

<b>JRPP NO:</b>	2009SYW007
<b>REPORT TITLE:</b>	27 – 33 BOUNDARY STREET, ROSEVILLE – DEMOLITION OF FOUR EXISTING DWELLINGS AND CONSTRUCTION OF TWO RESIDENTIAL FLAT BUILDINGS COMPRISING 62 UNITS INCLUDING BASEMENT CAR PARKING, FRONT FENCE AND LANDSCAPING
<b>WARD:</b>	Roseville
<b>DEVELOPMENT APPLICATION N<sup>O</sup>:</b>	DA0410/09
<b>SUBJECT LAND:</b>	27 – 33 Boundary Street, Roseville
<b>APPLICANT:</b>	Hyecorp Property Fund No. 6 Pty Ltd
<b>OWNER:</b>	Mr EP D'Agular, Mrs VC D'Agular, Mrs S Shirinian, Estate of V Shirinian, Mr C Hsiao, Mrs OF Hsiao, Roads & Traffic Authority
<b>DESIGNER:</b>	Van Aratoon – Amglen Pty Ltd
<b>PRESENT USE:</b>	Residential
<b>ZONING:</b>	Residential 2(d3) and part zoned for County Road Widening
<b>HERITAGE:</b>	Yes
<b>PERMISSIBLE UNDER:</b>	Residential Flat Buildings permissible within 2(d3) zone under the KPSO
<b>COUNCIL'S POLICIES APPLICABLE:</b>	KPSO - LEP 194, DCP 31 - Access, DCP 40 – Construction and Waste Management, DCP - 43 Car Parking, DCP 47 - Water Management, DCP - 55 - Multi-unit Housing, DCP - 56 Notification, Section 94 Contribution Plan, Draft Town Centres LEP 2008
<b>COMPLIANCE WITH CODES/POLICIES:</b>	No
<b>GOVERNMENT POLICIES APPLICABLE:</b>	SEPP 1 – Development Standards, SEPP 55 – Remediation of Land, SEPP 65 – Design Quality of Residential Flat Development, BASIX 2004, SEPP Infrastructure 2007, SREP 2005 – (Sydney Harbour Catchment)
<b>COMPLIANCE WITH GOVERNMENT POLICIES:</b>	No
<b>DATE LODGED:</b>	4 July 2009
<b>40 DAY PERIOD EXPIRED:</b>	13 August 2009
<b>PROPOSAL:</b>	Demolition of four existing dwellings and construction of 2 x residential flat buildings comprising 62 units including basement car parking, front fence and landscaping.
<b>RECOMMENDATION:</b>	Approval

<b>DEVELOPMENT APPLICATION N<sup>o</sup></b>	<b>0410/09</b>
<b>PREMISES:</b>	<b>27 – 33 BOUNDARY STREET, ROSEVILLE</b>
<b>PROPOSAL:</b>	<b>DEMOLITION OF FOUR EXISTING DWELLINGS AND CONSTRUCTION OF 2 RESIDENTIAL FLAT BUILDINGS COMPRISING 62 UNITS INCLUDING CAR PARKING, FRONT FENCE AND LANDSCAPING</b>
<b>APPLICANT:</b>	<b>HYECORP PROPERTY GROUP FUND NO. 6 PTY LTD</b>
<b>OWNER:</b>	<b>MR EP D'AGULAR, MRS VC D'AGULAR, MRS S SHIRINIAN, ESTATE OF V SHIRINIAN, MR C HSIAO, MRS OF HSIAO, ROADS &amp; TRAFFIC AUTHORITY</b>
<b>DESIGNER</b>	<b>VAN ARATOON - AMGLEN PTY LTD</b>

## **PURPOSE FOR REPORT**

To determine Development Application No.0410/09, following the Land and Environment Court's decision in Ku-ring-gai Council v Sydney West Joint Regional Planning Panel (No 2) [2010] NSWLEC 270 which made void the decision to approve the application by the Joint Regional Planning Panel on 31 January 2011.

The development application is for demolition of four existing dwellings and construction of 2 residential flat buildings comprising 62 units including basement car parking, front fence and landscaping.

The application is required to be reported to the Joint Regional Planning Panel as the cost of works (CIV) exceeds \$10 million.

To address the issues raised by the Sydney West Joint Regional Planning Panel (JRPP) at the 7 July 2011 meeting and for the JRPP to determine DA0410/09.

