPP (which has since been repealed and replaced with clause 2.48 of SEPP (Transport and Infrastructure) 2021).

As discussed previously in this report, Essential Energy initially required additional information be provided. The required information was subsequently provided by the applicant and reviewed by Essential Energy. No further information was required subject to the comments provided in the second set of correspondence being adhered to. These comments have been provided previously in this report.

(e) Public interest

The proposed development is generally consistent with relevant environmental planning instruments and Council policy requirements. The proposal is considered suitable for the subject site given the MP06_0258-Mod 10 approval and its location. The site is approved to contain a medium density residential use which is provided by this application and will provide additional housing opportunities in the area. The proposal is therefore considered to be in the public interest.

OPTIONS:

1. Approve the application as recommended.
2. Refuse the application with reasons.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Costs could be incurred if the determination is legally challenged.

POLICY IMPLICATIONS:

SEPP (Resilience and Hazards) 2021
SEPP (Transport and Infrastructure) 2021
SEPP (Planning Systems) 2021

SEPP (Biodiversity and Conservation) 2021
 SEPP (Building Sustainability Index: BASIX) 2004
 SEPP No. 65 – Design Quality of Residential Apartment Buildings
 Tweed Local Environmental Plan 2014
 Tweed DCP Section A1 – Residential and tourist development, Part C – Shop Top and Residential Flat Buildings
 Tweed DCP Section A2 – Site Access & Parking Code
 Tweed DCP Section A15 – Waste Minimisation and Management Plan
 Tweed DCP Section B5 – Casuarina Beach

CONCLUSION:

The proposal represents a medium density residential development providing greater housing opportunities to the community and the broader locality. The development has adequately responded to the request for information issued by Council and by Essential Energy and has generally responded to the comments made by the NRPP in the briefing meeting held on 15 February 2022. The proposal is considered to represent a positive urban design outcome. The amended plans have adequately addressed the treatment of the wall fronting Casuarina Way by providing additional landscaping and larger deep soil zones. The proposed four storey residential flat building is considered to be acceptable.

UNDER SEPARATE COVER:

1. Plans
2. Site Photos
3. SEPP 65 Apartment Design Guideline Assessment
4. Shadow Diagrams
5. Landscape Architect Statement
6. Landscape Concept Plans

RECOMMENDATION:

That Development Application DA21/0637 for a residential flat building comprising of 48 units (NRPP) at Lot 59 DP 1264557; No. 5 Grand Parade CASUARINA, be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects prepared by Town Planning Alliance (NSW) Pty Ltd and the following plans prepared by Plus Architecture as set out in the table below, except where varied by the conditions of this consent.

Drawing No.	Drawing Name	Date	Revision
DA030	Site Plan - Proposed	02/07/2021	G
DA099	Floor Plan - Basement	06/07/2021	H
DA100	Floor Plan - Ground Level	14/12/2021	J
DA101	Floor Plan - Typical Levels 01 + 02	14/12/2021	I
DA103	Floor Plan - Level 03	14/12/2021	G
DA104	Roof Plan	02/07/2021	F

DA200	Building Elevation - East	02/07/2021	E
DA201	Building Elevation - West	05/07/2021	F
DA202	Building Elevation - North + South	05/07/2021	F
DA300	Building Section A	05/07/2021	F
DA301	Building Section B	05/07/2021	F
DA302	Building Section C + D	05/07/2021	E

[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. Essential Energy

1. The Applicant proposes to re-locate the existing substation and relevant cables. Such re-location works MUST meet:
 - a. Essential Energy's Contestable Works process (including creation of the required easements). Refer Essential Energy's Contestable Works Team for requirements via email contestableworks@essentialenergy.com.au <<mailto:contestableworks@essentialenergy.com.au>>;
 - b. AS2067 requirements; and
 - c. any of Essential Energy's design requirements.
2. Minimum separation / clearances and segregation for fire risk from the substation to any building, fence, planting, retaining walls or other development must be maintained at all times. Access to the easement, cables and substation must be available at all times. Refer to AS2067, Essential Energy's policy CEOM7098 *Distribution Underground Design Construction Manual* and the latest industry guideline currently known as *ISSC 20 Guideline for the Management of Activities*

within Electricity Easements and Close to Infrastructure prior to any works being carried out in this location.

