



The Trustee for TBG Affordable Rental Trust  
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Bowral NSW 2576

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ABN 49 546 344 354

## NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION (DEFERRED COMMENCEMENT CONSENT)

Pursuant to section 4.16(3) of the *Environmental Planning and Assessment Act 1979*

<b>APPLICATION NO:</b>	23/1070
<b>APPLICANT:</b>	The Trustee for TBG Affordable Rental Trust
<b>OWNER:</b>	ARDLIN NOMINEES PTY LIMITED
<b>PROPERTY DESCRIPTION:</b>	Lot 141 DP 531051 Lot 142 DP 531051 Lot 32 DP 9299
<b>PROPERTY ADDRESS:</b>	1-5 RAINBOW ROAD MITTAGONG NSW 2575
<b>PROPOSED DEVELOPMENT:</b>	Demolition works, construction of a 3-storey residential flat building containing 49 affordable rental housing apartments above one level of basement parking with 79 car spaces, with subsequent Strata Title subdivision
<b>DETERMINATION:</b>	Determined by granting of CONSENT.
<b>CONSENT TO OPERATE FROM:</b>	
<b>CONSENT TO LAPSE ON:</b>	

### Rights of Appeal

Pursuant to Section 8.7 of the *Environmental Planning and Assessment Act 1979*, an applicant for development consent who is dissatisfied with the determination of the application by Council authority may appeal to the Court against the determination. Pursuant to Section 8.10, an appeal may be made only within 6 months after the date the decision appealed against is notified.

### Review of Determination

You have the right to request a review of determination under section 8.2 of the *Environmental Planning and Assessment Act 1979*, subject to the provisions of Division 8.2 Reviews.

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WINGECARRIBEE - A COAL MINING FREE SHIRE

## **SCHEDULE 1**

### **CONDITIONS OF DEVELOPMENT CONSENT THAT MUST BE SATISFIED BEFORE THE CONSENT CAN OPERATE**

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Pursuant to s 4.16(3) of the *Environmental Planning and Assessment Act 1979*, the applicant must satisfy the following deferred commencement condition of consent prior to this development consent becoming operative:

- (a) Evidence must be provided to Council that a minimum 2m wide stormwater drainage easement has been registered to burden Lot 106 DP 236894 and benefit Lot 141 DP 531051, Lot 142 DP 531051 and Lot 32 DP 9299.

Evidence that will sufficiently enable Council to be satisfied as to the compliance of these matters must be submitted to Council within 12 months of the date of determination of this deferred commencement consent, failing which, this deferred development consent will lapse pursuant to s 4.53(6) of the *Environmental Planning and Assessment Act 1979*.

This development consent will not become operative until such time that the Council notifies the applicant in writing that the requirements of deferred commencement have been satisfied.

(Reason: To ensure legal means of discharge of stormwater)

## SCHEDULE 2

### CONDITIONS OF DEVELOPMENT CONSENT

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#### ADMINISTRATION CONDITIONS

##### 1. Development Description

Development consent has been granted in accordance with this notice of determination for the purposes of a Residential Flat Building.

**Reason:** *To confirm the use of the approved development.*

##### 2. Development in Accordance with Plans and Documents

The development shall be implemented in accordance with the approved plans and supporting documents set out in the following table except where modified by any conditions of development consent.

Plan Title / Supporting Document	Reference / Version	Prepared By	Dated
Architectural Plans	Sheet No. DA01P – DA32P, Issue P	Coble Stephens Architects	15/12/2023
Landscape Deep Soil Plan	Drawing No. L-100, Rev G	Space Landscape Design	23/01/2024
Landscape Masterplan	Drawing No. L-103, Rev C	Space Landscape Design	23/01/2024
Landscape Plan – Zone A	Drawing No. L-101, Rev F	Space Landscape Design	23/01/2024
Landscape Plan – Zone B	Drawing No. L-102, Rev G	Space Landscape Design	23/01/2024
BASIX Certificate	1334291M_02	Bonnefin Consulting Pty Ltd	9/02/2024
Bushfire Report	BRA20211129 V2.0	Bushfire Engineering NSW	5/02/2024
Arboricultural Impact Assessment	Version 7	Truth About Trees	12/07/2024
Geotechnical Investigation	Ref: 35082BTrptRev3	JKGeotechnics	24/01/2024
Site Hydrology Report	Ref: 35082BTrpt2Rev1 SHR	JKGeotechnics	24/01/2024
Demolition and Construction Management Plan	-	Lid Consulting	24/01/2024
Waste Management Plan	-	Lid Consulting	24/01/2024
Hydraulic Plans	Drawing HDA01 – HDA07	Inline Hydraulic Services	5/02/2024
Hydraulic Plans	Drawing HDA100 – HDA104	Inline Hydraulic Services	5/02/2024

Concept Drainage Plan	Drawing No. 2210 CD01, Sheet 1 of 5 – 5 of 5, Revision H	Civil Development Solutions	12/07/2024
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**Reason:** *To ensure the development is carried out in accordance with the approved plans and documentation.*

**3. Inconsistency between documents**

In the event of any inconsistency between the conditions of this consent and the drawings/documents referred to above, the conditions of this consent shall prevail to the extent of the inconsistency.

**Reason:** *To ensure that the development is undertaken in accordance with the submitted plans and documents (as amended).*

**4. General Terms of Approval – NSW Rural Fire Service**

The General Terms of Approval issued by the NSW Rural Fire Service, Reference No: DA20230427001751-CL55-1, dated 28 February 2024 are included as conditions of this consent and must be complied with.

**Reason:** *To ensure ongoing compliance.*

**5. General Terms of Approval – Water NSW**

The General Terms of Approval issued by Water NSW, Reference No: IDAS1149640, dated 11 September 2023 are included as conditions of this consent and must be complied with.

**Reason:** *To ensure ongoing compliance.*

**6. Concurrence – Water NSW**

The Concurrence issued by Water NSW, Reference No: 23042-a2, dated 11 March 2024 are included as conditions of this consent and must be complied with.

**Reason:** *To ensure ongoing compliance.*

**7. Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989**

- (a) That the work must be carried out in accordance with the requirements of the National Construction Code.
- (b) In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This section does not apply –

- To the extent to which an exemption from a provision of the Building Code of Australia or a fire safety standard is in force under the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, or
- To the erection of a temporary building, other than a temporary structure to which subsection (3) of applies.

**Reason:** *The condition is prescribed under Section 69 of the Environmental Planning and Assessment Regulation 2021.*

## 8. Erection of Signs

A sign must be erected in a prominent position on any site on which building work, is being carried out:

- (a) Showing the name, address and telephone number of the Principal Certifier (PC) 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 work 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.

**Note:** *This condition does not apply where:*

- Building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or
- Crown building work certified to comply with the Building Code of Australia under Part 6 of the *Environmental Planning & Assessment Act 1979*.

**Reason:** *The condition is prescribed under Section 70 of the Environmental Planning and Assessment Regulation 2021.*

## 9. Notification of Home Building Act 1989 Requirements

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifier (PC) for the development to which the work relates (not being the council) has given the council written notice of the following information:

- (a) In the case of work for which a principal contractor is required to be appointed:
  - (i) the name and licence number of the principal contractor, and
  - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
- (b) In the case of work to be done by an owner-builder:
  - (i) the name of the owner-builder, and
  - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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 Certifier (PC) for the development to which the work relates (not being the council) has given the council written notice of the updated information.