## **EXECUTIVE SUMMARY**

<b>Issues:</b>	Permissibility Number of single aspect units Traffic Privacy Ground floor units County road widening Site coverage
<b>Submissions:</b>	Thirteen (13) submissions
<b>Land &amp; Environment Court Appeal:</b>	Yes - Ku-ring-gai Council v Sydney West Joint Regional Planning Panel (No 2) [2010] NSWLEC 270
<b>Recommendation:</b>	Approval

## BACKGROUND

The Panel deferred the determination of the development application to obtain legal advice regarding:-

- (a) the prerequisite need for approval by the Commissioner of Main Roads under Clause 13(2) of the Ku-Ring-Gai Planning Scheme Ordinance in order to determine the application;
- (b) whether such approval has already been received;
- (c) if the answer to (b) is “No”, what legal mechanism may be available to determine the application (for example deferred commencement);
- (d) alternatively the approval should be obtained from the RTA

The approval from the RTA (previously the Commissioner of Main Roads) is a prerequisite requirement under Clause 13(3) of the KPSO in order to determine the application. Part of the site is land reserved under Division 3 of the KPSO. Further, Biscoe J expressed an opinion in the decision by the Land and Environment Court (paragraph 61 of the decision of Biscoe J in *Ku-Ring-Gai Council v Sydney West joint Regional Planning Panel (No2) [2010] NSWLEC 270*) that the works comprising landscaping and access pathways are of a permanent character within the land reserved under Division 3. This means the prerequisite requirements of Clause 13(2) apply and the consent of the RTA is required for these works.

In relation to (b) it is Council's opinion that the RTA's consent had not been obtained in terms of Clause 13(2). It is Council's opinion that it is not appropriate for a deferred commencement condition to be imposed for the obtaining of that consent. The RTA must advise whether there are any conditions which should be imposed in accordance with Clause 13(3) which is something that must be done prior to the final determination of the development application even with deferred commencement conditions.

As such, Council wrote to the RTA on 28 July 2011 requesting the specific consents from the RTA under Clauses 13(2) and (3). The RTA responded on 18 August 2011 and has now specifically addressed Clauses 13(2) and (3) of the KPSO in relation to the development proposal.

In the RTA's recent letter (**Attachment 21**) at paragraph (e) on the first page the RTA has indicated that it consents (under clause 13(2)) to the works on those parts of lots 13 and 14 DP 1143956 (no's. 27 and 29 Boundary Street) and lots A & B in DP 318673 (no's. 31 and 33 Boundary Street) which are reserved under the KPSO. The RTA then specifically indicates that it does not consent to any works (under Clause 13(2)) that may be proposed in respect of lots 27 and 28 in DP 1143956. This is the 29.7m<sup>2</sup> of area within the road reservation which the proposal does not rely upon.

In relation to 13(3) of the KPSO, the RTA has indicated that the conditions referred to in its letter of 27 August 2009 are to be taken as conditions to be considered by the Council in terms of this clause of the KPSO.

## **HISTORY**

### **Development Application No.410/09**

11 March 2009

A Pre-DA meeting took place for a proposal involving demolition of existing dwellings and site works and construction of two residential flat buildings comprising 62 units, car parking for ninety (90) vehicles, associated site works and landscaping.

The issues discussed at the meeting included maximum number of storeys and height, deep soil, site coverage, front setback zone, materials and finishes and requirement to exclude the road reserve from all calculations.

The plans submitted with the Pre DA referenced the road reserve area in accordance with the Draft Town Centres LEP.

14 April 2009

The RTA wrote to Hyecorp and advised the land physically required for road widening is 29.7m<sup>2</sup>. The RTA did not provide this correspondence to Council.

2 July 2009

DA0410/09 lodged. The calculations for net site area, deep soil landscaping, site coverage and floor space ratio were based on an area of only 29.7m<sup>2</sup> being required by the RTA for road widening.

17 July – 17 August 2009

Application notified.

8 September 2009

Council officers send correspondence to the applicant raising issues with deep soil landscape area, landscape plan, BASIX certificate, air conditioners on roof top, privacy between properties, solar access, private open space and communal open space.

17 September 2009

Additional information was requested from the applicant to address urban design issues relating to communal open space, cross ventilation and privacy between properties.

21 September 2009

Amended plans and additional information was received, which included a revised deep soil