3. Essential Energy also has existing high voltage and low voltage underground cables located across all street frontages of the property:
 - a. Prior to carrying out any works in this location and/or within 1.0 metre either side of the cables, 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 cables.
 - b. Works around the cables must be managed. If the ground levels over the cables are to be altered, clearances must be maintained and cable integrity protected.
 - c. Any excavation works in this area for the proposed new driveway/s must comply with *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure* <<https://protect-au.mimecast.com/s/pTtLCYW8zvlpnKXC0hCnm?domain=energy.nsw.gov.au>>.
 - d. The cables should be in conduit under any proposed driveway/s and driveway/s should not be placed over the top of any joints and spare conduit should be available - refer Essential Energy’s policy *CEOM7098 Distribution Underground Design and Construction Manual*. Note that approval is not possible where the driveway/s are proposed to be located with an impact on existing cables, cable joints, pits, pillars and the like - refer *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure* <<https://protect-au.mimecast.com/s/0H2qCZY1AVh8k1Ycjbv8XL?domain=energy.nsw.gov.au>>.
 - e. The cables are to maintain a minimum clearance of 1.0 metre to any activity.
4. The Applicant will need to engage the services of an Accredited Service Provider to ensure adequate provision of power is available to all units in accordance with the NSW Service and Installation Rules.
5. If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.
6. Any existing encumbrances/easements in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.
7. If a subdivision is proposed:
 - a. As part of the subdivision, easement/s are to be created for any existing electrical infrastructure, using Essential Energy’s standard easement terms current at the time of registration of the plan of subdivision. Refer Essential Energy’s Contestable Works Team for requirements.
 - b. Council should ensure that a Notification of Arrangement (confirming satisfactory arrangements have been made for the provision of power) is issued by Essential Energy with respect to all proposed lots which will form part of the subdivision, prior to Council releasing the Subdivision Certificate. It is the Applicant’s responsibility to make the appropriate application with Essential Energy for the supply of electricity to the subdivision, which may include the payment of fees and contributions. Despite Essential Energy not having any safety concerns, there may be issues with respect to the subdivision layout, which will require Essential Energy’s approval.
8. In addition, Essential Energy’s records indicate there is electricity infrastructure

located within the property and within close proximity to the property. Any activities within these locations must be undertaken in accordance with *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.

9. 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 <https://protect-au.mimecast.com/s/P_OAC2xMyvSZBLQf2m5Oa?domain=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*.

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

8. The developer shall provide the following parking spaces including parking for the disabled (as required) in accordance with Tweed Shire Council's Development Control Plan Part A2 - Site Access and Parking Code.

- A minimum of 96 car parking spaces for residents,
- A minimum of 12 Visitor car parking spaces

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.

The basement access:

- must accommodate sightlines compliant with AS2890.1.
- must be designed to provide sufficient height clearance to allow appropriate vehicles to access the basement stormwater treatment device for servicing or the building proper must provide acceptable alternative access facilities.

[PCC0065]

9. Section 7.11 Contributions

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

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 7.11 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

These charges include indexation provided for in the 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.

- (a) Tweed Road Contribution Plan:
180.7 Trips @ \$1395 per Trips \$252,077

(\$1,145 base rate + \$250 indexation)	
CP Plan No. 4	
Sector7_4	
LCA4 - Casuarina:	\$37044
180.7 trips at \$205 per trip	
(\$168.00 base rate + \$37.00 indexation)	
(b) Shirewide Library Facilities:	
37.375 ET @ \$1007 per ET	\$37,637
(\$792 base rate + \$215 indexation)	
CP Plan No. 11	
(c) Bus Shelters:	
37.375 ET @ \$76 per ET	\$2,841
(\$60 base rate + \$16 indexation)	
CP Plan No. 12	
(d) Eviron Cemetery:	
37.375 ET @ \$143 per ET	\$5,345
(\$101 base rate + \$42 indexation)	
CP Plan No. 13	
(e) Extensions to Council Administration Offices & Technical Support Facilities	
37.375 ET @ \$2252.11 per ET	\$84,172.61
(\$1,759.90 base rate + \$492.21 indexation)	
CP Plan No. 18	
(f) Casuarina Beach/Kings Forest Community Facilities:	
37.375 ET @ \$2685 per ET	\$100,352
(\$2,153 base rate + \$532 indexation)	
CP Plan No. 19	
(g) Casuarina Beach/Kings Forest Open Space:	
37.375 ET @ \$1832 per ET	\$68,471
(\$717 base rate + \$1,115 indexation)	
CP Plan No. 19	
(h) Cycleways:	
37.375 ET @ \$568 per ET	\$21,229
(\$447 base rate + \$121 indexation)	
CP Plan No. 22	
(i) Regional Open Space (Casual)	
37.375 ET @ \$1311 per ET	\$48,999
(\$1,031 base rate + \$280 indexation)	

CP Plan No. 26

- (j) Regional Open Space (Structured):
37.375 ET @ \$4601 per ET \$171,962
(\$3,619 base rate + \$982 indexation)

CP Plan No. 26

[PCC0215]

10. 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: 26.04 ET @ \$11,442 = \$297,949.70
Water Levy: 26.04 ET @ \$556 = \$14,478.20
Sewer: 39.75 ET @ \$7,400 = \$294,150.00

[PCC0265]

11. In accordance with Section 6.14 of the Environmental Planning and Assessment Act 1979 (as amended), a Construction Certificate for BUILDING WORKS OR Subdivision Works Certificate for SUBDIVISION WORKS shall NOT be issued until any Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid (as applicable). Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

[PCC0285]

12. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided. The construction of any retaining wall or cut/fill batter must at no time result in additional runoff or ponding occurring within neighbouring properties.

