



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

Level 4 225 Macquarie Street SYDNEY NSW 2000
Level 4 GPO Box 3565 SYDNEY NSW 2001
DX 264, Sydney

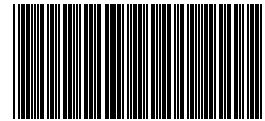
Telephone: 02 9113 8200
Facsimile:
02 91138208

Email: lecourt@justice.nsw.gov.au
Website: <http://www.lec.justice.nsw.gov.au>

ABN: 52 659 114 436

JEFFREY MICHAEL REILLY
council@wollongong.nsw.gov.au

Your Ref:



D0001HFYPJ

22 October 2021

NOTICE OF ORDERS MADE

Case number 2021/00123115
Case title Cosmar Enterprises Pty Ltd v WOLLONGONG CITY COUNCIL

On 22 October 2021 the following orders (and/or directions) were made:

The Court orders that:

- (1) The Applicant is to pay the costs of the Respondent that have been thrown away as a result of the amendment of the development application pursuant to s 8.15(3) of the Environmental Planning and Assessment Act 1979 (NSW) as agreed or assessed.
- (2) The Applicant's written request under cl 4.6 of the Wollongong Local Environmental Plan 2009 (WLEP), prepared by ePlanning town planning services and dated 13 October 2021 seeking a variation of the development standard for minimum site width under cl 7.14 of the WLEP, is upheld.
- (3) The appeal is upheld.
- (4) Development consent is granted to development application DA 2020/823 for the demolition of existing structures, construction of multi-dwelling housing and subdivision strata title – three lots at 5 Ryan Street, Balgownie, subject to the conditions annexed hereto and marked "Annexure A".

For the Registrar

Annexure A

DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF CONSENT

Development Application No: DA-2020/823

Development: Residential - demolition of existing structures, construction of multi dwelling housing and Subdivision - Strata title – three (3) lots

Site: 5 Ryan Street, Balgownie

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

Date of determination: 22 October 2021

Date from which consent takes effect: Date the consent is registered on the NSW Planning Portal.

TERMINOLOGY

In this consent:

- (a) Any reference to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to such a certificate as defined in the *Environmental Planning and Assessment Act 1979*.
- (b) Any reference to the “applicant” means a reference to the applicant for development consent or any person who may be carrying out development from time to time pursuant to this consent.
- (c) Any reference to the “site”, means the land known as 5 Ryan Street, Balgownie.

The conditions of consent are as follows:

1) Approved Plans and Specifications

Development shall be carried out generally in accordance with the following plans and documents, and all recommendations made therein, except where amended by the conditions of this development consent:

Plan Reference/ Drawing No./Revision	Name of Plan/Document	Prepared by	Date
19487/001/F	Site Plan	Concetto Design + Associates	26.08.2021
19487/002/F	Demolition Plan	Concetto Design + Associates	26.08.2021
19487/003/F	Dwelling 1 Ground Floor Plan	Concetto Design + Associates	26.08.2021

19487/004/F	Dwelling 2 Ground Floor Plan	Concetto Associates	Design	+	26.08.2021
19487/005/F	Dwelling 3 Ground Floor Plan	Concetto Associates	Design	+	26.08.2021
19487/006/F	Elevations Dwelling 1	Concetto Associates	Design	+	26.08.2021
19487/007/F	Elevations Dwelling 2	Concetto Associates	Design	+	26.08.2021
19487/008/F	Elevations Dwelling 3	Concetto Associates	Design	+	26.08.2021
19487/009/F	Dwellings Sections A:A 1	Concetto Associates	Design	+	26.08.2021
19487/010/F	Dwelling 2 & 3 Sections B & C	Concetto Associates	Design	+	26.08.2021
19487/011/F	Strata Concept Subdivision Plan	Concetto Associates	Design	+	26.08.2021
L01/2 K25104/D	– Landscape Planting Plan 1 of 2	Michael Siu Architects	Landscape		08.09.2021
L02/2 K25104/C	– Deepsoil Diagram 2 of 2	Michael Siu Architects	Landscape		30.08.2021
191009/1/3	Index	C.K. Engineering Services			08.09.2021
191009/2/3	Stormwater detail plan	C.K. Engineering Services			08.09.2021
191009/3/3	Stormwater detail plan	C.K. Engineering Services			08.09.2021
191009/4/3	Rainwater Tank and Miscellaneous details	C.K. Engineering Services			08.09.2021
191009/5/3	Erosion and Sediment Control Plan	C.K. Engineering Services			08.09.2021
Revision 2	Final Flood Study	C.K. Engineering Services			September 2021
D4547	Arboricultural Impact Assessment Report	Allied Tree Consultancy			June 2021
1109074M_02	BASIX Certificate	DPIE			24 September 2021