	landscape area compliance diagram, amended landscape plan, amended BASIX certificate, solar access diagrams, further details on privacy, cross ventilation diagrams and nomination of private and common open space. The air conditioners were also relocated to the basement.
21 September – 5 October 2009	Notification was extended to the Sydney Anglican Schools Corporation and the Heritage Officer at Willoughby Council.
24 September 2009	The Sydney West Joint Regional Planning Panel was briefed on the DA.
9 October 2009	The amended plans and additional information submitted by the applicant fail to satisfy the concerns raised by Council officers in the letter dated 8 September. Council officers again raise issues with deep soil landscape area non-compliance, landscape plan, BASIX certificate, solar access, cross ventilation and the stormwater management plan.
14 October 2009	Further information was received from the applicant which included a further revised deep soil landscape area compliance diagram, amended landscape plan, solar access diagrams, cross ventilation diagrams. The information indicated DCP 55 requirements for solar access prevailed over the requirements of the RFDC.
15 October 2009	<p>Council Officers advise the applicant that the provisions under the RFDC for solar access were used in the assessment given they prevail.</p> <p>RTA register DP1143956 as a plan of land to be acquired for the purposes of the Roads Act 1993. The plan subdivides the road reserve on the Land into two sections. One was the required road widening area of 29.7m<sup>2</sup> and the other was the residue.</p>
20 October 2009	Amended information received including solar access information regarding assessment against the RFDC provisions and an amended BASIX Certificate.
30 October 2009	Council officers meet with the applicant regarding solar access issues.

12 November 2009	Council officers wrote to the applicant recommending that the application be withdrawn due to outstanding information not being submitted within a reasonable time frame.
17 November 2009	The applicant submitted amended plans which reconfigured units and created single bedroom units to address solar access issues.
21 December 2009	Council officers wrote to the applicant regarding the amended plans submitted on 17 November and raised concerns with the reduction in the internal size of units. Council officers raise concern regarding the amenity of eight units which were now undersized.
24 December 2009	The applicant submitted amended plans converting the eight units from one (1) bedroom units to studio apartments.
13 January 2010	Amended basement plans were submitted demonstrating the location of air conditioning condensers.
20 January 2010	A scaled plan of the southern elevation and construction management diagram were provided to Council.
4 February 2010	<p>Meeting held with applicant, their representatives and Council's Assessment Officer and Team Leader to discuss the issue relating to the road reserve land not being excluded from calculations which resulted in significant departures from development standards (this issue was also raised at the Pre DA meeting in March 2009).</p> <p>At this meeting, the applicant was advised that the Draft LEP did not contain the prohibitive clause 13 and that they should lodge a new development application pursuant to the Town Centres LEP once gazetted. Alternatively, a rezoning application could be made. Lengthy discussions were held regarding options to address the road reserve. The applicant also suggested they could contact the Minister of Planning to have the zoning maps changed. Council officers indicated this would be an unlikely option.</p>
11 February 2010	Council officers again wrote to the applicant recommending withdrawal of the application given

the issues relating to the front portion of the site being reserved for road widening purposes and multi-unit housing not being permissible there upon.

17 February 2010

The applicant advised Council in writing that the application would not be withdrawn and provided a letter from RTA which included a copy of DP1143956 and advised land required for road widening is 29.7m<sup>2</sup>.

18 February 2010

Council Officers wrote to the applicant advising the concerns raised were of critical importance and would complete its assessment report for consideration by the JRPP with a likely recommendation for refusal.

As the application was not being withdrawn, it was recommended submission of a SEPP 1 objection for the breaches with the deep soil landscape area and site coverage development standards be submitted.

23 February 2010

The applicant submits a SEPP 1 Objection in respect of the non-compliance with the site coverage development standard.

12 April 2010

The assessment report was provided to the JRPP. The report recommended refusal for the following reasons:

#### **FAILURE TO SUBMIT SEPP 1**

**The development does not comply with the minimum deep soil landscape area requirement of Clause 25I(2) of the KPSO.**

#### *Particulars*

- (i) By operation of Clause 25A land not zoned Residential 2(d3) is not subject to the controls of Part IIIA of the KPSO. The development cannot rely upon the portion of the site noted zoned Residential 2(d3) to achieve compliance.
- (ii) By operation of clause 25I(2)(c) of the KPSO the proposal must achieve 50% deep soil landscape area. The proposal has a deep soil landscape area of 38%.
- (iii) A SEPP 1 Objection has not been submitted. The development cannot be approved without this objection.

#### **BULK and SCALE**

**The development exceeds the maximum site coverage permitted by Clause 25I(6) of the KPSO and is considered unacceptable.**

*Particulars*

- (i) The proposal results in a site coverage of 41% which exceeds the maximum site coverage permitted under Clause 25I(6) of the KPSO. The site of the building is too large for the portion of the site zoned Residential 2(d3). This is demonstrated by inadequate front setback, excessive FSR and failure to comply with landscaped area requirements. The development is contrary to the objectives of Clause 25D(2)(e) of the KPSO.
- (ii) The SEPP 1 objection is not considered to be well founded. The underlying purpose of the standard is described in clause 25D(2)(e) of the KPSO which is to provide built upon area controls to ensure the provision of viable deep soil landscaping so as to achieve a balance between the built form and landscaping. The development does not provide adequate deep soil landscaping or front setback and therefore the purpose of the control has not been met.