**Reason:** *The condition is prescribed under Section 69 of the Environmental Planning and Assessment Regulation 2021.*

## 10. Approved tree removal

This development consent approves the removal of all site trees and vegetation except for the following trees numbered as per Appendix 3 of the Arboricultural Impact Assessment (ver 7 dated 12 July 2024) read in conjunction with Figure 7 on page 8 of the assessment:

- 3 Cupressus torulosa | Bhutan Cypress
- 5 Eucalyptus haemastoma | Scribbly Gum
- 6 Prunus sp. | Cherry
- 11 Magnolia grandiflora | Bull Bay
- 12 Liquidamber styraciflua | Sweet Gum
- 13 Acer palmatum | Japanese Maple
- 15 Quercus rubra | Red Oak
- 31 Sequoiadendron giganteum | Giant Sequoia
- 41 Ulmus parvifolia | Chinese Elm
- 43 Quercus coccinea | Scarlet Oak
- 47 Cupressus macrocarpa | Golden Cypress
- 53 Betula nigra | River Birch
- 54 Cupressus sempervirens 'Stricta' | Pencil Pine
- 56 Cupressus torulosa | Bhutan Cypress
- 65 Populus alba | White Poplar

**Reason:** *To ensure tree removal is carried out in accordance with approved plans and protected trees are unharmed during construction.*

## 11. Tree replacement

Existing street trees must be removed and replaced in-kind or by developer contribution with suitable advanced tree stock (minimum 75 litre container), with works coordinated with footpath installation to the satisfaction of Council's tree management section.

**Reason:** *Tree replacement in accordance with Council's tree management policy.*

## 12. Condition relating to shoring and adequacy of adjoining property

- (1) For the purposes of section 4.17(11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense—
  - (a) protect and support the building, structure or work from possible damage from the excavation, and
  - (b) where necessary, underpin the building, structure or work to prevent any such damage.
- (2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

**Reason:** *The condition is prescribed under Section 74 of the Environmental Planning and Assessment Regulation 2021.*

## CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

### 13. Water and Sewer Authority Conditions

Prior to issue of a Construction Certificate, the developer shall obtain approval from Council (as the Water Supply Authority and/or as required under Section 68 of the Local Government Act 1993) for the works to be undertaken by submitting adequate documentation including plans, calculations and specifications which justify that the required works are in accordance with all Council's standards and all other relevant codes and guidelines.

**Reason:** *To ensure water and sewer reticulation are in accordance with Council's standards.*

### 14. Application for a Construction Certificate (Building Works)

The applicant shall apply to Council or a Principal Certifier (PC) for a Construction Certificate to carry out the relevant building works in accordance with this consent.

**Reason:** *A requirement under the provisions of the Environmental Planning and Assessment Act 1979.*

**Note:** *Construction work may only commence upon the issue of a Construction Certificate, appointment of a Principal Certifier (PC), and lodgement of Notice of Commencement.*

### 15. Section 68 Local Government Act 1993 Approvals

Prior to the issue of a Construction Certificate, an application under section 68 of the *Local Government Act 1993* shall be made to, and issued by, Wingecarribee Shire Council, for the following approvals:

- Carry out water supply
- Carry out sewerage works
- Stormwater Construction Works

**Reason:** *A requirement under the provisions of the Local Government Act 1993.*

### 16. Section 138 Roads Act 1993 Approval

Where works are proposed within the road reserve, the developer must obtain approval from Council (as the Roads Authority and/or as required under Section 138 of the Roads Act 1993) before any works are undertaken. Works within the road reserve may include activities such as erect a structure, dig up or disturb the surface of a public road, remove or interfere with a structure, or any other activities as defined within the Roads Act 1993.

The following details must be submitted to Council in order to obtain the Section 138 approval:

- A copy of approved design plans related to the development and proposed works to be undertaken.
- Section 138 plan shall show:
  - Driveway crossover work.
  - Pedestrian footpath and pram ramp along the development frontage to connect to closest bus stop. A concrete footpath of width 1.2m wide shall be provided.
  - Any tree removal works as a result of the proposal is to be noted on plan.
- Traffic Control Plan (TCP) to provide protection for those within and adjacent to the work site, including the travelling and pedestrian public. The TCP must comply with the Roads and Traffic Authority's manual "Traffic Control at Work Sites". Warning and protective

devices shall comply with the provisions of AS1742.3 - 2002 Traffic Control Devices for Works on Roads. The plan must be prepared and certified by a person holding the appropriate Roads and Traffic Authority accreditation, a copy of which is to be submitted with the plan.

- Insurance details - Public Liability Insurance to an amount of \$20 million, to be held by applicant / contractor undertaking the works.

**Advice:** *Where works are required within a Classified Road, the Developer must obtain the concurrence and / or the approval of the Roads and Maritime Services for engineering design plans, Traffic Control Plans and approvals under Section 138 of the Roads Act 1993.*

**Reason:** *Statutory requirement.*

#### 17. Dilapidation Report

A Dilapidation Report shall be undertaken on all properties, which in the opinion of a suitably experienced professional and chartered qualified engineer, could be potentially affected by the construction of the project. The Dilapidation Report shall be carried out taking into account civil infrastructure and submitted to Council prior to the issue of the Construction Certificate.

The Report shall cover structural and geotechnical factors likely to arise from the development. The person having the benefit of the development consent shall, at their own cost, rectify any damage caused to other properties during the construction of the project to the satisfaction of Council.

**Reason:** *To ensure the safety, amenity and protection of public infrastructure and the environment.*

#### 18. Construction Management Plan

To undertake development works including demolition, earthworks and construction a Construction Management Plan (CMP) is required to be submitted and approved by Council prior to issue of the Construction Certificate. The CMP shall indicate measures to be implemented to mitigate construction risks in the protection of the environment as well as public health, safety and convenience. The CMP must address the following:

- a) Details of site security;
- b) Off-street parking for employees, contractors and sub-contractors.
- c) Public safety in the use of roads and footpaths where development activities interacts with existing facilities and operations.
- d) The storage and removal, on a regular frequency, of builder's rubble and waste by trade waste contractors.
- e) Provision for loading and unloading materials;
- f) Location of all building materials, structures, plant and equipment to be stored or placed within the construction site;
- g) How materials are to be loaded/unloaded and potential impact on Council infrastructure (including but not limited to footpaths and street trees)
- h) Public risk policies and management for all contractors' employees using or gaining access over public footpaths and roads.



- i) External lighting and security alarms proposed for the construction site.
- j) Firefighting measures to be available on site during development and construction.
- k) Sanitary amenities proposed on site during development and construction.
- l) Ensuring the safety of members of the public and Council staff who may have occasion to enter and be in attendance on the site;
- m) Details of management of storm water run-off and the propose sediment and erosion control measures including the location of any rubble grids;
- n) Details of any air and dust management;
- o) Details of noise and vibration controls;
- p) Anticipated staging and duration of works
- q) Provision of Construction Traffic Management Plan (CTMP) and Traffic Control Plans (TCP) addressing construction related traffic issues including:
  - Surrounding traffic environment including roads, public transport and existing parking restrictions
  - Truck routes to and from the site
  - General site access and egress for construction vehicles and equipment purposes
  - Frequency of truck movements
  - Sweep paths for trucks entering, circulating and exiting site
  - Location of vehicle standing areas to load and unload and any work zones (if required)
  - Impact of works on residents, businesses, pedestrians, cyclists, local traffic, emergency services and management of staff parking
  - Directional signage for pedestrian and trafficable areas

**Reason:** *To ensure the safety, amenity and protection of public infrastructure and the environment.*

#### **19. Stormwater - Control of Peak Discharge**

Adequate and suitable infrastructure shall be provided to ensure the peak discharge from the site is no greater than the pre-developed peak discharge. This infrastructure shall be designed in accordance with Council's Engineering Design Construction Specifications and Drawings. Calculations to demonstrate that the post-development peak discharge will not exceed the pre-development peak discharge shall be provided with the application for a Construction Certificate.

Any stormwater temporarily stored onsite shall be done in a manner that does not jeopardise public safety. In this regard the development shall provide a risk assessment with the Construction Certificate documentation.

**Reason:** *To ensure the peak discharge from the site is no greater than the pre-developed peak discharge.*

#### **20. Detailed Stormwater Drainage System Design**

Prior to the issue of the Construction Certificate, a detailed storm water hydraulic drainage plan for the disposal of storm water from the site, prepared in accordance with Council's Design Standards shall be submitted to Council and approved by Council's Development Engineer.

Should any changes be required to the approved storm water drainage plan, the amended design shall achieve equivalent performance standards in accordance with Design Specifications.