General Matters

- 2) **Building Work - Compliance with the Building Code of Australia**
All building work must be carried out in compliance with the provisions of the Building Code of Australia.
- 3) **Construction Certificate**
A Construction Certificate must be obtained from Council or a Registered Certifier prior to work commencing.

A Construction Certificate certifies that the provisions of Clauses 139-147 of the Environmental Planning and Assessment Regulation 2000 have been satisfied, including compliance with all relevant conditions of Development Consent and the Building Code of Australia.

Note: The Certifier must cause notice of its determination to be given to the consent authority, and to the council, by forwarding to it, within two (2) days after the date of the determination, the plans and documentation referred to in clause 142 (2) of the Environmental Planning and Assessment Regulation 2000.
- 4) **Occupation Certificate**
An Occupation Certificate must be issued by the Principal Certifier prior to occupation or use of the development. In issuing an Occupation Certificate, the Principal Certifier must be satisfied that the requirements of section 6.9 of the Environmental Planning and Assessment Act 1979, have been complied with as well as all of the conditions of the Development Consent.
- 5) **Tree Retention / Removal**
The developer shall transplant trees numbered T1 and T2 to an appropriate location on site by an experienced and qualified contractor.

This consent permits the removal of trees numbered T3, T4, and T5 as indicated in the Arboriculture Impact Assessment by Allied Tree Consultancy dated June 2021. No other trees shall be removed without prior written approval of Council.

Prior to the Issue of the Construction Certificate

- 6) **Maintenance of Flood Conveyance, Storage and Impacts**
The detailed design of the development shall be generally in accordance with the documents listed below, to ensure no reduction in the flood flow conveyance capacity of the site, no reduction in floodplain storage and no increase in flooding elsewhere as a result of the development. Details of the proposed subfloor flood conveyance area including invert/obvert levels, internal vertical clearance heights, maintenance access points, and pier/beam details shall be reflected on the Construction Certificate plans and certification provided from a suitably qualified civil engineer certifying that the above requirements have been achieved. Evidence that these requirements have been satisfied must be submitted to the Principal Certifying Authority prior to the release of a Construction Certificate.
 - Final Flood Study, Job no. 191009, Revision 2, by C.K Engineering Services, dated 09/2021

- Elevations Dwelling 1, Job no. 19485, Drawing no. 006, Revision F, by Concetto Design and Associates, dated 10/08/2021
- Elevations Dwelling 2, Job no. 19485, Drawing no. 007, Revision F, by Concetto Design and Associates, dated 10/08/2021
- Elevations Dwelling 3, Job no. 19485, Drawing no. 008, Revision F, by Concetto Design and Associates, dated 10/08/2021

7) **Present Plans to Sydney Water**

Approved plans must be submitted online using Sydney Water Tap, available through www.sydneywater.com.au to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.

The Principal Certifier must ensure that Sydney Water has issued an approval receipt prior to the issue of a Construction Certificate.

Visit www.sydneywater.com.au or telephone 13 20 92 for further information.

- 8) The parking dimensions, internal circulation, aisle widths, kerb splay corners, head clearance heights, ramp widths and grades of the car parking areas are to be in conformity with the current relevant Australian Standard AS2890.1, except where amended by other conditions of this consent. Details of such compliance are to be reflected on the Construction Certificate plans.

9) **Structures Adjacent to Driveway**

Any proposed structures adjacent to the driveway shall comply with the requirements of the current relevant Australian Standard AS2890.1 (figure 3.2 and 3.3) to provide for adequate pedestrian and vehicle sight distance. This includes, but is not limited to, structures such as signs, letterboxes, retaining walls, dense planting etc. This requirement shall be reflected on the Construction Certificate plans.