**The development does not comply with the front setback requirement from Boundary Street contributing to the scale of the buildings as viewed from the streetscape.**

*Particulars*

- (i) Both buildings A and B are setback between 600mm and 4.2 metres from the Boundary Street frontage and occupies more than 40% of this zone with the building footprint. Control C-1(b) of Part 4.3 Setbacks of DCP 55 requires a setback zone of between 10 – 12 metres and no more than 40% of this zone may be occupied by the building footprint. As a result of this non-compliance, insufficient area is provided to accommodate landscape screening which is consistent with the scale of the development.
- (ii) The application is contrary to the residential zone objective set out in clause 25D(2)(e) of the KPSO, which is to provide built upon area controls that ensure sufficient deep soil landscaping is provided such that the tree canopy will be in scale with the built form of a proposal.
- (iii) The application is contrary to the heads of consideration for multi-unit housing set out in clause 25I(1)(e), of the KPSO as adequate landscaping has not been provided to ensure that the built form does not dominate the landscape.

**The development has an excessive floor space ratio which contributes to the unacceptable density of the development.**

*Particulars*



- (i) The development results in a FSR of 1.55:1. The control C-4 of Part 4.2 Density of DCP 55 requires a maximum floor space ratio of 1.3:1 for multi-unit housing.
- (ii) The development results in a built upon area of 41% which is contrary to Clause 25I(6) of the KPSO and Principle 4 of SEPP 65. The control C-1 states that the total built upon area of a site must not prevent the minimum deep soil landscaping standards under the LEP 194 being achieved on any site. The development does not satisfy the minimum deep soil landscape area requirement.
- (iii) The density of the proposed development exceeds the optimum capacity of the site and the desired future landscape and built character of the area.

## **RESIDENTIAL AMENITY**

**The orientation of the units in the proposal are in breach of the amenity provisions set out in the RFDC (page 85), which limit the number of single aspect apartments with a southerly aspect (SW-SE) to a maximum of 10% of the total units proposed.**

### *Particulars*

- (i) The development includes eight (8) studio apartments which are single aspect south facing apartments. The Residential Design Flat Code and Part 4.5.1 Solar Access of DCP 55 C-4 states no single aspect units should have a southern orientation. 12.9% of the apartments in the proposal have a southern orientation which results in poor residential amenity.
- (ii) The development is contrary to the aim of Part IIIA set out in Clause 25C(2)(g) of the KPSO which requires development to achieve a high level of residential amenity in building design for the occupants of the building through solar access, acoustic control, privacy protection, natural ventilation, passive security design, outdoor living, landscape design, indoor amenity and storage provision.

## **BASIX COMPLIANCE**

**The development has not been support by a compliant BASIX Certificate with respect of landscape commitments.**

### *Particulars*

- (i) The BASIX Certificate 254953M\_10 has made numerous landscape related commitments for the development including 601.11m<sup>2</sup> of common lawn area, 1102.07m<sup>2</sup> of common garden area and 997.56m<sup>2</sup> of low water use/indigenous planting area within the common area.
- (ii) The commitments made rely upon the area within the Boundary Street frontage that is part of the County Road Reservation. This area can be resumed for road expansion and contain structures which would prevent

landscaping as identified on the submitted plans. The proposal cannot rely upon these areas to achieve compliance with BASIX due to landscaping commitments on the land reserved for road widening.

**The applicant has not submitted a crime risk assessment in accordance with the provisions of the Residential Flat Design Code.**

*Particulars*

- (i) The provisions of the Residential Flat Design Code require a formal crime risk assessment for all residential development of more than 20 dwellings. This provision applied to the proposed development. A crime risk assessment has not been submitted.
- (ii) The required lighting plan for all communal open spaces and pedestrian entry points has not been provided.

**The proposal is inconsistent with the intent and key design principles envisaged for the Roseville Town Centre under the Draft Local Environmental Plan (Town Centres) 2008.**

*Particulars*

- (i) The front portion of the site presently unzoned but identified for County Road Widening is reduced in area and zoned SP2 Infrastructure under the Draft LEP (Town Centres) 2008. As a result, the proposal would have a FSR of 1.44:1 and would breach the development standard.

28 April 2010

The applicant's Solicitor, Kanjian & Company, wrote to the JRPP referring to Clause 13(1) and 13(2) of the KPSO. The advice argued the letters from RTA dated 27 August 2009 and 17 February 2010 modified its road widening requirement and made the road reserve KPSO zoning redundant and the RTA's deposited plan evidenced satisfaction of the precondition to Clause 13(2).

The applicant submitted a SEPP 1 objection to the Panel relating to Deep Soil Landscape Area. Neither of these documents was submitted to Council at this time.