All earthworks shall be contained wholly within the subject land. Detailed engineering plans of cut/fill levels and perimeter drainage shall be submitted with a S68 stormwater application for Council approval.

[PCC0485]

13. A detailed Plan of Landscaping containing no priority weed species and with a minimum 80% of total plant numbers comprised of local native species to the Tweed Shire is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate. Local native species are to comprise appropriate species selected from the Tweed Shire Native Species Planting Guide available online at:
<http://www.tweed.nsw.gov.au/Controls/NativeSpeciesPlanting/Landing.aspx>

[PCC0585]

14. The basement car parking is to be provided with immunity against inundation of stormwater associated with the local road reserve. Details of any basement stormwater pump-out system, prepared by a suitably qualified Hydraulic Engineer, are to be submitted to, and approved by, the Certifier (Council or a Registered Certifier) prior to the issue of a Construction Certificate.

Installed pumps must be designed and installed in accordance with Section 9 of AS/NZS3500.3.2 1998 *"National Plumbing and Drainage - Part 3.2: Stormwater Drainage - Acceptable Solutions"*

[PCC0685]

15. 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 off Black Wattle Circuit 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).

Applications shall include (as applicable) engineering plans and specifications undertaken in accordance with Council's Development Design and Construction Specifications, including: -

- Road works/furnishings
- Stormwater drainage
- Water and sewerage works
- Sediment and erosion control plans
- Location of all services/conduits
- Traffic Control Plan

[PCC0895]

16. The footings and floor slab are to be designed by a practising Structural Engineer after consideration of a soil report from an appropriately 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]

17. Council will not permit ground 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 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]

18. 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*.

- (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) Specific Requirements to be detailed within the Construction Certificate application include:
 - (d) 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.
 - (e) Roof water does not require treatment, and should be discharged downstream of treatment devices, or the treatment devices must be sized accordingly.
- [PCC1105]
19. Disposal of stormwater by means of infiltration devices must be carried out in accordance with Section D7.09 of Tweed Shire Councils Development Design and Construction Specification - Stormwater Quality.
- [PCC1125]
20. 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]
21. 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".

22. 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 works under the Water Management Act, 2000 to be certified by a Registered Certifier.

23. 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.

24. 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.

25. Prior to the issue of a Construction Certificate, documentary evidence shall be provided to Council to confirm acceptance of the arrangement to relocate the existing pad mount transformer on site from Essential Energy.
26. Updated plans are to be submitted to, and approved by, the Certifier (Council or a Registered Certifier) showing the inclusion of external, operable blinds to the western and south-western facing units in order to provide sufficient shading during summer months.
27. (a) 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:
- (i) A gutter and footpath crossing is to be constructed to the Black Wattle Circuit frontage in accordance with Council Standard Drawing SD017.
 - (b) 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.

28. Updated plans are to be submitted to Council for approval showing the location and details of all pool fencing in accordance with Australian Standards AS 1926.1-2012. The beach bar, kitchen and BBQ area must not be located within the extents of the pool fence in accordance with the Swimming Pools Act 1992.
29. Prior to the issue of a Construction Certificate, amended plans are to be submitted to the Principal Certifying Authority showing the inclusion of a convex mirror on the northern wall of the proposed basement in accordance with the relevant Australian Standards.
30. Prior to the issue of a Construction Certificate, amended plans are to be submitted to Council showing the location of communal outdoor clothes drying facilities.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

31. 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]

32. 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]
33. 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]
34. 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]
35. 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]
36. **Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000**, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the principal 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]

37. 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]

38. 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]

39. 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]

40. 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]

DURING CONSTRUCTION

41. 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]

42. 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]

43. 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]

44. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:

A. Short Term Period - 4 weeks.

$L_{Aeq, 15 \text{ min}}$ noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.

B. Long term period - the duration.

$L_{Aeq, 15 \text{ min}}$ noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.

[DUR0215]

45. 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]

46. 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]

47. 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]

48. 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]

49. 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]

50. During construction the Principal Certifier is to be provided with a Registered Surveyors floor level certificate at each floor platform stage (before any concrete pour) and when the roof framework is in place, to confirm that the height of the building is proceeding in accordance with the approved plans/consent conditions.