10) **Parking Area Levels**

Parking area levels shall be designed and constructed to limit the 1 in 100 year ARI flood flow velocity and depth to within the vehicle stability limits in accordance with Chapter E13 of the Wollongong DCP 2009. This requirement shall be reflected on the Construction Certificate plans prior to the release of the Construction Certificate.11) **Details of Proposed Pit and Pipeline**

Details of the proposed connecting pipeline to the Council pit, within the existing drainage system shall be provided in conjunction with the detailed drainage design for the site. Connection is to be made in accordance with Wollongong City Council Standard Drawings. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.

- 12) Not Used

Landscaping

- 13) The submission of a final Landscape Plan in accordance with the requirements of Wollongong City Council DCP 2009 Chapter E6 to the Principal Certifier, prior to the release of the Construction Certificate. The final Landscape Plan shall address the following requirements:

- a) A minimum 1.5m wide landscape strip is required along the full length of the side boundaries, which is to be clear of any walls or edges except where the

landscape strip is narrowed as shown on Landscape Planting Plan 1 of 2 by Michael Siu Landscape Architects dated 8 September 2021;

- b) Deep soil trees - three medium size trees can be accommodated on the site in the following locations: front setback, rear setback (between the eastern wall of dwelling 3, private open space of dwelling 3, and the existing stormwater infrastructure) and south of dwelling 3 at the end of the driveway. The tree species and size are to be:
 - Front setback – Size: 200 litre container size, in accordance with AS 2303:2018 Tree stock for landscape use. Species: *Elaeocarpus reticulatus* Blueberry ash
 - Rear Setback - Size: 200 litre container size, in accordance with AS 2303:2018 Tree stock for landscape use. Species: *Pyrus calleryana* 'Chanticleer' (deciduous to allow winter sun access and summer shade)
 - South of dwelling 3 at the end of the driveway: Size: 200 litre container size, in accordance with AS 2303:2018 Tree stock for landscape use. Species: *Backhousia citriodora* Lemon Myrtle.
 - c) a schedule of proposed planting, including botanic name, common name, expected mature height and staking requirements as well as number of plants and pot sizes;
 - d) The private open space is not directly accessible from dwelling living areas. The plans are to be amended as follows.
 - Dwelling 1 – Provide a deck minimum 900mm wide that links the living room and laundry doors, and then extends to include the minimum 4x5m private open space. Provide steps in a suitable location from the deck to the natural garden level.
 - Dwelling 2 - Provide a deck minimum 900mm wide that links the living room and laundry doors and then extends to include the minimum 4x5m private open space. Provide steps in a suitable location from the deck to the natural garden level.
 - Dwelling 3 - Provide a deck minimum 900mm wide that links the laundry, living room and dining room doors. Provide steps off this deck structure to the private open space minimum 4x5m.
 - e) Turf is not a suitable surface for any landscape areas on this site, as it is not fit for purpose. All landscape areas are to be mulched and planted with suitably selected groundcovers, shrubs and trees.
 - f) The completion of the landscaping works as per the final approved Landscape Plan is required, prior to the issue of Occupation Certificate.
- 14) The submission of certification from a suitably qualified and experienced landscape designer and drainage consultant to the Principal Certifier prior to the release of the Construction Certificate, confirming that the landscape plan and the drainage plan are compatible.
- 15) The implementation of a landscape maintenance program in accordance with the approved Landscape Plan for 12 months to ensure that all landscape work

becomes well established by regular maintenance. Details of the program must be submitted with the Landscape Plan to the Principal Certifier prior to release of the Construction Certificate.

16) **Tree Protection and Management**

The existing trees are to be retained upon the subject property and any trees on adjoining properties shall not be impacted upon during the excavation or construction phases of the development. This will require the installation and maintenance of appropriate tree protection measures, including (but not necessarily limited to) the following:

- a) Installation of Tree Protection Fencing - Protective fencing shall be 1.8 metre cyclone chainmesh fence, with posts and portable concrete footings. Details and location of protective fencing must be indicated on the architectural and engineering plans to be submitted to the Principal Certifier prior to release of the Construction Certificate.
- b) Installation of Tree Protection Fencing - A one (1) metre high exclusion fence must be installed around the extremity of the dripline of the tree/trees to be retained prior to any site works commencing. The minimum acceptable standard is a 3 strand wire fence with star pickets at 1.8 metre centres. This fence must be maintained throughout the period of construction to prevent any access within the tree protection area. Details of tree protection and its locations must be indicated on the architectural and engineering plans to be submitted to the Principal Certifier prior to release of the Construction Certificate.
- c) Mulch Tree Protection Zone: Areas within a Tree Protection Zone are to be mulched with minimum 75 mm thick 100% recycled hardwood chip/leaf litter mulch.
- d) Irrigate: Areas within the Tree Protection Zone are to be regularly watered in accordance with the arborist's recommendations.