**Note:** *Construction Certificate Approval does not include approval for works external to the property or civil works.*

Where the proposed design extends beyond the property boundary, separate approval under Section 138 of the Roads Act 1993, must be obtained from Council prior to the commencement of works.

The applicant is advised to contact Council for clarification of proposed works for which approval under Section 138 of the Roads Act 1993 applies.

**Reason:** *To ensure adequate storm water management.*

## **21. Carpark Design - Site Servicing**

The car park shall be designed to accommodate the turning movements of the largest vehicle servicing the development. The car park design shall incorporate the following:

- a) The site shall accommodate the turning movements of largest service vehicle.
- b) Service vehicles shall manoeuvre into and out of the site in a forward direction.
- c) The front overhang, and swept path made by the service vehicle shall not obstruct car park traffic or encroach onto parking spaces.
- d) The vehicle swept path shall be reflected on the engineering design plans.
- e) Loading and unloading of service vehicles shall be undertaken onsite with no intrusion onto the road system.
- f) The footpath crossing shall be splayed from the property boundary to the kerb line to accommodate the swept path made by the service vehicle.

**Reason:** *To ensure that the car parking area is constructed to Council requirements.*

## **22. Accessible Car Parking Spaces**

Two of the car parking spaces provided as part of the total requirement shall be reserved for disabled persons.

These spaces shall be constructed and identified in accordance with Volume 1 of the National Construction Code (NCC) and AS/NZS 2890.6 - Parking Facilities, Off-street parking for people with disabilities.

Details to demonstrate compliance shall be submitted to and approved by the Certifying Authority prior to the issue of the Construction Certificate.

**Reason:** *To inform of relevant access requirements for persons with a disability.*

## **23. Off Street Parking Provision**

73 off-street car parking spaces suitably marked in accordance with the approved Architectural Plan (DA-03P rev P dated 15/12/2023 prepared by Coble Stephens Architects) shall be provided.

Each space shall have minimum dimensions in accordance with Australian Standard AS2890.1 Off Streetcar Parking.

Details shall be submitted to the Accredited Certifier prior to the issue of a Construction Certificate showing compliance with this condition.

**Reason:** *To ensure adequate parking and access.*

#### **24. Erosion and Sediment Control Plan**

An Erosion and Sediment Control Plan shall be prepared in accordance with "Landcom's Blue Book" for sedimentation and erosion control plan by a suitably qualified person, and approved by Council prior to issue of the Construction Certificate.

The Erosion and Sediment Control Plan shall include scaled drawings and detailed specifications which can be referred to onsite by project management staff or project construction supervisor. Items to be shown on the Plan shall include:

- (a) Locality of the site, a north point and scale.
- (b) Existing contours of the site including catchment area boundaries and indications of direction of fall.
- (c) Location of and basic description of existing vegetation.
- (d) Diversion of uncontaminated up-slope run-off around the disturbed sites.
- (e) Location of significant natural areas requiring special planning or management including waters, floodplains, seasonally wet areas, areas prone to ponding/water logging, unstable slopes etc.
- (f) Nature and extent of earthworks, including cut and fill roadworks.
- (g) Location of all soil and material stockpiles.
- (h) Location of site access, proposed roads and other impervious areas.
- (i) Existing and proposed drainage patterns.
- (j) Location and type of proposed erosion and sediment control measures.
- (k) Site rehabilitation proposals, including final contours.
- (l) Time of placement of sediment controls.
- (m) Staging of works and how the plan is to be implemented for each stage or activity on site.
- (n) Maintenance schedule.

**Reason:** *To minimise soil erosion and sediment movement during construction.*

#### **25. Long Service Levy Payments**

The payment of a long service levy as required under Part 5 of the *Building and Construction Industry Long Service Payments Act 1986*, in respect to this building work, and in this regard, proof that the levy has been paid, is to be submitted to Council prior to the issue of a Construction Certificate.

Council acts as an agent for the Long Services Payment Corporation and the levy may be paid at Council's Office.

**Reason:** *Statutory requirement*

**26. Amended Landscape Plans**

Amended landscape plans prepared by a suitably qualified landscape designer / architect to a minimum scale of 1:100 shall be submitted to Council's Director of Communities and Place or their delegate for approval prior to the issue of the Construction Certificate.

The plans shall ensure consistency between relevant architectural, engineering plans and trees identified for retention in the general conditions of this consent.

The plans must also include construction notes relevant to landscape industry standards for soil, soil preparation, nursery stock selection, planting specifications and maintenance.

The planting schedule must be amended to include a similar palette of species of those removed and *Corymbia maculata* is to be substituted with *Eucalyptus* varieties derived from the dominant local vegetation, Southern Highlands Sandstone Peppermint Forest. Stock container size must increase to minimum 75ltr for all tree species.

Play equipment must be repositioned to non-deep soil area to free up additional deep soil zone for tree planting.

**Reason:** *To ensure that plans are suitable for approval and for construction purposes.*

**27. Developer to provide photos of damage to Council property**

The developer must provide Council and the Principal Certifier (PC) with photos of any damage of Council property adjoining the development prior to the issue of the Construction Certificate.

Photos should include any damage to footpaths, road furniture, landscaping/trees, drainage, water, sewer, kerb and gutter and road pavement and the like.

Failure to identify existing damage will result in all damage detected after completion of the building work being repaired at the developer/owners/proponents expense.

The construction supervisor is responsible to ensure that all contractors, sub-contractors, and delivery trucks use a designated access point to prevent damage to Council's property. Repairs to damaged Council property are to be carried out by the contractor/builder to Council's specification and supervision prior to issue of any Occupation Certificate or Subdivision Certificate (as applicable).

**Reason:** *To ensure that Council's assets are protected.*

**28. Satisfactory Arrangements – Endeavour Energy**

Documentary evidence is to be provided by Endeavour Energy prior to the issue of a Construction Certificate, confirming that satisfactory arrangements have been made for the connection of electricity.

**Reason:** *To ensure appropriate infrastructure is provided to the development.*

## 29. Section 7.11 Contributions (formerly Section 94)

Under Section 7.11 of the *Environmental Planning and Assessment Act 1979* (as amended), Council has satisfactorily determined that Development Contributions are applicable to this development consent, as the development is likely to require the provision of, or increase the demand for, public amenities and public services within the Wingecarribee Local Government Area.

The following Wingecarribee Shire Council Section 7.11 Developer Contributions Plans are applicable to the development:

- Roads & Traffic Management Facilities
- Resource Recovery Centre 2009
- Central Library Facility
- Section 7.11 Administration 2011 to 2031
- Open Space & Recreation Facilities

A "Developer Charges - Notice of Payment" is attached to the back of this consent, and outlines monetary contributions and unit rates applicable at the time of issue of this consent. The contributions listed in the Notice of Payment must be paid prior to the issue of any Construction Certificate.

All contributions are indexed quarterly in accordance with upward movements in the Consumer Price Index (All Groups, Sydney) as published by the Australian Bureau of Statistics ([www.abs.gov.au](http://www.abs.gov.au) <<http://www.abs.gov.au>>); Section 251 of the *Environmental Planning and Assessment Regulation 2000*; and Council's Developer Contributions Plans.

**Note:** Copies of the Contributions Plans are available at Wingecarribee Shire Council's Administration building Moss Vale or are available for download from Council's website [www.wsc.nsw.gov.au](http://www.wsc.nsw.gov.au) <<http://www.wsc.nsw.gov.au>>.

**Note:** Payment of the attached contributions is to be by BANK CHEQUE OR CASH and is to be accompanied by the attached sheet entitled "Notice of Payment - Developer Charges & Section 7.11". Should the Applicant pay by personal or company cheque the plans subject to this approval will not be available for collection until such time as the cheque has been honoured (i.e. a minimum of 10 days).

**Reason:** To retain a level of service for the existing population and to provide the same level of service to the population resulting from new developments

## 30. Water Management Act - Certificate of Compliance

A Certificate of Compliance under Division 5 of Part 2 of Chapter 6 of the *Water Management Act 2000* shall be obtained prior to the issue of any Construction Certificate.

