

development and convey secondary stormwater flows between the laneway and The Esplanade. A flood/drainage study prepared by a suitably qualified engineer shall be submitted with the design.

The engineering plans must be approved by Council prior to the issuing of a Construction Certificate required under this consent.

B12. Water and Sewer Services

Satisfactory arrangements must be made for the provision of water and sewer services to the land. A copy of the Certificate of Compliance under Section 307 of the Water Management Act 2000, must be obtained from the Water Authority (Council) prior to the issue of a Construction Certificate. Contributions may be applicable to the Section 307 Certificate.

Advice: Developers should make early application for a Section 307 Certificate under the Water Management Act 2000 from the Water Authority (Council). For a copy of the application form 'Application for Certificate under Section 305' contact Customer Service on (02) 4325 8200 or visit Councils web site www.gosford.nsw.gov.au to download a form from the Water & Sewerage forms index.

B13. Public Positive Covenant

The developer shall create a public positive covenant that provides that the 6 metre wide pedestrian way through to The Esplanade is to be maintained to ensure the safe passage of pedestrians and obstructions to that passage of pedestrians are to be removed at the owner cost. If the Council gives notice to the owner which is not acted upon within 48 hours, the Council may carry out the work and recover the cost, including legal cost, from the owner.

B14. Groundwater Investigation

Further groundwater geotechnical investigation assessment must be undertaken. The investigation shall establish what impacts the development will have upon the underlying aquifer and how any impacts will be appropriately mitigated. The assessment shall be submitted to and approved by the Department of Planning in consultation with the NSW Office of Water prior to the issuing of the Construction Certificate.

B15. BASIX

Prior to the issue of the relevant Construction Certificate, details of all amendments and treatments outlined in the BASIX Certificates submitted, to achieve satisfactory levels of thermal comfort, and satisfactory water and energy ratings, shall be incorporated into the proposed development and provided to the PCA. Should design changes require amended BASIX Certificates, a copy is to be provided to the Department, along with stamped plans, for information.

B16. Acid Sulphate Soils

Prior to the issue of any Construction Certificate, the original soil samples tested by Parsons Brinckerhoff (2005) must be re-tested for actual acid sulphate soils (AASS) and potential acid sulphate soils (PASS) and any other aggressive conditions. If AASS or PASS are detected, the Department, Council and the Principal Certifying Authority must be notified immediately, so that any necessary management may be undertaken.

If the original soil samples taken by Parsons Brinckerhoff (2005) are not available for retesting, samples in line with those originally taken may be used for testing.

B17. Landscaping Plan

A detailed roof top landscape plan is to be submitted to and approved by the PCA prior to the issuing of any construction Certificate for Stage 1. The landscaping plan is to include

details of privacy screens that prevent direct overlooking between units and be consistent with materials and theme of the approved ground level landscaped plan Drawing No. 101 B prepared by Site Image and dated 13.01.10.

B18. Provision for Energy Supplies

The applicant must provide to the *Certifying Authority* a letter from Energy Australia setting out Energy Australia's requirements relative to the provision of electricity/gas supply to the development.

Any required substation must be located within the boundaries of the site. The *Construction Certificate* plans and specifications, required to be submitted pursuant to clause 139 of the *Regulation*, must detail provisions to meet the requirements of Energy Australia.

Where the substation is required the *Construction Certificate* plans and specifications must provide:

- a) A set back not less than 3m from the road boundary and dense landscaping of *local native plants* to screen the substation from view within the streetscape,
- b) A set back not less than 3m from any other site boundary (fire source feature) and not within the areas required to be kept clear of obstructions to vehicle visibility pursuant to clause 3.2.4 of AS2890.1-1993(See: Figures 3.2 and 3.3),
- c) A set back to and not within the drip line of any existing tree required to be retained,
- d) A setback not less than the 10m from any NSW Fire Brigade booster connection as prescribed by clause 5.6.3(d)(iii) of AS 2419.1-1994 or be separated from any booster connections by a construction with a fire resistance rating of not less than FRL 90/90/90 for a distance of not less than 2 m each side of and 3 m above the upper hose connections in the booster assembly pursuant to clause 5.6.3(c)(ii) of AS 2419.1-1994, and
- e) The owner shall dedicate to the appropriate energy authority, free of cost, an area of land adjoining the street alignment to enable an electricity substation to be established, if required. The size and location of the electricity substation is to be in accordance with the requirements of the appropriate energy authority and Council. The opening of any access doors are not to intrude onto the public road reserve.