17) **Pier and Beam Footings Adjacent to any Drainage Easement**

Buildings and structures (including brick fences) adjacent to easements shall be supported on pier and beam footings outside the easement. The base of the piers shall be a minimum 900 mm below ground level and shall extend below the invert level of the drainage pipelines within the easement. Structural engineers details are required detailing the size and levels of the existing drainage pipelines and the design levels for the base of the piers adjacent to the easement.

18) **Bicycle Parking Facilities**

Bicycle parking facilities must have adequate weather protection and provide the appropriate level of security as required by the current relevant Australian Standard AS2890.3 - Bicycle Parking Facilities and Austroads Guide to Traffic Management Part 11: Parking (Commentary 9: C9.2). In the absence of internal bicycle storage areas in private residential garages, the proposed external bicycle spaces are to have adequate weather protection, passive surveillance, and be secured within a lockable enclosure with access via a combination lock or communal key. This requirement shall be reflected on the Construction Certificate plans.

19) **Property Addressing Policy Compliance**

Prior to the issue of any construction certificate, the developer must ensure that any site addressing complies with Council's **Property Addressing Policy** (as amended). Where appropriate, the developer must also lodge a written request to Council's **Infrastructure Systems & Support – Property Addressing** (propertyaddressing@wollongong.nsw.gov.au), for the site addressing prior to the issue of the construction certificate. Please allow up to 3-5 business days for a reply. Enquiries regarding property addressing may be made by calling 4227 8660.

20) **Footpath Paving**

The developer is responsible for the construction of footpath paving for the entire frontage of the development. The type of paving for this development is a 1500mm wide, 100mm thick, reinforced, broom finished concrete. A nominal two percent (2%) minimum one percent (1%), maximum two and a half percent (2.5%) cross fall to be provided from property line to back of kerb. Any changes of level, ramps or stairs and associated tactile markers and handrails are to be contained within the property boundary.

The driveway entry threshold from the property boundary line to the face of kerb is to be broom finished concrete to match the footpath and be designed to withstand predicted traffic loadings.

The driveway threshold finish within property boundary line is to contrast with driveway entry.

The footpath and driveway entry on the council property must be installed to the satisfaction of WCC Manager of Works.

A Landscape Plan is to be submitted to Council for approval prior to the issue of the Construction Certificate showing proposed paving, footpath design levels, street tree details and location of all services

21) **Street Trees**

The developer must address the street frontage by installing street tree planting. The number and species for this development is one *Glochidion ferdinandii* 200 litre container size, in accordance with AS 2303:2018 Tree stock for landscape use. Street trees are to be installed in accordance with Wollongong Development Control Plan 2009 – Chapter E6: Landscaping. 'Dial Before You Dig' must be consulted prior to any excavation on site. Pot holing must be carried out to determine service location. Tree pits must be adequately mulched, plants installed and staking installed to the satisfaction of WCC Manager of Works. Staking is to consist of min. 3 x 2400 x 50 x 50mm hardwood stakes driven min 600mm into firm ground. Hessian webbing is to be utilised to secure plant stock to industry standard.

These requirements shall be reflected on the Construction Certificate plans and any supporting documentation.

22) **Stormwater Drainage Design**

A detailed drainage design for the development must be submitted to and approved by the Principal Certifying Authority prior to the release of the

Construction Certificate. The detailed design is to form part of the construction certificate drawings. The detailed drainage design must satisfy the following requirements:

- a) be prepared by a suitably qualified civil engineer in accordance with Chapter E14 of Wollongong City Council's Development Control Plan 2009, Subdivision Policy, conditions listed under this consent, and generally in accordance with the concept plan/s lodged for development approval, being the following:
 - Stormwater Detail Plan, Job no. 191009, Drawing no. Sheet 2 of 5, Revision 3, by CK Engineering Services.
 - Stormwater Detail Plan, Job no. 191009, Drawing no. Sheet 3 of 5, Revision 3, by CK Engineering Services.
- b) include details of the method of stormwater disposal. Stormwater from the development must be piped to Council's existing stormwater drainage system/ inter-allotment drainage system.
- c) Engineering plans and supporting calculations for the stormwater drainage system are to be prepared by a suitably qualified engineer and be designed to ensure that stormwater runoff from upstream properties is conveyed through the site without adverse impact on the development or adjoining properties. The plan must indicate the method of disposal of all stormwater and must include rainwater tanks, existing ground levels, finished surface levels on all paved areas, estimated flow rates, invert levels and sizes of all pipelines,
- d) Overflow paths shall be provided to allow for flows of water in excess of the capacity of the pipe/drainage system draining the land. Blocked pipe situations with 1 in 100 year ARI events shall be incorporated in the design. Overflow paths shall also be provided in low points and depressions. Each overflow path shall be designed to ensure no entry of surface water flows into any building and no concentration of surface water flows onto any adjoining property. Details of each overflow path shall be shown on the detailed drainage design.

23) Flood Level Requirements

The following requirements shall be reflected on the Construction Certificate plans, prior to the release of the Construction Certificate:

- a) Habitable floor levels must be constructed at a minimum of
 - RL 25.0 metres AHD for Unit 1
 - RL 23.85 metres AHD for Unit 2
 - RL 23.35 metres AHD for Unit 3
- b) Garage floor levels must be constructed at a minimum of RL24.35 metres AHD or 300mm above the finished adjacent ground level, whichever is greater
- c) Any portion of the building or structure below RL 25.0 metres AHD for Unit 1, RL 23.85 metres AHD for Unit 2 and RL 23.35 metres AHD for Unit 3 must be built from flood compatible materials. Where materials are

proposed and not listed in Appendix B of Chapter E13 of the Wollongong DCP2009, relevant documentation from the manufacturer shall be provided demonstrating that the materials satisfy the definition of 'flood compatible materials' as stated in Chapter E13 of the Wollongong DCP2009.

- d) The proposed development shall be designed to withstand the forces of floodwater, debris and buoyancy up to and including the highest adjacent PMF flood level as determined by a suitably qualified civil engineer plus 0.5 metres freeboard

24) **Council Footpath Reserve Works – Driveways and Crossings**

All redundant vehicular crossings and laybacks rendered unnecessary by this development must be reconstructed to normal kerb and gutter or existing edge of carriageway treatment to match the existing. The verge from the back of kerb to the boundary must be restored and the area appropriately graded, topsoiled and turfed in a manner that conforms with adjoining road reserve. The area forward of the front boundary must be kept smooth, even and free from any trip hazards. All alterations of public infrastructure where necessary are at the developer's expense.

All new driveway laybacks and driveway crossings must be designed in accordance with Wollongong City Council Standards. Any redundant linemarking such as 'marked parking bays' are adjusted/removed at the developer's expense by a Council recognised contractor with the relevant insurances. Details and locations are to be shown on the Construction Certificate Plans.

25) **No Adverse Run-off Impacts on Adjoining Properties**

The design of the development shall ensure there are no adverse effects to adjoining properties or upon the land as a result of flood or stormwater run-off.

26) **Development Contributions**

Pursuant to Section 4.17 of the Environmental Planning and Assessment Act 1979 and the Wollongong City-Wide Development Contributions Plan (2018), a monetary contribution of \$8,750.00 (subject to indexation) must be paid to Council towards the provision of public amenities and services, prior to the release of any associated Construction Certificate.

This amount has been calculated based on the estimated cost of development and the applicable percentage rate.

The contribution amount will be subject to indexation until the date of payment. The formula for indexing the contribution is:

$$\text{Contribution at time of payment} = \$C \times (CP2/CP1)$$

Where:

\$C is the original contribution as set out in the Consent

CP1 is the Consumer Price Index; All Groups CPI; Sydney at the time the consent was issued

CP2 is the Consumer Price Index; All Groups CPI; Sydney at the time of payment

Details of CP1 and CP2 can be found in the Australian Bureau of Statistics website – Catalogue No. 6401.0 - Consumer Price Index, Australia.