**Note:** Section 64 of the *Local Government Act 1993* authorises Council to issue Certificates of Compliance under Section 306 of the *Water Management Act 2000*. Section 64 of the *Local Government Act 1993* also authorises Council to impose pre-conditions to the issuing of Certificates of Compliance.

As a precondition to the issuing of a Certificate of Compliance, Council requires the payment of Developer Charges prior to the issue of any Construction Certificate as prescribed by Council's Development Servicing Plans.

A Developer Charges - Notice of Payment is attached to the back of this consent and outlines monetary contributions and unit rates applicable at the time of issue of this consent.

The water, sewer and stormwater headworks levies are indexed quarterly in accordance with upward movements in the Consumer Price Index (All Groups, Sydney) as published by the Australian Bureau of Statistics ([www.abs.gov.au](http://www.abs.gov.au) <<http://www.abs.gov.au>>) and Council's Development Servicing Plans.

Copies of Development Servicing Plans are available at Wingecarribee Shire Council's Administration building Moss Vale or are available for download from Council's website [www.wsc.nsw.gov.au](http://www.wsc.nsw.gov.au) <<http://www.wsc.nsw.gov.au>>.

The Water and Sewerage Development Servicing Plans (DSP's) adopted by Council came into effect on 15 September 2017. The Stormwater DSP was adopted on 9 November 2010 and came into effect on 8 December 2010. The current charges under these Plans are listed as follows:

CPI Period	Water DSP	Sewer DSP	Stormwater DSP
To 31 <sup>st</sup> October 2024	\$13,294.82	\$12,888.85	\$4,352.09
Note: The charges shown above are amounts applicable during the stated time period. These amounts will be subject to adjustment quarterly in accordance with upward movements in the Consumer Price Index (CPI) once they become operational. The CPI is published quarterly by the Australian Bureau of Statistics, <a href="http://www.abs.gov.au">www.abs.gov.au</a> < <a href="http://www.abs.gov.au">http://www.abs.gov.au</a> >.			

Should new DSP's be prepared, it is possible that the charges may increase significantly. Draft DSP's must be advertised by Council for a period of 30 days prior to adoption.

**Note:** *Payment of the above charges is to be by BANK CHEQUE OR CASH and is to be accompanied by the attached sheet entitled "Notice of Payment - Developer Charges & Section 94". Should the Applicant pay by personal or company cheque, the plans subject to this approval will not be available for collection until such time as the cheque has been honoured (i.e., a minimum of 10 days).*

### Compliance Certificate

Compliance Certificate fees, in accordance with Council's Revenue Policy, are as follows and shall be paid prior to the issue of any Construction Certificate:

Water \$255 + Sewer \$255 + Stormwater \$255 = \$765

Prior to final release, you will need to contact Council's Infrastructure Services Division for an inspection to ensure that Council will accept the infrastructure constructed. In response, the Manager of Water and Sewer will specify requirements which will have to be met.

In the case of subdivision, the title plan of subdivision will not be certified and released by Council until the *Water Management Act 2000* charges have been paid and/or secured and the approval of Council has been obtained for all works related to this infrastructure.

In the case of other forms of development, the Construction Certificate will not be issued until the *Water Management Act 2000* charges have been paid and/or secured and the approval of Council has been obtained.

**Reason:** *To retain a level of service for the existing population and to provide the same level of service to the population resulting from new developments.*

### 31. Affordable Housing Plan

The applicant shall submit a plan/s that notates / identifies the location of the 40 apartments proposed to be used as affordable housing to Council's Director of Communities and Place or their delegate for approval prior to the issue of a Construction Certificate.

**Reason:** *To ensure ongoing compliance.*

### **32. Sewerage Infrastructure**

No Construction Certificate shall be issued unless the appointed Principal Certifier has received written certification from Wingecarribee Shire Council's Water & Sewer Services that the existing Mittagong Sewage Treatment Plant (STP) and associated infrastructure have:

- (a) sufficient hydraulic capacity to transfer, accommodate and treat the additional wastewater load generated by the development, and/or
- (a) been upgraded and commissioned to treat additional wastewater load generated by the development.

**Reason:** *To ensure wastewater capacity and that the design and operation of the sewerage infrastructure is undertaken in a way that minimises the risk of sewage overflows.*

## **CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK**

### **33. Construction Certificate**

No work shall commence until a:

- (a) Construction Certificate is obtained from either the Wingecarribee Shire Council or a Registered Certifier; and
- (b) Construction Certificate lodged with Council obtained from a Registered Certifier (together with associated plans and documents) - a fee applies for this service.

**Reason** *Statutory requirement.*

### **34. Dust Management Plan**

A site specific dust management plan must be developed to proactively address the issue of dust during construction. This plan must be submitted to Council for written approval before works commence. The plan must address/ include the following matters, where relevant:

- Water carts must be used to regularly wet down exposed areas. The number of water carts required on site (at all times, and with additional carts available on demand) must be nominated and justified.
- Additives that can be mixed with the water to aid dust suppression.
- A dust cloth must be installed along the perimeter of the site.
- Where required, a sprinkler/ misting system along the perimeter of the site.
- Dust control at source, such as machine mounted sprinklers, ground mounted water cannons where material is being excavated, loaded and placed and measures to ensure loads are covered.
- Speed control on haul routes.
- Stockpile management such as location, orientation, volume and height to minimise impacts on neighbouring properties. Covering of stockpiles with tarpaulins or vegetation should also be considered where warranted by the duration of the stockpile. Stockpiles expected to be in place for longer than 14 days are considered non-temporary.
- Interim seeding and/ or hydro-mulching of exposed areas as work progresses.
- Final topsoil placement and planting or seeding exposed areas as soon as possible.
- Weather forecast systems to predict adverse weather conditions and allow for early action for dust management and to avoid dust generating activities when weather conditions are unfavourable.
- Education of all site personnel on reducing dust.

- Community engagement plan and complaints management system demonstrating how dust complaints will be received, recorded, resolved and responded to.
- How the dust management controls will be monitored, reviewed and revised on a regular basis to ensure their ongoing effectiveness.

**Reason:** *To ensure the effective management of dust during construction.*

### **35. Tree protection measures**

Tree protection measures must be installed prior to the commencement of any earthworks, demolition, excavation or construction works.

**Reason:** *To ensure the protection of trees during all construction work, including earthworks, demolition and excavation.*

### **36. Decommissioning of Sewerage**

Prior to commencement of construction of the building, the existing sewer main shall be decommissioned/relocated outside of the footprint of the proposed basement and structure. Relocation of sewer main is to be clear of buildings and all superseded mains and structures are to be removed from site.

**Reason:** *To protect public utilities.*

### **37. Appointment of Principal Certifier (PC)**

No work shall commence in connection with this Development Consent until:

- (a) A Construction certificate for the building work has been issued by:
  - (i) the consent authority; or
  - (ii) a Principal Certifier (PC); and
- (b) the person having the benefit of the development consent has:
  - (i) appointed a Principal Certifier (PC) for the building work, and
  - (ii) notified the Principal Certifier (PC) that the person will carry out the building work as an owner-builder, if that is the case, and
- (b1) the Principal Certifier (PC) has, no later than 2 days before the building work commences:
  - (i) notified the Council 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
- (b2) 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 building work is involved, and
  - (ii) notified the Principal Certifier (PC) of such appointment, and
  - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (c) the person having the benefit of the development consent has given at least 2 days' notice to the Council of the person's intention to commence the erection



of the building.

**Reason:** *To ensure that there is certainty as to the consent applying to the land.*

### **38. Notice of Commencement**

No work shall commence until a notice of commencement form has been submitted (form will be attached with issue of a Construction Certificate or Subdivision Works Certificate or available from Council's website), giving the Principal Certifier (PC):

- (a) Not less than two (2) days' notice of the date on which it is proposed to commence work associated with this Development Consent.
- (b) Details of the appointment of a Principal Certifier (PC) (either Wingecarribee Council or another Registered Certifier).
- (c) Details of the Principal Contractor or Owner Builder:
  - Name
  - Builders Licence Number or Owner Builder Permit Number
  - Principal Contractor Company Name
  - Principal Contractor ABN
  - Address of Principal Contractor or Owner Builder
  - Email Address
- (d) Copy of the HBCF Insurance Certificate (if residential building works exceed \$20,000) or Owner Builder Permit.
- (e) Details demonstrating compliance with development consent conditions relevant prior to commencement of the development been satisfied.