29 April 2010

The Sydney West Joint Regional Planning Panel considered the development application. Two motions were passed at this meeting.

The first, passed by a four-one majority, Councillor Malicki dissenting:

*“that the SEPP 1 objection on deep soil landscaping be accepted for consideration as part of the application taking into account the discussions at the site inspection, pre panel discussion and at the panel meeting itself all of which included the subject issue.”*

The second motion was passed by a three – two majority, Councillors Malicki and Cross dissenting:

*“The application be approved subject to conditions that have been issued without prejudice by the Council staff with the addition of a further condition that the gross floor area of the development is not to exceed 4,895m<sup>2</sup> and that in reaching the decision the panel accepts the SEPP 1 objections on the basis that compliance with the relevant standards is unreasonable and unnecessary in the circumstances of this case.”*

25 May 2010

The Ku-ring-gai Local Environmental Plan (Town Centres) 2010 was gazetted.

1 September 2010

Ku-ring-gai Council commenced Class IV proceedings in the Land and Environment Court.

31 December 2010

The judgement in the matter of Ku-ring-gai Council v Sydney West Joint Regional Planning Panel (No 2) [2010] NSWLEC 270 is handed down which declared the consent to be void.

17 February 2011

The applicant submits a letter from their solicitors, Kanjian & Company, a SEPP 1 objection to site coverage standard and amended stormwater plans.

30 March – 13 April 2011

The application is renotified to owners of surrounding properties.

12 April 2011

The applicant submits a crime risk assessment report and pays outstanding assessment fees.

7 July 2011

The assessment report was provided to the JRPP. The report recommended refusal for the following reasons:

#### **PROHIBITED DEVELOPMENT**

- 1. The development is prohibited by Clause 13(1) of the KPSO.**

*Particulars*

1. The proposal seeks consent to carry out works of a permanent character on land reserved for the purpose of widening of existing county roads.
2. Clause 13(a) of the KPSO prohibits works of a permanent character on an area so reserved, subject to Clause 13(2).
3. Clause 13(2) provides that such works may be carried out where it appears to the responsible authority that the purpose for which the land is reserved cannot be carried into effect within a reasonable time after the appointed day.
4. The appointed day is 1 October 1971.
5. A relevant opinion for the purposes of Clause 13(2) has not been formed.
6. Council Officer's do not have the delegated authority to form the relevant opinion.
7. The JRPP as consent authority is the responsible authority for the purposes of Clause 13(2).
8. An opinion that the purpose for which the reserved land cannot be carried into effect within a reasonable time of the appointed day is not formed for the following reasons:
  - i. The road reserve is for the purpose of "widening of existing county roads"
  - ii. The appointed day referred to in Clause 13(1) of the KPSO is 1 October 1971. The Ku-ring-gai Local Environmental Plan (Town Centres) 2010 (TCLEP) came into effect on 25 May 2010. The LEP repeals the KPSO. The TCLEP maintains a road reserve despite being reduced in area from that identified in the KPSO. The TCLEP road reserve is a recently zoned piece of land.
  - iii. The RTA letter dated 17 February 2010 indicates it is currently developing a road widening project in Boundary Street, Roseville between the Pacific Highway and Spearman Street.
  - iv. The Roads and Traffic Authority is currently developing a road widening project in Boundary Street, Roseville between the Pacific Highway and Spearman Street. The intentions of the RTA are maintained in the preliminary stages of the Principal LEP consultation process.

## **BULK and SCALE**

2. **The development exceeds the maximum site coverage permitted by Clause 25I(6) of the KPSO and is considered unacceptable.**

### *Particulars*

- (a) The proposal results in a site coverage of 42.77% which exceeds the maximum site coverage permitted under Clause 25I(6) of the KPSO. The site of the building is too large for the portion of the site zoned Residential 2(d3). This is demonstrated by inadequate front setback and excessive FSR.

The development is contrary to the objectives of Clause 25D(2)(e) of the KPSO.

- (b) The SEPP 1 objection is not considered to be well founded. The underlying purpose of the standard is described in clause 25D(2)(e) of the KPSO which is to provide built upon area controls to ensure the provision of viable deep soil landscaping so as to achieve a balance between the built form and landscaping. The development does not provide adequate deep soil landscaping or front setback and therefore the purpose of the control has not been met.