The following payment methods are available:

METHOD	HOW	PAYMENT TYPE
Online	http://www.wollongong.nsw.gov.au/applicationpayments Your Payment Reference: 1254114	Credit Card
In Person	Wollongong City Council Administration Building - Customer Service Centre Ground Floor 41 Burelli Street, WOLLONGONG	Cash Credit Card Bank Cheque
PLEASE MAKE BANK CHEQUE PAYABLE TO: Wollongong City Council (Personal or company cheques are not accepted)		

A copy of the Wollongong City-Wide Development Contributions Plan (2018) and accompanying Fact Sheet may be inspected or obtained from the Wollongong City Council Administration Building, 41 Burelli Street, Wollongong during business hours or on Council's web site at www.wollongong.nsw.gov.au

Prior to the Commencement of Works

27) Sign – Supervisor Contact Details

Before commencement of any work, a sign must be erected in a prominent, visible position:

- a) stating that unauthorised entry to the work site is not permitted;
- b) showing the name, address and telephone number of the Principal Certifier for the work; and
- c) showing the name and address of the principal contractor in charge of the work site and a telephone number at which that person can be contacted at any time for business purposes.

This sign shall be maintained while the work is being carried out and removed upon the completion of the construction works.

28) Temporary Toilet/Closet Facilities

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided must be:

- a) a standard flushing toilet; and
- b) connected to either:
 - i) the Sydney Water Corporation Ltd sewerage system or
 - ii) an accredited sewage management facility or
 - iii) an approved chemical closet.

The toilet facilities shall be provided on-site, prior to the commencement of any works.

29) **Enclosure of the Site**

The site must be enclosed with a suitable security fence to prohibit unauthorised access, to be approved by the Principal Certifier. No building work is to commence until the fence is erected.

30) **Demolition Works**

The demolition of the existing structures shall be carried out in accordance with Australian Standard AS2601 (2001): The Demolition of Structures or any other subsequent relevant Australian Standard and the requirements of the SafeWork NSW.

No demolition materials shall be burnt or buried on-site. The person responsible for the demolition works shall ensure that all vehicles leaving the site carrying demolition materials have their loads covered and do not track soil or waste materials onto the road. Any unforeseen hazardous and/or intractable wastes shall be disposed of to the satisfaction of the Principal Certifier. In the event that the demolition works may involve the obstruction of any road reserve/footpath or other Council owned land, a separate application shall be made to Council to enclose the public place with a hoarding or fence over the footpath or other Council owned land.

31) **Demolition Notification to Surrounding Residents**

Demolition must not commence unless at least 2 days written notice has been given to adjoining residents of the date on which demolition works will commence.

32) **Consultation with SafeWork NSW – Prior to Asbestos Removal**

A licensed asbestos removalist must give written notice to SafeWork NSW at least five (5) days before licensed asbestos removal work is commenced.

33) **Contaminated Roof Dust**

Any existing accumulations of dust in ceiling voids and wall cavities must be removed prior to any demolition work commencing. Removal must take place by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter.

34) **Works in Road Reserve - Minor Works**

Approval, under Section 138 of the Roads Act must be obtained from Wollongong City Council's Development Engineering Team prior to any works commencing or any proposed interruption to pedestrian and/or vehicular traffic within the road reserve caused by the construction of this development.

The application form for Works within the Road Reserve – Section 138 Roads Act can be found on Council's website. The form outlines the requirements to be submitted with the application, to give approval to commence works under the roads act. It is advised that all applications are submitted and fees paid, 5 days prior to the works within the road reserve are intended to commence. The Applicant is responsible for the restoration of all Council assets within the road reserve which are impacted by the works/occupation. Restoration must be in accordance with the following requirements:

- a) All restorations are at the cost of the Applicant and must be undertaken in accordance with Council's standard document, "Specification for work within Council's Road reserve".
- b) Any existing damage within the immediate work area or caused as a result of the work/ occupation, must also be restored with the final works.

35) Tree Protection

Prior to commencement of any work on the site, including any demolition, all trees not approved for removal as part of this consent that may be subjected to impacts of this approved development must be protected in accordance with Section 4 of the Australian Standard Protection of Trees on Development Sites (AS 4970-2009).

Tree protection zones must be established prior to the commencement of any work associated with this approved development.

No excavation, construction activity, grade changes, storage of materials stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones.