**Reason:** *Statutory requirement.*

### **39. Tree Protection Measures**

Neighbouring tree protection measures must be installed prior to the commencement of any earthworks, demolition, excavation or construction works in accordance with AS 4970 - Protection of Trees on Development Sites under the supervision of site arborist.

**Reason:** *To ensure protected vegetation is not damaged during construction.*

### **40. Heritage protection zone**

Prior to the commencement of any works on site, a Heritage Protection Zone shall be established along the eastern side boundary of the site to ensure the protection of the adjoining heritage item from damage that may be caused during excavation and construction works on-site.

The designated Heritage Protection Zone shall be delineated by temporary construction fencing, to be erected with a minimum 1.5m radius clearance from the boundary fence. The Heritage Protection Zone shall be retained in place for the duration of demolition, excavation and construction works and only removed upon full completion of the works, or to permit the approved excavation and landscaping works.

A durable form of clear signage (equivalent to A3 in size) shall be erected on the fence in multiple locations to distinguish and identify the requirements of the Heritage Protection Zone and shall include the following text:

## HERITAGE PROTECTION ZONE

This is a Heritage Protection Zone which has been established to ensure the protection of significant heritage fabric during demolition, excavation and construction works.

No excavation works or the storage of equipment or materials, is to occur within the protection zone or within the immediate vicinity which is likely to damage, undermine or destabilise any part of the designated protection zone.

**Reason:** *To ensure the protection of the adjoining heritage item from accidental damage.*

### 41. Heritage site induction ('toolbox talks')

Prior to the commencement of any works, all contractors, tradesmen and the like, shall be given a heritage site induction ('toolbox talk').

The heritage site induction shall be delivered by a suitably qualified Heritage Consultant and shall ensure that all contractors, tradesmen and the like, are made aware that:

- (i) The site contains an item of heritage significance.
- (ii) All conservation works to the heritage item are to be undertaken in accordance with the Schedule of Conservation Works and undertaken by suitably qualified tradesmen.
- (iii) There are statutory obligations under the National Parks and Wildlife Act 1974 and Heritage Act 1977 for all works to cease and Council notified of any unexpected built archaeological or Aboriginal archaeological finds during works.

**Reason:** *To ensure all persons undertaking works on the site are aware of the heritage restrictions and obligations.*

### 42. Utility Services

If the work requires alteration to, or the relocation of, utility services on, or adjacent to, the lot on which the work is carried out, the work is not complete until all such works are carried out.

**Reason:** *To ensure that utilities are provided appropriately to the development.*

### 43. Erosion and Sediment Control

Erosion and sediment control measures (as per the approved Erosion and Sediment Control Plan) shall be installed prior to the commencement of works.

**Reason:** *To ensure that sediment does not leave the site as a result of the construction of the development.*

### 44. Demolition Works and Asbestos Management

The demolition of any structure is to be carried out in accordance with the Work Health and Safety Act 2011. All vehicles transporting demolition materials offsite are to have covered loads and are not to track any soil or waste materials on the road. Should demolition works obstruct or inconvenience pedestrian or vehicular traffic on adjoining public road or reserve, a separate application is to be made to Council to enclose the public place with a hoard or fence. All demolition works involving the removal and disposal of asbestos must only be undertaken by a licenced asbestos removalist who is licenced to carry out the work. Asbestos removal must be carried out in accordance with the SafeWork NSW, Environment Protection Authority and Office of Environment and Heritage requirements. Asbestos to be disposed of must only be transported to waste facilities licenced to accept asbestos. No asbestos products are to be reused on the site.

**Reason:** *To manage demolition works and the management of asbestos in accordance with the relevant regulations.*

**45. Set Out Survey**

The development shall be set out by a Registered Land Surveyor to ensure the correct location on the site in accordance with the approved site plan prior to the commencement of works.

**Reason:** *To ensure compliance with the approved plans.*

**CONDITIONS TO BE SATISFIED DURING THE CONSTRUCTION PHASE**

**46. Building Materials & Colour Scheme**

The use of Zincalume, galvanised iron, stainless steel, unetched zinc or copper is not permitted.

New external building materials and colours shall be recessive in the surrounding landscape as required by Councils Development Control Plan.

**Reason:** *To ensure that the new building is visually compatible with the existing environment.*

**47. Construction Noise**

The emission of noise from the construction of the development shall comply with the *Interim Construction Noise Guideline published by the Department of Environment and Climate Change (July 2009)*.

**Reason:** *To protect the amenity of the surrounding area.*

**48. Imported 'Waste-derived' Fill Material**

The only waste derived fill material that may be received at the development site is:

- Virgin excavated natural material (VENM) within the meaning of the *Protection of the Environment Operations Act 1997* (POEO); or
- Any other waste-derived material the subject of a resource recovery exemption under clauses 91 & 92 of the *Protection of the Environment Operations (Waste) Regulation 2014* that is permitted to be used as fill material

**Note:** *Any waste-derived fill material the subject of a resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifier (PC).*

The application of waste-derived material to land is an activity that may require a licence under the *Protection of the Environment Operations Act 1997*. However, a licence is not required if the only material applied to land is virgin excavated natural material or waste-derived material that is the subject of a resource recovery exemption under clauses 91 & 92 of the *Protection of the Environment Operations (Waste) Regulation 2014*.

Resource recovery exemptions are available on the NSW EPA website at <http://www.epa.nsw.gov.au/waste/>.

**Reason:** *To ensure that imported fill is of an acceptable standard for environmental protection purposes.*

#### **49. Asbestos Removal**

Any asbestos containing material, whether bonded or friable, shall be removed by a licenced asbestos removalist. A signed contract between the removalist and the person having the benefit of the development application is to be provided to the Principle Certifying Authority, identifying the quantity and type of asbestos being removed. Details of the landfill site that may lawfully receive the asbestos is to be included in the contract.

Once the materials have been removed and delivered to the landfill site, receipts verifying the quantity received by the site are to be provided to the Principal Certifying Authority.

Transporters of asbestos waste (of any load over 100kg of asbestos waste or 10 square metres or more of asbestos sheeting) must provide information to the NSW.

EPA regarding the movement of waste using their WasteLocate online reporting tool [www.wastelocate.epa.nsw.gov.au](http://www.wastelocate.epa.nsw.gov.au).

**Reason:** *To safely manage the disposal of asbestos material*

#### **50. Ground Levels**

Natural ground levels shall not be altered or adjusted other than shown on the approved plans or where varied by the conditions of consent without the prior consent of Council.

Finished ground levels shall be graded away from the buildings and adjoining properties must achieve natural drainage. The concentrated flows are to be dispersed down slope or collected and discharged to an approved storm water drainage system.

**Reason:** *To ensure that natural drainage of the property and adjoining properties is not affected.*

#### **51. Tree protection during construction**

While site work is being carried out, the following requirements must be complied with to the satisfaction of the principal certifier:

- Existing vegetation not approved for removal must be protected in accordance with AS 4970 - Protection of Trees on Development Sites.
- All vegetation related work must be carried out by a fully insured and qualified arborist. The arborist must be qualified to Australian Qualifications Framework (AQF) Level 3 in Arboriculture for the carrying out of tree works and AQF Level 5 in Arboriculture for Hazard, Tree Health and Risk Assessments and Reports.
- Any tree pruning must be carried out in accordance with AS 4373 - Pruning of Amenity Trees.
- Any public tree within five (5) metres of the development must be protected. No activities, storage or disposal of materials taking place beneath the canopy of any tree (including trees on neighbouring sites) at any time.
- Where practical, all green waste generated from vegetation work must be recycled into mulch or composted at a designated facility.
- Tree protection measures must also include the relocation drainage pits and other services and installation by means of under bore in lieu of trenching.
- All vegetative waste is to be mulched using a commercial mulcher and either be directed to a waste facility that is licensed to accept the waste, reused for landscaping purposes on site or used as per the NSW Environmental Protection Authority's Mulch Exemption 2016. The burning of tree waste or materials on site is prohibited.