**3. The development does not comply with the front setback requirement from Boundary Street contributing to the scale of the buildings as viewed from the streetscape.**

*Particulars*

- (a) Both buildings A and B are setback between 600mm and 4.2 metres from the Boundary Street frontage and occupies more than 40% of this zone with the building footprint. Control C-1(b) of Part 4.3 Setbacks of DCP 55 requires a setback zone of between 10 – 12 metres and no more than 40% of this zone may be occupied by the building footprint. As a result of this non-compliance, insufficient area is provided to accommodate landscape screening which is consistent with the scale of the development.
- (b) The application is contrary to the residential zone objective set out in clause 25D(2)(e) of the KPSO, which is to provide built upon area controls that ensure sufficient deep soil landscaping is provided such that the tree canopy will be in scale with the built form of a proposal.
- (c) The application is contrary to the heads of consideration for multi-unit housing set out in clause 25I(1)(e), of the KPSO as adequate landscaping has not been provided to ensure that the built form does not dominate the landscape.

**4. The development has an excessive floor space ratio which contributes to the unacceptable density of the development.**

*Particulars*

- (a) The development results in a FSR of 1.52:1. The control C-4 of Part 4.2 Density of DCP 55 requires a maximum floor space ratio of 1.3:1 for multi-unit housing.
- (b) The development results in a built upon area of 42.77% which is contrary to Clause 25I(6) of the KPSO and Principle 4 of SEPP 65.

- (c) The density of the proposed development exceeds the optimum capacity of the site and the desired future landscape and built character of the area.

## **RESIDENTIAL AMENITY**

- 5. **The orientation of the units in the proposal are in breach of the amenity provisions set out in the RFDC (page 85), which limit the number of single aspect apartments with a southerly aspect (SW-SE) to a maximum of 10% of the total units proposed.**

### *Particulars*

- (a) The development includes eight (8) studio apartments which are single aspect south facing apartments. The Residential Design Flat Code and Part 4.5.1 Solar Access of DCP 55 C-4 states no single aspect units should have a southern orientation. 12.9% of the apartments in the proposal have a southern orientation which results in poor residential amenity.
- (b) The development is contrary to the aim of Part IIIA set out in Clause 25C(2)(g) of the KPSO which requires development to achieve a high level of residential amenity in building design for the occupants of the building through solar access, acoustic control, privacy protection, natural ventilation, passive security design, outdoor living, landscape design, indoor amenity and storage provision.

## **BASIX COMPLIANCE**

- 6. **The development has not been support by a compliant BASIX Certificate with respect of landscape commitments.**

### *Particulars*

- (a) The BASIX Certificate 254953M\_10 has made numerous landscape related commitments for the development including 601.11m<sup>2</sup> of common lawn area, 1102.07m<sup>2</sup> of common garden area and 997.56m<sup>2</sup> of low water use/indigenous planting area within the common area.
- (b) The commitments made rely upon the area within the Boundary Street frontage that is part of the County Road Reservation. This area can be resumed for road expansion and contain structures which would prevent landscaping as identified on the submitted plans. The proposal cannot rely upon these areas to achieve compliance with BASIX due to landscaping commitments on the land reserved for road widening.

7 July 2011	<p>The Sydney West Joint Regional Planning Panel considered the development application and resolved to defer the application to allow resolution of the following:</p> <ol style="list-style-type: none"> <li>1. Consent from the Commissioner of Main Roads (now the Roads and Traffic Authority) specifically having regard to clause 13(2) of the <i>Ku-ring-gai Planning Scheme Ordinance</i> to be provided by Ku-ring-gai Council or the applicant; and</li> <li>2. Confirmation from Council staff that all owner's consent have been granted</li> </ol>
28 July 2011	<p>Land and Environment Court decision handed down in <i>Friends of Turramurra Inc v Minister of Planning</i> which declares the Ku-ring-gai Town Centres Local Environmental Plan to be of <i>no legal force or effect</i>.</p>
28 July 2011	<p>Council wrote to the RTA and requested the specific consent regarding clause 13(2) of the KPSO and any conditions.</p>
18 August 2011	<p>RTA provides written consent with respect of Clause 13(2) and 13(3) of the KPSO.</p>

## FINDINGS OF LAND AND ENVIRONMENT COURT

The Land and Environment Court proceedings commenced by Council in September 2010 were not a merit based appeal. These were Class IV proceedings concerning the process adopted by the JRPP in their decision making of the application. The key findings of the case which are relevant to the consideration of this application include:

1. Clause 13 determines the question as to whether permanent works are prohibited on land reserved under Division 3 of Part II of the KPSO.
2. Landscaping and pathways are works of a permanent character as described in Clause 13(1) of the KPSO.
3. Clause 13(1) prohibits permanent work, but only if clause 13(2) does not apply.
4. Clause 13(2) avoids the prohibition by giving a power of consent to the responsible authority and the Commissioner for Main Road subject to a pre condition.
5. The Panel as the consent authority is the responsible authority for the purposes of forming the requisite opinion required by clause 13(2) of the KPSO that the purpose for which the road reserve is reserved could not be carried into effect within a reasonable time after the appointed day (1 October 1971).
6. If the pre condition is not met, that is the responsible authority has not formed that opinion, then clause 13(2) does not apply and clause 13(1) prohibits carrying out permanent work.