During Demolition, Excavation or Construction

36) Flows from Adjoining Properties

Flows from adjoining properties shall be accepted and catered for within the site. Finished ground and top of retaining wall levels on the boundary shall be no higher than the existing upslope adjacent ground levels.

37) Survey Report for Floor Levels

A Survey Report must be submitted to the Principal Certifier verifying that each floor level accords with the floor levels as per the approved plans under this consent. The survey shall be undertaken after the formwork has been completed and prior to the pouring of concrete for each respective level of the building (if the building involves more than one level). All levels shall relate to Australian Height Datum.

38) No Adverse Run-off Impacts on Adjoining Properties

The design and construction of the development shall ensure there are no adverse effects to adjoining properties, as a result of flood or stormwater run-off. Attention must be paid to ensure adequate protection for buildings against the ingress of surface run-off.

Allowance must be made for surface run-off from adjoining properties. Any redirection or treatment of that run-off must not adversely affect any other property.

39) Copy of Consent to be in Possession of Person carrying out Tree Removal

The Developer/Applicant must ensure that any person carrying out tree removal is in possession of this development consent, in respect to the trees which have been given approval to be removed in accordance with this consent.

40) Restricted Hours of Construction Work

The developer must not carry out any work, other than emergency procedures, to control dust or sediment laden runoff outside the normal working hours, namely, 7.00 am to 5.00 pm, Monday to Saturday, without the prior written

consent of the Principal Certifier and Council. No work is permitted on public holidays or Sundays.

Allowable construction activity noise levels must be within the limits identified in the NSW EPA Interim Construction Noise Guidelines (ICNG) July 2009. ICNG are also applied for blasting, rock hammer and drilling, external plant and equipment.

<https://www.environment.nsw.gov.au/resources/noise/09265cng.pdf>

Any request to vary these hours shall be submitted to the **Council** in writing detailing:

- a) the variation in hours required (length of duration);
- b) the reason for that variation (scope of works);
- c) the type of work and machinery to be used;
- d) method of neighbour notification;
- e) supervisor contact number;
- f) any proposed measures required to mitigate the impacts of the works.

Note: The developer is advised that other legislation may control the activities for which Council has granted consent, including but not limited to, the Protection of the Environment Operations Act 1997.

41) **Asbestos – Removal, Handling and Disposal Measures/Requirements
Asbestos Removal by a Licensed Asbestos Removalist**

The removal of any asbestos material must be carried out by a licensed asbestos removalist if over 10 square metres in area of non-friable asbestos, or if any type of friable asbestos in strict accordance with SafeWork NSW requirements (<http://www.safework.nsw.gov.au>).

42) **Asbestos Waste Collection, Transportation and Disposal**

Asbestos waste must be prepared, contained, transported and disposed of in accordance with SafeWork NSW and NSW Environment Protection Authority requirements. Asbestos waste must only be disposed of at a landfill site that can lawfully receive this type of waste. A receipt must be retained and submitted to the Principal Certifier, and a copy submitted to Council (in the event that Council is not the Principal Certifier), prior to commencement of the construction works.

43) **Provision of Waste Receptacle**

The developer must provide an adequate receptacle to store all waste generated by the development, pending disposal. The receptacle must be regularly emptied and waste must not be allowed to lie or accumulate on the property other than in the receptacle. Consideration should be given to the source separation of recyclable and re-usable materials.

44) **Provision of Taps/Irrigation System**

The provision of common taps and/or an irrigation system is required to guarantee that all landscape works are adequately watered. The location of

common taps and/or irrigation system must be implemented in accordance with the approved Landscape Plan.

45) **Screen planting**

To mitigate impact to adjoining dwelling a continuous hedge is to be established and maintained within the landscape strip on the northern and southern boundaries.

Recommended species: *Syzygium australe* "Aussie Compact". Minimum spacing 900mm. Minimum pot size 5 lt.

46) **Flood Compatible Materials – Electrical**

All power service (metering) equipment, power outlets, switches etc. shall be located above RL 25.0 metres AHD for Unit 1, RL 23.85 metres AHD for Unit 2 and RL 23.35 metres AHD for Unit 3. All electrical wiring installed below this level should be suitable for continuous underwater immersion and should contain no fibrous components. Earth leakage circuit breakers shall also be installed. Any equipment installed below or partially below RL 25.0 metres AHD for Unit 1, RL 23.85 metres AHD for Unit 2 and RL 23.35 metres AHD for Unit 3 should be capable of disconnection by a single plug and socket assembly.