End of this Section

PART C – PRIOR TO CONSTRUCTION

C1. Soil Disposal

The submission to the Department and Council and the approval by Council prior to the commencement of any works, of details for the disposal of any spoil gained from the site and /or details of the source of fill, heavy construction materials and proposed routes to and from the site. Details shall be provided prior to the commencement of works and at latter stages of construction if details change.

C2. Water and Sewer Systems Capacity Analysis

The developer shall be responsible for undertaking a water and sewer systems capacity analysis. The analysis shall determine the impact the proposed development has on Council's existing water and sewerage reticulation systems as a result of the additional density over and above the permissible FSR of 1:1. The developer shall be responsible for the design and full cost of the construction of any augmentation works to the existing water supply and sewerage systems that are required as a result of extra loadings generated from the proposed development.

C3. Additional Water and Sewer Headworks

Payment of any additional water and sewer headworks and augmentation contributions, in accordance with Council's policy is required prior to any construction. The developer is to be responsible for full cost of connection of the proposed development to the existing water supply and sewerage systems. The developer is required to maintain sewer connections to adjoining properties affected by the proposed development.

End of this Section

PART D – DURING CONSTRUCTION

D1. Survey Report

A report prepared by a registered Surveyor is to be submitted to the Principal Certifying Authority at each floor level of construction of the building (prior to the pouring of concrete) indicating that the finished floor level is in accordance with the approved plans.

D2. Hours of Works

Clearing of land, excavation, and/or earthworks, building works, and the delivery of building materials shall be carried out between the following hours:

Mondays to Fridays - 7:00am to 6:00pm

Saturdays - 8:00am to 4:00pm except as noted in Clause 'b'

No work is permitted on Sundays and Public Holidays

a) No work is permitted on:

- Saturdays when a public holiday is adjacent to that weekend.
- Construction industry awarded rostered days off.
- Construction industry shutdown long weekends.

Clause b does not apply to works of a domestic residential nature as below:

- i Minor renovation or refurbishments to single dwelling construction.
- ii Owner occupied renovations or refurbishments to single dwelling construction.
- iii Owner builder construction of single dwelling construction; and/or
- iv Any cottage constructions, single dwellings or housing estates consisting of predominantly unoccupied single dwellings.

D3. Stamped Approved Plans

A copy of the stamped approved plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.

D4. Aboriginal Objects/ Artefacts

Should any Aboriginal objects or artefacts be uncovered during works on the site, all works shall cease. The Department of Environment and Climate Change shall be contacted immediately and any directions or requirements complied with.

D5. Relics

Should any relics be uncovered during excavation on site, the applicant must ensure that work ceases in that area and the Heritage Office is immediately notified in accordance with Section 146 of the NSW Heritage Act 1977.

Work must not recommence in that area until any necessary Excavation Permit has been obtained from the Heritage Council under Section 140 of the NSW Heritage Act, 1977.

D6. Toilet Facilities

Temporary closet accommodation being provided throughout the course of building operations by means of a chemical closet complying with the requirements of the Department of Environment and Climate Change or temporary connections to Council's sewer where available, such connections to be carried out by a licensed plumber and drainer.

D7. Site Sign

A sign is required to be erected in a prominent position on any work site on which building or demolition work is being carried out. The sign shall indicate:

- a) The name, address and telephone number of the principal certifying authority for the work; and
- b) The name of the principal contractor and a telephone number at which that person may be contacted outside of working hours; and
- c) That unauthorised entry to the work site is prohibited.

The sign is to be removed when the work has been completed.

D8. Public Access

Public access to the construction site is to be prevented, when building work is not in progress or the site is unoccupied.