7. The area shown on the RTA deposited plan (29.7m<sup>2</sup> in area) cannot be distinguished from the entire 760.5m<sup>2</sup> of road reservation.
8. The Panel does not have power to determine a development application if Council has not undertaken an assessment of a SEPP 1 objection to a development standard.
9. A SEPP 1 objection to Clause 25I(2) Deep Soil Landscape Area is not necessary as the definition of site area does not exclude the inclusion of the road reservation in the calculation.

## THE SITE

Zoning:	Residential 2(d3) and part zoned for County Road Widening
Visual Character Study Category:	1920-45
Lot Number:	Lot 1 in DP 344086 (27 Boundary Street), Lot 2 in DP 344086 (29 Boundary Street), Lot A in DP 318673 (29 Boundary Street) and Lot B in DP 318673 (33 Boundary Street).
Area:	4,013m <sup>2</sup> (inclusive of all land regardless of zoning)
Side of Street:	Northern
Cross Fall:	West to east
Stormwater Drainage:	By gravity to Spearman Street
Heritage Affected:	Yes – adjacent to Heritage Conservation Area in Willoughby Council
Integrated Development:	No
Bush Fire Prone Land:	No
Endangered Species:	Yes – Sydney Blue Gum High Forest. The proposed development will not have a detrimental impact on the critically endangered ecological community.
Urban Bushland:	No
Contaminated Land:	No

## THE SITE AND SURROUNDING AREA

### The site

The site comprises four lots and is located on the north-western corner of Boundary Street and Spearman Street. The site is rectangular in shape, with an area of 4013m<sup>2</sup> (3252.5m<sup>2</sup> zoned Residential 2(d3) and 760.5m<sup>2</sup> subject to County Road Reservation). The 29.7m<sup>2</sup> in area identified for road widening (known as Lots 27 and 28 within DP 1143956) is not proposed to be developed as part of this application. The site has frontages of 88.39 metres to Boundary Street, and 41.21 metres to Spearman Street. The northern (rear) boundary measures 91.44 metres and the side (western) boundary measures 42.26 metres.

The site falls from the west (RL90) to the east (RL85.8) along Boundary Street. The site is relatively flat along the Spearman Street frontage. The front portion of the site, approximately 760.5m<sup>2</sup> in area, is subject to County Road Reservation under the KPSO. A



drainage easement traverses the south-eastern corner of the site. The eastern edge of the site is subject to flooding.

The site presently comprises four (4) dwellings. No. 27 Boundary Street contains a two storey brick late Federation style dwelling. No. 29 Boundary Street is occupied by a single storey dwelling. A single storey house late Federation dwelling is located at 31 Boundary Street. No. 33 Boundary Street is occupied by a single storey dwelling of a Georgian Revival style.

The site is characterised by an established landscape setting with mature trees and shrubs within formal garden beds and grassed expanses. The individual properties are in varying states of upkeep\condition, from unkempt and weed invaded to well maintained properties. The site is dominated by numerous trees, mostly exotic species, planted along the boundaries. No native endemic or remnant species are located on or adjacent to the site.

### **Surrounding development**

The site is located at the south-eastern segment of the block defined by Boundary, Spearman, Victoria and Hill Streets, which are zoned Residential 2(d3) for the most part with the exception of sites fronting Boundary Street which are partially zoned for County Road Widening. The subject site and immediately adjoining sites are also zoned R4 High Density Residential under the draft Town Centres LEP 2008.

Immediately to the west, at 25 Boundary Street is a large dwelling set back one (1) metre from the shared boundary. To the north, at 23, 25, 27, 29 and 31 the site is adjoined by five residential allotments with frontages to Victoria Street which are occupied by two storey dwellings, except for No. 29 Victoria Street which is single storey.

The area is visually distinctive in its overall cohesiveness of high-quality, mainly single storey houses from the Federation and Inter War periods complemented by a small number of flats.

### **THE PROPOSAL**

The application involves the following:

Demolition of the four existing dwellings and ancillary structures.

Construction of two residential flat buildings containing 62 units (8 x studio, and 1 x 1 bedroom, 49 x 2 bedroom and 4 x 3 bedroom), basement parking over two levels with a total of 85 car parking spaces.