47) **Fences**

Any new fences constructed on the site and located in the flood plain shall be of a type that will not obstruct the free flow of floodwaters and not cause damage to surrounding land in the event of a flood.

48) **Installation of Root Barrier**

The installation of a root barrier is required to protect the existing stormwater infrastructure and the proposed dwelling. The nature, extent and depth of the root barrier shall be determined on site by a qualified arborist in consideration of the on-site conditions and tree species.

Prior to the Issue of the Occupation Certificate

49) **Completion of Landscape Works**

The completion of the landscaping works as per the final approved Landscape Plan is required prior to the issue of Occupation Certificate.

50) **Structural Soundness Certification**

The submission of a report from a suitably qualified and experienced structural engineer to the Principal Certifying Authority is required, prior to the issue of the final Occupation Certificate and commencement of use. This report is required to verify that the development can withstand the forces of floodwater, debris and buoyancy up to and including the highest adjacent PMF flood level as determined by a suitably qualified civil engineer plus 0.5 metres freeboard.

51) **Flood Affectation Certification**

The submission of a report from a suitably qualified and experienced civil (hydrology) engineer to the Principal Certifier is required, prior to the issue of the Occupation Certificate and commencement of use. This report is required to certify that the 'as-constructed' development will not have any detrimental effects to adjoining properties or upon the subject land with respect to the loss

of flood storage, changes in flood levels and alteration of flood conveyance, as a result of flooding or stormwater run-off.

Prior to the Issue of the Subdivision Certificate

52) Occupation Certificate Prior to Subdivision Certificate

An Occupation Certificate for the dwellings must be issued prior to the release of the Subdivision Certificate for the strata title subdivision. A copy of the Occupation Certificate shall be lodged to Council with the subdivision certificate application.

53) Existing Easements

All existing easements must be acknowledged on the final subdivision plan.

54) Existing Restriction as to Use

All existing restriction on the use of land must be acknowledged on the final subdivision plan.

55) Encroaching Pipes

A minimum one (1) metre wide easement to drain water shall be created over any encroaching drainage pipes.

For all drainage easements proposed over the subject lots, a works as executed/survey plan of all stormwater drainage within the site is to be submitted with the Subdivision Certificate Application to confirm this.

56) Encroaching Services

A minimum one (1) metre wide easement for services must be created over any encroaching utility service.

57) Section 88B Instrument

The submission of a Final Section 88B Instrument to Council/Principal Certifying Authority, which incorporates (but is not necessarily limited to) the following restrictions, easements and covenants, where applicable:

- a) Easement for services;
- b) easement for drainage;
- c) drainage easement over overflow paths;
- d) restricted building zone over the 1% AEP flood inundation area of the natural watercourse which prohibits the erection of structures, fences, pools, ancillary buildings, the placement of fill and the planting of trees;

58) 88B Instrument Easements/Restrictions

Any easements or restrictions required by this consent must nominate Wollongong City Council as the authority to vary, modify or release/extinguish the easements or restrictions. The form of the easement(s) or restriction(s) created as a result of this consent must be in accordance with the standard format for easements and restrictions as accepted by the Land and Property Information Office.

59) Final Documentation Required Prior to Issue of Subdivision Certificate

The submission of the following information/documentation to the Principal Certifying Authority, prior to the issue of a Subdivision Certificate:

- a) Completed Subdivision Certificate application form and fees in accordance with Council's fees and charges;
- b) Original Construction Certificates and approved drawings (where issued by an accredited Private Certifying Authority);
- c) Administration sheet and plan of Subdivision prepared by a registered surveyor plus four (4) equivalent size paper copies of the plan;
- d) Section 88B Instrument covering all necessary easements and restrictions on the use of any lot within the subdivision;
- e) Original Subdivider/Developer Compliance Certificate pursuant to Section 73 of the Water Board (Corporatisation) Act 1994 from Sydney Water;
- f) Original Notification of Arrangement from an Endeavour Energy regarding the supply of underground electricity to the proposed allotments;
- g) Original Compliance Certificate from Telstra or another Telecommunications Service Provider which confirms that the developer has consulted with the Provider with regard to the provision of telecommunication services for the development.
- h) Payment of section 7.11 contribution (Pro rata) (if applicable)