- Any tree pruning must be carried out in accordance with AS 4373 - Pruning of Amenity Trees.
- Approved tree work must only be carried out by a fully insured and qualified Arborist with minimum standard of Australian Qualification Framework (AQF) Level 3 in Arboriculture for the actual carrying out of tree works with all tree works including tree protections measures to be overseen by AQF level 5 Arborist.
- Neighbouring trees must not be harmed by construction activities above or below ground. Any work near existing trees must be carried out strictly in accordance with AS 4970 - Protection of Trees on Development Sites overseen by cert level 5 Arborist.

**Reason:** *To ensure protected vegetation is not damaged during construction and is managed in accordance with relevant standards.*

## **52. Archaeology**

As required by the National Parks and Wildlife Service Act 1974 and the Heritage Act 1977, in the event that Aboriginal cultural heritage or historical cultural fabric or deposits are encountered/discovered where they are not expected, works must cease immediately and Council and Heritage NSW must be notified of the discovery.

In the event that archaeological resources are encountered, further archaeological work may be required before works can re-commence, including any the statutory requirements under the Heritage Act 1977.

**Note:** *The National Parks and Wildlife Service Act 1974 and the Heritage Act 1977 impose substantial penalty infringements and / or imprisonment for the unauthorised destruction of archaeological resources, regardless of whether or not such archaeological resources are known to exist on the site.*

**Reason:** *Statutory requirements for the protection of archaeology.*

## **53. Temporary storage of materials, equipment and waste during works**

All construction materials, equipment and demolition / construction waste shall be stored wholly within the allotment boundaries and shall be stored, contained or stockpiled in such locations that do not cause any impacts to existing built structures including ancillary structures, walls or fences, established gardens or landscape features (including plantings and built features) to the adjoining heritage item.

**Reason:** *Protection of significant features of the adjoining heritage item.*

## **54. Retaining Walls and Drainage**

If the soil conditions require it:

- (a) Retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil shall be provided, and
- (b) Adequate provision shall be made for drainage.
- (c) Any retaining walls which do not comply with the exempt development standards outlined in the *State Environmental Planning Policy (Exempt and Complying Codes) 2008*, are subject to a separate approval prior to the construction of the retaining wall.

**Reason:** *To ensure that soil is appropriate retained.*

## **55. Vehicular Access Point - Construction and Delivery Vehicles**

A suitable entry point shall be nominated on site and utilised by construction and delivery vehicles. This entry point is to be located so that the possibility of damage to Council's property is minimised during construction. The access point shall be surfaced with all-weather materials of a minimum of 40mm in size. Ballast or crushed gravel (minimum of 40mm rock) for the full width of the kerb from the edge of the road to the property boundary.

**Reason:** *To reduce the possibility of damage to public property.*

**56. Damage to Adjoining Properties**

All precautions shall be taken to prevent any damage likely to be sustained to adjoining properties. Where damage occurs to adjoining property all necessary repair or suitable agreement for necessary repairs shall be undertaken by the applicant in consultation with, and with the consent of, the affected property owner.

**Reason:** *Structural safety.*

**57. Prevention of Nuisance**

All possible and practical steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from windblown dust, debris and noise during the demolition, excavation and building works.

**Reason:** *Health and amenity.*

**58. Management of Groundwater**

Groundwater dewatering from Chalybeate Spring during construction shall be done based on the recommendations from the following reports:

- Geotechnical Investigation referenced 35082BT rptRev3 dated 24 January 2024 prepared by JKGeotechnics.
- Site Hydrology Report, referenced 35082BT rpt2 SHR, dated 02/08/2024 prepared by JKGeotechnics.
- Groundwater Mitigation Measures - Chalybeate Spring Rainbow Road, Mittagong, Project Number: ENRS2956, revision 1 dated 12/07/2024 prepared by Environmental and Natural Resource Solutions (ENRS).

**Reason:** *To ensure the features of the site are protected.*

**59. Construction Management Plan**

All development activities and traffic movements shall be carried out in accordance with the approved Construction Management Plan.

All controls in the Plan shall be maintained at all times. A copy of the Plan must be kept on site at all times and made available to the Accredited Certifier and Council on request.

**Reason:** *Compliance with condition of consent.*

**60. Approved Hours of Construction/Demolition**

Construction and demolition activities shall be limited to the following hours:

DAY	HOURS
Monday to Saturday	7:00am to 5:00pm
Sunday	Nil
Public Holidays	Nil

**Reason:** *To ensure that the amenity of the surrounding area is not compromised as a result of the construction of the proposal.*

**Note:** *Any variation to these hours shall require Council consent via the lodgment of an application under section 4.55 of the Environmental Planning and Assessment Act 1979.*

#### **61. Building Operations**

Building operations such as brick cutting, washing tools or brushes and mixing mortar are not permitted on public roadways or footways or in any other locations which could lead to the discharge of materials into the storm water drainage system.

**Reason:** *To ensure that building materials are not washed into storm water drains.*

#### **62. Maintenance of the Site**

All materials and equipment shall be stored wholly within the work site.

Waste materials (including excavation, demolition and construction waste materials) shall be managed on the site and then disposed of at a waste management facility.

Any run-off and erosion control measures required shall be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads.

During construction:

- (a) all vehicles entering or leaving the site shall have their loads covered, and
- (b) all vehicles, before leaving the site, shall be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.

At the completion of the works, the work site shall be left clear of waste and debris.

**Reason:** *Environmental amenity.*

#### **63. Storage of Building Materials, Plant and Equipment**

All building materials, plant and equipment are to be placed on the site of the development so as to ensure that pedestrian and vehicular access in public places is not restricted and also so that the road reserve is not damaged.

No storage, or placing of any building materials to occur on adjacent public roads or footpath areas in association with the construction, maintenance or use of the development or site.

**Reason:** *To ensure that pedestrian and vehicular access in public places is not restricted and also so that the road reserve is not damaged.*

#### **64. Temporary Onsite Toilet**

Toilet facilities shall be available or provided at the work site prior to the commencement of works and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet shall:

- (a) be a standard flushing toilet connected to a public sewer, or
- (b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
- (c) be a temporary chemical closet approved under the *Local Government Act 1993*.

**Reason:** *To ensure that there are appropriate facilities on-site for construction workers.*

#### **65. Engineering Inspections by Council**

24 hours prior to the covering of the following works, Council shall be notified by the licensed builder, owner builder or licensed plumber/drainer that the following works are ready for inspection:

- a) Works in relation to road reserves, footpath, kerb and gutter, road shoulder and drainage within public lands or road reserves.
- b) Final inspection of footpath, driveway, stormwater and utility construction works within the road reserve.
- c) Piers to distribute loading from structure away from sewer main.
- d) Sewer main extensions/augmentations.

**Note:** *The subject building is not to be occupied until an Interim or Final Occupation Certificate is issued.*

**Note:** *An accredited certifier may not be substituted for Council in respect of these inspections, as Council remains the sole responsible authority for these matters.*

**Reason:** *Statutory requirement.*

#### **66. Stormwater - Connection to Kerb**

All stormwater connections to the kerb shall be done using minimum 2mm thick galvanised steel section in accordance with Wingecarribee Shire Council's Standard Drawing No SD102.

**Reason:** *To comply with Council standards.*

#### **67. Stormwater – Construction**

The applicant shall provide adequate storm water drainage infrastructure (pits/pipes/open channels/detention storage) for the conveyance of storm water passing through the site from upstream, and sourced from the development to a discharge outlet to be approved by Council. The point of discharge shall be clearly depicted and the legal right to discharge at that point to be justified. Status of the point of discharge is to be made clear (i.e. provision of drainage easements).