[DUR0485]

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

[DUR0815]

52. 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]

53. 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]

54. 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]

55. 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]

56. 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]

57. The proponent must not undertake any work within the public road reserve without giving Council's Development Engineering Unit 48 hours notice of proposed commencement. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken.

[DUR1845]

58. 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 a Subdivision Certificate and/or prior to any use or occupation of the buildings.

[DUR1875]

59. 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]

60. 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]

61. Swimming Pools (Building)

- 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.
- Swimming pools shall have suitable means for the drainage and disposal of overflow water.
- 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.
- 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]

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

[DUR2085]

63. 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]

64. 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]

65. 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]

66. During construction, a "Satisfactory Inspection Report" is required to be issued by Council for all s68h2 permanent Stormwater Quality Control Devices, prior to backfilling. The proponent shall liaise with Councils Engineering Division to arrange a suitable inspection.

[DUR2445]

67. 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]

68. 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]

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

[DUR2505]

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

71. 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.

72. 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.

73. 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.

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

75. 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.

76. Works in the vicinity of public infrastructure must comply with the following requirements;
- a) No portion of any structure may be erected within one metre of the sewer junction. 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) Surface treatment over the sewer junction shall be limited to soft landscaping, noninterlocking paving, asphalt 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) Trees and other landscaping that will grow to over one metre in height at maturity are not permitted to be planted within one metre of the sewer junction, 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.

- d) Deep soil planting zones are not permitted within one metre of the sewer junction, to ensure adequate protection of council's public sewer infrastructure.

[DURNS02]

77. 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 Certifying Authority or Council on request.

[DURNS01]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

78. 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]

79. 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]

80. 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]

81. 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]

82. 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]

83. 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]
84. 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]
85. 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]
86. 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.
- [POC0985]
87. 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]
88. Prior to occupation the applicant or business operator is to be registered in Council's Public Swimming Pool Register and pay the appropriate fee under Council's schedule of fees and charges.
- [POC1095]
89. The swimming pool or spa is required to be registered at www.swimmingpoolregister.nsw.gov.au prior to the issue of any occupation certificate for the swimming pool or spa.
- [POC1100]
90. Prior to the issue of an Occupation Certificate, a “*Certificate of Practical Completion*” shall be obtained from Council’s General Manager or his delegate for all works required under Section 68 of the Local Government Act.
- [POCNS01]
91. 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.
- [POCNS02]
92. Prior to the issue of an Occupation Certificate, a Landscape Management Plan is to be submitted to Council.
- [POCNS03]

USE

- [USE0125]
93. 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.
94. All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised. Notwithstanding this requirement all air conditioning units and other mechanical

plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive or intrusive noise.

[USE0175]

95. The following activities have restricted hours of use:

- * Use of the swimming pool and beach area between the hours of 7am and 10pm.
- * Waste collection between the hours of 7am and 6pm.
- * All deliveries and pickups relating to the business are to occur between 7am and 10pm.

[USE0185]

96. A community liaison officer and community liaison contact phone number shall be available on a 24-hour basis on the days of the event (including 24 hours pre- and post-event). Details of the name and contact person and the contact telephone number must be locally advertised a minimum of fourteen (14) days prior to the event and local, directly affected, residents notified by means of an individual letter drop to each household.

[USE0215]

97. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises.

[USE0225]

98. The development shall be carried out in accordance with the provisions of the acoustic assessment report prepared by TTM Consulting (Reference: 21GCA0064 R01_1) dated July 2021.

[USE0305]

99. 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]

100. All landscaping work is to be completed in accordance with the approved plans prior to any use or occupation of the building.

[USE0735]

101. 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.

[USE0745]

102. 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]

103. The public swimming pool shall be operated in accordance with the Public Health Act 2010, Part 3 of the Public Health Regulation 2012 and the current NSW Health Public Swimming Pool and Spa Pool Advisory Document, NSW Ministry of Health 2012.

[USE0985]

104. A backflow containment device will be installed adjacent to Councils 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 owners' expense.

[USE1455]

105. The outdoor kitchen, BBQ, beach bar area is to be used solely by the residents of the building and their invited guests only. Guests may only use the area when accompanied by residents.

[USENS01]

106. The outdoor kitchen, BBQ and beach bar is not to be used for any activities that could be considered as being commercial in nature and/or run by a business, organisation or group.

[USENS02]

107. All green waste generated by common landscaped areas shall be collected, stored and disposed of in accordance with any approved Waste Management Plan or to the written satisfaction of the General Manager or his delegate.

[USENS03]