These prevention measures must be in accordance with the NSW WorkCover publication titled, '*Site Security and Public Access onto Housing Construction Sites*' and installed prior to the commencement of any demolition, excavation or building works and be maintained throughout construction. The use of barbed wire and/or electric fencing is not to form part of the protective fencing to construction sites.

D9. Fencing

A suitable hoarding or fence is to be erected between the building or site of the proposed building and any public place to prevent any materials from or in connection with the work, falling onto the public place.

If it is intended or proposed to erect the hoarding or fence on the road reserve or public place a separate application made under the *Roads Act 1993*, will need to be lodged with Council together with the associated fee.

D10. Storage of Building Materials

Building materials must not be stored nor construction work carried out on the road reserve unless associated with a separate approval under the *Roads Act 1993*.

D11. Excavation

If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made is responsible to notify the neighbour and responsible for the protection and preservation of the adjoining allotment of land.

D12. Site Waste Management

This development is subject to Council's DCP106 – Controls for Site Waste Management. The Waste Management Plan submitted as supporting documentation with this development consent is required to be implemented during all stages of demolition and construction.

D13. Relocation/ Alteration to Utilities

Any relocation, or alteration, of any utilities or any existing services made necessary as a result of this development is to be carried out at no cost to Council, with satisfactory arrangements being made with the authority concerned. These services may include stormwater, telephones, electrical cables and power poles, gas, water mains (hydrants, stop valves, stop cocks), sewer mains and manholes, parking signs, street signs and traffic signals.

D14. Development Near or Over Sewer/ Water Mains

Development constructed near or over the sewer main and/or adjacent to Council's water main must comply with Council's guidelines for "Building Over or Near Council Sewer and Water Mains". Details prepared by a practising structural engineer must be submitted to and

approved by the Water Authority (Council) in accordance with the Water Management Act 2000 prior to the issue of a Construction Certificate.

D15. Erection of Fences/Gates

No fences or gates are to be erected across a road (lane) without written consent of the Council as a road authority under the Roads Act, 1993.

End of this Section

PART E – PRIOR TO ISSUE OF OCCUPATION CERTIFICATE / PRIOR TO OPERATIONS

E1. Occupation Certificate

Application for an Occupation Certificate must be submitted to and approved by the Principal Certifying Authority prior to occupation of the buildings.

E2. Lot Consolidation (Lots 113, 113, 115 & 116)

Lots 113, 114, 115 and 116 DP 10650 must be consolidated into a single allotment under one Certificate of Title prior to the issue of an Occupation Certificate relating to Stage 1 of the development.

E3. Lot Consolidation (Lots 111 and 112)

Lots 111 and 112 DP 10650 must be consolidated into a single allotment under one Certificate of Title prior to the issue of an Occupation Certificate relating to Stage 2 of the development.

E4. Swimming Pool- Sign

A warning notice is to be erected in a prominent position in the immediate vicinity of the swimming pool. The notice must be erected and contain the necessary information in accordance with Clause 10 of the Swimming Pools Regulation 2008.

E5. Swimming Pool- Fencing

The swimming pool is to be fenced in accordance with the *Swimming Pools Act 1992* and prior to the pool being filled with water a satisfactory inspection being carried out by the principal certifying authority.

E6. Mechanical Ventilation

Mechanical ventilation systems comprising water cooling, evaporative cooling, or warm water systems must be registered with Council on completion of the installation.

E7. Pool Filtering System- Noise

The motor, filter, pump and all sound producing equipment or fitting associated with or forming part of the pool filtering system is to be sound insulated and/or isolated so as not to create an offensive noise to the occupants of the adjoining premises as defined in the *Protection of the Environment Operations Act 1997*.

E8. Section 88B Instrument

Council will require an indemnity against claims for loss or damage to the pavement or other driving surface and against liabilities losses, damages and any other demands arising from any on-site collection service.