**Reason:** *To assist in the prevention of erosion of the site from storm water.*

**68. Stormwater – Discharge**

All stormwater runoff from the development shall be collected within the property and discharged to an approved stormwater management system.

**Reason:** *To ensure that stormwater is appropriately disposed of.*

**69. Erosion and Sediment Control Plan Compliance**

All site works shall be carried out in accordance with the approved Erosion and Sediment Control Plan. Implementation of the Erosion and Sediment Control Plan shall be supervised by personnel with appropriate qualification and experience in erosion and sediment control.

**Note:** *In the event of non-compliance with the approved plan, Council Officers have the ability to issue Penalty Notices, being an on the spot fine and/ or orders.*

**Reason:** *To ensure that stormwater is appropriately disposed of.*

**70. Waste Management**

The provision of a metal waste skip with self-closing lid or secure covering on-site for the duration of the construction to ensure that all wastes are contained on the site. The receptacle shall be emptied periodically to reduce the potential for rubbish to leave the site.

Sorting of waste materials shall occur on site in accordance with the approved Waste Management Plan.

**Reason:** *To ensure that all wastes generated from the construction of the development are contained on the site.*

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

**71. Occupation Certificate**

In accordance with Section 6.9 of the *Environmental Planning and Assessment Act 1979*, an application for an Occupation Certificate, shall be made on completion of the works and the relevant application fee paid. All works specified in the development consent and approved Construction Certificate plans shall be completed and all development consent conditions complied with prior to the issue of the Occupation Certificate.

The Principal Certifier (PC) is required to be satisfied, amongst other things, that:

- All required inspections (including each applicable mandatory critical stage inspection) have been carried out; and
- Any preconditions to the issue of the certificate required by a development consent have been met.

**Reason:** *To comply with the provisions of the Environmental Planning and Assessment Act 1979*

**Note:** *A person must not commence occupation or use (or change of use where an existing building) of the whole or any part of a new building (within the meaning of Section 6.10 of the Environmental Planning and Assessment Act 1979 unless an Occupation Certificate has been issued in relation to the building or part.*

## 72. BASIX Commitments

Pursuant to Section 75 of the *Environmental Planning & Assessment Regulation 2021*, it is a condition of this consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled prior to the issue of an Occupation Certificate.

In this condition:

- (a) Relevant BASIX Certificate means:
  - (i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 4.55 of the *Environmental Planning and Assessment Act 1979*, a BASIX Certificate that is applicable to the development when this development consent is modified); or
  - (ii) if a replacement BASIX Certificate accompanies any subsequent application for a Construction Certificate, the replacement BASIX Certificate; and
- (b) BASIX Certificate has the meaning given to that term in the *Environmental Planning & Assessment Regulation 2021*.

**Reason:** *To ensure that all of the commitments of BASIX Certificate have been met.*

## 73. Landscape works

Before the issue of the Occupation Certificate, all of the landscaping works approved by this development consent must be inspected by Council's tree management officer to ensure landscape works are satisfactory and in accordance with approved plans.

**Reason:** *To ensure that all approved landscaping works have been completed to an appropriate standard*

## 74. Certification of Internal Civil Works

On completion of the works and prior to the issue of the Occupation Certificate, certification from a professional engineer who has appropriate experience and competence in the relevant registered area of practice, shall be submitted to Council detailing that all the internal civil works (i.e. internal driveways, paths and stormwater drainage system, including any onsite detention) are in accordance with the approved plans and specifications.

**Reason:** *Asset management.*

## 75. Vehicle Access (Urban)

Access to the site shall be provided by means of a vehicle crossing as per Standard Drawing SD108 and SD123 approved by Council prior to the issue of the Occupation Certificate. A copy of the Standard Drawing can be obtained from Council's offices.

**Reason:** *To ensure that the driveway is constructed to Council's standard specification.*

## 76. Construction of Concrete Footpath

Pedestrian footpath and pram ramp must be provided along the development frontage to connect to closest bus stop. A concrete footpath of width 1.2m wide shall be constructed.

The above works shall be programmed and constructed prior to the issue of the Occupation Certificate. Footpath shall be constructed in accordance with Standard Drawing No SD118. Kerb ramps (where required) are to be constructed in accordance with Standard Drawing No SD111.

The above works shall be programmed and constructed prior to the issue of the Occupation Certificate.

**Reason:** *Preserve Council asset and amenity.*

#### **77. Stormwater Drainage**

Prior to the issue of the Occupation Certificate:

- (a) Any regraded areas shall be free draining, away from the dwelling, and shall not concentrate surface water onto adjoining properties.
- (b) Stormwater drainage works shall be carried out in accordance with the requirements outlined in the Section 68 approval.

**Reason:** *To comply with legislation.*

#### **78. Civil Engineering works and services**

All civil engineering works and services are to be constructed in accordance with the Wingecarribee Shire Council Engineering Plans and Specifications, relevant Standards and approved engineering plans prior to the issue of the Occupation Certificate.

**Reason:** *To ensure that the works and services are constructed in accordance with the approved plans.*

#### **79. Engineering Details in DXF Format**

The Developer shall provide a copy of the Work As Executed information in DXF format prior to the issue of the Occupation Certificate. The developer may contact Council's GIS Officer for further details and technical specifications.

**Reason:** *To ensure appropriate records are held and asset management.*

**Reason:** *The successful handover of constructed assets to Council resulting from new developments must be accompanied by the work as executed (WAE) documents specified on the Council Website:*  
<https://www.wsc.nsw.gov.au/Development/Other-Development-Information/Engineering-Standards>

Failure to provide completed documents in this format will result in a delay in the issue of the Subdivision Certificate and retention of bonds held until such time as Council have deemed the WAE information to be complete in the required format. The standards are updated as required; please ensure you are using the correct version. Please note the work as executed information requirements include providing surveyed levels for all underground assets. WAE Information submitted must be validated by a Registered Surveyor and certified by a Professional Engineer.

#### **80. Section 68 Local Government Act Final**

The applicant is to ensure that the works associated with the Section 68 approval for this development be completed and inspected by Council prior to the issuing of any Occupation Certificate.

**Reason:** *To ensure that the development is completed as per this consent and the approved plans.*

**81. Asset Management**

Prior to the issue of the Occupation Certificate, the developer shall provide a detailed summary of the Assets that will be handed over to Council at the end of the maintenance period. The details shall be provided in a tabular form so as to allow Council to update its Assets register.

The assets to be identified include:

- Footpath
- Sewer

**Reason:** *To ensure appropriate details are held for asset management.*

**82. Council Property**

The applicant shall rectify any damage to Council property (including footpaths, road furniture, landscaping/trees, drainage, water, sewer, kerb and gutter, road pavement and the like) as a result of the development, prior to the issue of any Occupation Certificate at no cost to Council.

**Reason:** *To ensure that Councils assets are protected.*

**83. Project Arborist Certification**

Prior to the issue of any Occupation Certificate, the Principal Certifier is to be provided with certification from the project arborist the requirements of the conditions of consent related to the landscape plan and the role of the project arborist have been complied with.

**Reason:** *To ensure the protection of trees and management of approved landscaping in accordance with approved plans.*

**84. Defects and Liability Bond for Public Assets - Civil Works**

Prior to the issue of any Occupation Certificate the developer shall lodge a cash bond to cover the defects liability period of 24 months for any public infrastructure constructed by them which will handed over to council. The liability period will commence from the date of issue of the Occupation Certificate.

The security bond will be in an amount equal to 10% of the value of the total building works with a minimum value of \$10,000 based on the building costs supported by written evidence in accordance with Council's Bond Policy. The bond shall be assessed by Council for release after the 24 month period on formal request from the developer.

**Reason:** *To ensure appropriate warranty periods apply for defect liability.*

**85. Section 138 Roads Act Final**

The applicant is to ensure that the works associated with the Section 138 approval for this development be completed and inspected by Council prior to the issue of any Occupation Certificate.