Creation of a S.88B instrument under the Conveyancing Act shall be prepared prior to occupancy and at the applicant's cost delineating the boundaries within which the waste collection contractors are to operate

E9. Restriction as to User Covenant

Prior to the issue of an Occupation Certificate the Deposited Plan must be amended to include a Section 88B Instrument under the Conveyancing Act 1919 for the following restrictive covenants; with the Council having the benefit of these covenants and having sole authority to release and modify. Wherever possible, the extent of land affected by these covenants shall be defined by bearings and distances shown on the plan of subdivision.

- a. To create a Restriction as to User over the lot containing a nutrient/pollution facility restricting any alteration to such a facility or the erection of any structure over the facility or the placement of any obstruction over the facility.
- b. To create a Restriction as to User over all land affected by a secondary flow path to ensure;
 - i. The shape of the flow path is not altered.
 - ii. No structures are erected within the flow path, excluding fences that are flood compatible.
- c. The minimum floor area of any occupancy is defined by a reduced level related to AHD being 500mm above the 1% AEP flood level.

E10. Nutrient/Pollution Control Facility Covenant

A Section 88E instrument under the Conveyancing Act 1919 must establish the following positive covenants; with the Council having the benefit of these covenants and having sole authority to release and modify. The covenant must be prepared by Council's Solicitor at the owner's cost prior to the issue of an Occupation Certificate.

- a. To ensure on any lot containing a nutrient/pollution control facility that:
 - The facility will remain in place and fully operational,
 - The facility is maintained in accordance with the operation and maintenance plan so that it operates in a safe and efficient manner,
 - Council staff are permitted to inspect and repair the facility at the owners cost,
 - Council is indemnified against all claims of compensation caused by the facility.

E11. Works Within the Road Reserve

Works within the road reserve that required approval under the Roads Act are to be completed in accordance with Council's 'Civil Construction Specification', 'GCC Design Specification for Survey, Road and Drainage Works' and Policy 'D6.46 Erosion Sedimentation Control', and documentary evidence for the acceptance of such works obtained from the Roads Authority prior to the issue of an Occupation Certificate.

Note 1: A maintenance bond shall be paid on completion of the works in accordance with Section 1.07 Maintenance of the 'Civil Construction Specification'.

E12. Damage to Property

Any damage not shown in the dilapidation report submitted to the Department and Council before site works had commenced, will be assumed to have been caused as a result of the site works undertaken and must be rectified at the applicant's expense, prior to release of the Occupation Certificate.

E13. Traffic Signage

Prior to an Occupation Certificate being granted for Stage 1, the regulatory signage in and around the laneway shall be installed to reflect the modifications to the existing two-way traffic flow in the laneway to one-way traffic flow movements.

E14. Public Stormwater Works

The public stormwater works associated with the secondary stormwater flowpath that required approval under the Local Government Act 1993 are to be completed in accordance with Council's 'Civil Construction Specification', 'GCC Design Specification for Survey, Road and Drainage Works' and Policy 'D6.46 Erosion Sedimentation Control', and documentary evidence for the acceptance of such works obtained from the Council prior to the issue of an Occupation Certificate.

Note 1: A maintenance bond shall be paid on completion of the works in accordance with Section 1.07 Maintenance of the 'Civil Construction Specification'.

End of this Section

PART F – DURING OPERATIONS

F1. Waste Storage

No materials, waste matter or products shall be stored outside the building or the approved waste storage area, at any time.

F2. Illumination of Common Areas

Provision must be made for illumination of the common areas in the front of the site, throughout the hours of darkness.

F3. External Lighting

All external lights shall be operated and maintained in accordance with the Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting so as not to cause a nuisance or adverse impact on the amenity of residents of the surrounding area or to motorists on nearby roads.

F4. Visitor Parking

Visitor car parking spaces are to be physically identified on site, and maintained free of obstruction. These spaces are not to be used for the storage of goods or waste products.

F5. Loading and Unloading

All loading and unloading of goods are to be conducted wholly within the site. Loading facilities, internal docks or goods handling areas are to be maintained free of obstruction for the sole use of delivery vehicles.

F6. Advertisements

No advertisement shall be erected on or in conjunction with the proposed development without prior development consent unless the advertisement is exempt development under Council's exempt and complying development schedule.

- a) All advertising of the previous use of the premises and associated structures must be removed.
- b) The sign and means of fixing and support must be maintained in a presentable and satisfactory state of repair at all times.

F7. Surface Water

Surface water collected on driveways, parking areas and other impervious areas are to be treated so as to control pollution in accordance with one or more of the methods detailed in Section 10 of the Water Cycle Management Guidelines referenced by DCP 165 - Water Cycle Management.

F8. Pool Filter- Backwash

The backwash from the pool filter and overflow system is to be disposed of to the sewer and where the sewer is not available in such a manner so as not to create a nuisance.

F9. Mechanical Plant & Equipment

The operation of all mechanical plant equipment and machinery (i.e. air conditioning unit and/or heat pump) shall not give rise to offensive noise as defined in the Protection of the Environment Operation Act 1997.

F10. Stormwater Management

Piping of all stormwater from impervious areas within the site via a nutrient/pollution control device must be to Council's drainage system located in Memorial Avenue and/or The Esplanade.

F11. Construction Specifications and Erosion Sediment Control

The engineering works within private property that formed part of the Construction Certificate shall be constructed in accordance with Council's 'Civil Construction Specification', 'GCC Design Specification for Survey, Road and Drainage Works' and Policy 'D6.46 Erosion Sedimentation Control'.

F12. Nutrient/Pollution Control

The maintenance of the nutrient/pollution control facilities must be carried out in accordance with the operation & maintenance plan.

F13. Maintenance of Landscaping

All landscaping must be maintained in general accordance with this consent. This condition does not prohibit the planting of additional trees or shrubs subject that they are native species endemic to the immediate locality. This condition has been imposed to ensure that the landscaping design intent is not eroded over time by the removal of landscaping or inappropriate exotic planting.

End of this Section

PART AN – ADVICE NOTES

AN1. Disability Discrimination Act (DDA)

It is the sole responsibility of the owner, builder and developer, to ensure that the proposed building or works complies with the requirements of the *Disability Discrimination Act*.

NOTE: The *Disability Discrimination Act* (DDA) is a Federal anti-discrimination law.

The DDA covers a wide range of areas including employment, education, sport and recreation, the provision of goods, services and facilities, accommodation and access to premises. The DDA seeks to stop discrimination against people with any form of disability including physical, intellectual, sensory, psychiatric, neurological, learning, disfigurement or presence in the body of a disease-causing organism. Whilst this development consent issued by Council is in accordance with the relevant provisions of the current *Building Code of Australia*, it does not indicate nor confirm that the application complies with the requirements of the DDA.

AN2. Engineering Plans Approval Fee

A fee for the approval of engineering plans under the Roads Act 1993 applies. The amount of this fee can be obtained from Council's Customer Services.

AN3. Inspection Fees

The inspection fee for works associated with approvals under the Roads Act is calculated in accordance with Council's current fees and charges policy.

APPENDIX A

STATEMENT OF COMMITMENTS

In accordance with Part 3A of the EP&A Act the following are the commitments made by Tesrol Ettalong Pty Ltd (Tesrol) to manage and minimise potential impact arising from the development of the subject sites on The Esplanade and Memorial Avenue, Ettalong.

Construction Management

Tesrol commits to implementing the following plans during the construction phase:

- Traffic and Pedestrian Management Plan
- Waste Management Plan
- Stormwater, Erosion and Sediment Control Management Plan
- Dewatering Plan

Environmental Sustainability

Tesrol commits to:

- Achieving a complying BASIX Report outcome for the site in compliance with the recommendations of the BASIX Report
- Implementing the ESD measures detailed in the ESD Report;
- Implementing the Water Cycle Management Plan recommended in the Stormwater Report ;

Provision of through site link

Tesrol commits to the provision of a six metre wide pedestrian through site link on the subject site.

Archaeology

Tesrol commit to implementing the recommendations of the Aboriginal Heritage Report.

Consultation

Tesrol commit to continued liaison with relevant authorities to obtain all necessary approvals;

BCA

The proposed development will comply with all relevant BCA requirements and Australian Standards