**Reason:** *To ensure that the development is completed as per this consent and the approved plans.*

**86. Consolidation of Lots**

The existing allotments shall be consolidated. Evidence that the plan of consolidation has been registered as a Deposited Plan (DP) by the NSW Land Registry Services shall be submitted to Council prior to issue of the Occupation Certificate.

**Reason:** *To comply with the provisions of the Wingecarribee Local Environmental Plan 2010 or National Construction Code (as applicable).*

**87. Planting of Street Trees**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with written evidence from Council that the following works on the Road Reserve have been completed in accordance with the requirements of this approval, including:

- (a) The trees must be grown and certified that it complies with AS2303:2018—Tree stock for landscape use to ensure quality trees and more successful establishment.
- (b) The new street trees must be a minimum container size of 200L.
- (c) The street tree(s) must be planted by a practicing Arborist or Horticulturist.
- (d) A copy of a maintenance agreement with a practicing Horticulturist or Arborist for a minimum period of twelve (12) months commencing on the planting date. Maintenance includes, but is not limited to, watering, weeding, removal of rubbish from tree base, pruning, fertilizing, pest and disease control and any other operations to maintain a healthy robust tree.
- (e) At the end of the twelve (12) month maintenance period, written approval must be obtained from Council before hand-over of any street tree to Council.
- (f) If a street tree has been replaced due to maintenance deficiencies during the twelve (12) month maintenance period, the twelve (12) month maintenance period will start again from the date that the street tree is replaced.

**Reason:** *To ensure that the planting of new street trees has been undertaken in a satisfactory manner.*

**88. Provision of Services**

A separate sewer connection and water service shall be provided to development at the applicant's expense prior to the issue of the Occupation Certificate.

All property services shall be located within the lots that they serve in accordance with Wingecarribee Shire Council Engineering Design and Construction Specifications, Drawings and relevant Standards.

The applicant shall provide to Council written confirmation of compliance.

**Reason:** *To ensure that all available services are provided to the development.*

**89. Construction of Sewer Sidelines**

A sideline/junction shall be installed for sewer connections to the development by Council at the Developer's cost prior to the issue of the Occupation Certificate.

Council's application form shall be completed by the applicant and the appropriate fee paid. If the sideline is to be extended from a sewer main in adjoining property, written permission of the affected landowner allowing work to be undertaken, shall be submitted with the application form.

**Reason:** *To ensure that the development is serviced.*

**90. Construction of Water Service**

An appropriately sized water service shall be installed to the development by Council at the applicant's cost prior to the issue of the Occupation Certificate. Council's application form shall be completed by the Developer and the appropriate fee paid. The existing water services shall be decommissioned by Council.

**Advice:** *A water meter should be installed prior to construction commencing.*

**Reason:** *To ensure that the development is serviced.*

**91. Identification Survey**

An identification survey prepared by a Registered Land Surveyor shall be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate to demonstrate that all buildings and structures have been constructed entirely within the allotment boundary and in accordance with the approved plans.

**Reason** *To ensure compliance with the approved plans.*

**92. Evidence of Compliance with Bushfire Measures**

Prior to the issue of any Occupation Certificate, certification must be provided by a BPAD Level 3 accredited consultant that the bushfire measures required by the approval have been installed.

**Reason:** *To ensure ongoing protection from bushfire.*

**93. Private Waste Collection Service**

Prior to the issue of an Occupation Certificate, the developer / owner must provide evidence to the Certifier of a formal agreement with a licenced private waste contractor to service the development. A copy of the contract must be forwarded to Council.

The agreement must ensure:

- a) the removal of all waste from the developed property.
- b) the service is functional and meets the operational requirements for the developed property.
- c) the service minimises environmental nuisances including noise and other adverse impacts on the safety and amenity of residents and the public.
- d) the developer / owner indemnifies Council against claims for loss or damages, should Council take over provision of the service at some point in the future.

**Reason:** *To ensure ongoing compliance.*

**94. Restriction as to User – SEPP (Housing) 2021 – Affordable Housing**

Following the commencement of an Occupation Certificate being issued, the affordable housing component of the residential development is to be used for affordable housing for a period of at least 15 years and be managed by a registered community housing provider.

A restriction as to user shall be registered against the title of the property on which development is to be carried out, in accordance with section 88E of the *Conveyancing Act 1919*.

Council shall be nominated as the authority empowered to release vary or modify the Restriction. The restriction as to user shall be provided for Council signature, and shall be registered prior to the issue of the Occupation Certificate.

**Reason:** *To ensure compliance with State Environmental Planning Policy (Housing) 2021.*

## **PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE (STRATA)**

### **95. Prior to Issue of Subdivision Certificate (Strata)**

Prior to the issuing of any Subdivision Certificate under section 37A of the Strata Schemes (Freehold Development) Act 1973, and section 66A of the Strata Schemes (Leasehold Development) Act 1986, and in accordance with section 29A of the Strata Schemes (Freehold Development) Regulation 2007 and section 30A of the Strata Schemes (Leasehold Development) Regulation 2007, the Principal Certifier (PC) shall be satisfied that:

- (a) The floors, external walls and ceilings depicted in the proposed strata plan for the building correspond to those of the building as constructed, and
- (b) The floors, external walls and ceilings of the building as constructed correspond to those depicted in the building plans that accompanied the construction certificate for the building, and
- (c) Any facilities required by the relevant development consent (such as parking spaces, terraces and courtyards) have been provided in accordance with those requirements.

As construction of the building nears completion, or after it has been completed, a Council or accredited certifier shall inspect the building, and the common property areas around the building, so as to be satisfied, as required by section 66AA of the Act, that the above requirements have been met.

The Council or accredited certifier should also be satisfied that:

- (a) All required inspections (including each applicable mandatory critical stage inspection) have been carried out; and
- (b) Any preconditions to the issue of the certificate required by a development consent or complying development certificate have been met.

**Reason:** *Statutory requirement*

## **CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE OF THE DEVELOPMENT**

### **96. Compliance with SEPP (Housing) 2021**

The affordable housing component of the approved development (total of 50 apartment units) is required to comply with the following requirements pursuant to SEPP (Housing SEPP) –

- (a) The household:
  - i. has a gross income within the following ranges of percentages of the median household income for Greater Sydney or the Rest of NSW—
    - a. very low income household—less than 50%,
    - b. low income household—50—less than 80%,
    - c. moderate income household—80—120%, and
  - ii. pays no more than 30% of the gross income in rent, or
- (b) the household –
  - i. is eligible to occupy rental accommodation under the National Rental Affordability Scheme, and
  - ii. pays no more rent than the rent that would be charged if the household were to occupy rental accommodation under the Scheme.
- (c) For at least 15 years from the date of the issue of the occupation certificate:
  - i. the affordable housing component of the residential development (total of 40 apartment units) will be used for affordable housing, and

- ii. the affordable housing component will be managed by a registered community housing provider.

**97. Waste and Recycling Management**

To ensure the adequate storage and collection of waste from the occupation of the premises, all garbage and recyclable materials emanating from the premises must be stored in the designated waste storage areas, which must include provision for the storage of all waste generated on the premises between collections. Arrangement must be in place in all areas of the development for the separation of recyclable materials from garbage. A caretaker must be appointed to manage waste operations on site including undertaking all instructions issued by Council to enable waste collection. Waste storage areas must be kept clean and tidy, bins must be washed regularly, and contaminants must be removed from bins prior to any collection.

**Reason:** *To ensure the ongoing management of waste and recycling.*

**98. Lighting**

Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the *Australian Standard AS 4282:1997 Control of Obtrusive Effects of Outdoor Lighting*.

**Reason:** *To ensure the protection of residential amenity of adjoining and surrounding properties.*

**99. Offensive Noise**

The use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to "offensive noise" as defined under the provisions of the Protection of the Environment Operation Act 1997.

**Reason:** *To protect the amenity of the surrounding area*

**100. Landscaping maintenance**

During occupation and ongoing use of the development, the approved landscaping must be perpetually maintained in a complete and healthy condition.

**Reason:** *To ensure that approved landscaping works are perpetually maintained to an appropriate standard*

**END OF CONDITIONS**