Details of each floor level are as follows:

Basement 1 RL 84.15	23 residential car parking spaces, 16 visitors car parking spaces including 4 disabled spaces, garbage storage area, bicycle parking and visitor disabled/carwash/loading area. 2 lifts, hydraulic plant room, fire pump room, 2 WC, on site detention and rain water tanks.
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Basement 2, RL 81.35	46 residential car parking spaces, 4 disabled spaces and 58 storage units
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Building A

Ground Floor RL 87.45	7 units (5 x 2 bedrooms, 1 x studio & 1x 1 bedroom)
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First Floor RL90.49	7 units ((6 x 2 bedrooms including 2 adaptable & 1 x studio)
------------------------	--------------------------------------------------------------

Second Floor RL93.53	7 units (6 x 2 bedrooms including 1 adaptable & 1 x studio)
-------------------------	-------------------------------------------------------------

Third Floor RL96.57	7 units (6 x 2 bedrooms including 1 adaptable & 1 x studio)
------------------------	-------------------------------------------------------------

Fourth Floor RL99.80	3 units (2x 3 bedrooms & 1 x 2 bedroom)
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Building B

Ground Floor RL 89.70	7 units (5 x 2 bedrooms including 1 adaptable and 2 x 1 bedroom)
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First Floor RL 92.74	7 units (6 x 2 bedrooms including 1 adaptable and 1 x studio)
-------------------------	---------------------------------------------------------------

Second Floor RL 95.78	7 units (6 x 2 bedrooms including 1 adaptable and 1 x studio)
--------------------------	---------------------------------------------------------------

Third Floor RL 98.82	7 units (6 x 2 bedrooms including 1 adaptable & 1 x studio)
-------------------------	-------------------------------------------------------------

Fourth Floor RL 102.05	3 units (2 x 3 bedrooms and 1 x 2 bedrooms)
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## **Vehicular and pedestrian access**

Vehicular access to the basement car park area is provided from Spearman Street via an entry/exit driveway ramp located to the north-eastern corner of the site. Two pedestrian

entrances are proposed from Boundary Street, a pathway access to the internal central entrance and two individual pathways to the front units.

## **CONSULTATION - COMMUNITY**

### **Original notification**

In accordance with Council's Notification DCP, owners of adjoining properties were given notice of the application on 2 July 2009. In response, Council received thirteen (13) submissions from the following:

1.	Sue Cooper & Barbara Walker	The Archbold Estate
2.	Mr & Mrs Currie	23 Victoria Street, Roseville
3.	Julia & Harley Wright	20 Victoria Street, Roseville
4.	Larry Wilson	No address provided
5.	D.L & H.M Pearson	25 Boundary Street, Roseville
6.	Helen Johnston	19 Victoria Street, Roseville
7.	Mr and Mrs Pangestu	22 Boundary Street, Roseville
8.	Mr and Mrs Currie	23 Victoria Street, Roseville
9.	Dr Davis & Mr Healy	25 Victoria Street, Roseville
10.	Mr & Mrs Widagdo	27 Victoria Street, Roseville
11.	Mrs Wang	29 Victoria Street, Roseville
12.	Mr and Mrs Chuang	31 Victoria Street, Roseville
13.	Dr Briony Scott	Roseville College

The submissions raised the following issues:

#### ***Design is unsympathetic in the streetscape***

The proposal has been considered by Council's Urban Design Consultant, Scott Pedder who provided the following comments in relation to the development's presence in the streetscape:

*"The proposed residential flat building takes the form of two separated five-storey, apartment buildings. The height of the building is significantly higher than context of the area, however complies with the anticipated future development scale for this location. The two residential buildings provide an all round orientation but incorporate frontages that address Boundary and Spearman Street. The objective of the front setback control is achieved with the proposed buildings set behind gardens and a consistent urban form and definition of the street edge."*

#### ***Concern that garbage trucks cannot enter the basement***

Council's Engineer provided the following comments with respect to waste management:

*"The waste storage and collection area is conveniently located inside the entrance to the Basement Level 1 carpark. A turning bay is provided for the waste collection vehicle, and the driveway grades and clear headroom are satisfactory."*

#### ***The Canary Island Date Palm fronting Boundary Street should be retained***

The amended plans now show the Canary Island Date Palm (Tree 8) as retained.

***The vehicle entrance from Spearman Avenue poses a potential safety issue***

Council's Engineer provided the following comment in relation to the vehicle entrance:

*"The proposed access to the basement carpark is from Spearman Street, to the north of the hump. This is considered the most suitable location. The landscape plan indicates that only low-growing plants are proposed within the splays required for pedestrian sight lines at the driveway entry/exit point."*

The location of the vehicle entrance is therefore considered satisfactory.

***The bus shelter with roof to be constructed from s94 contributions***

It is not possible to specifically condition what the section 94 contributions required by this development will be utilised for. Nevertheless, the contributions must be used in accordance with Council's Section 94 Contribution Plan.

***Air conditioners on the roof top***

The air conditioning condensers are provided in the basement of the development. The individual air conditioners for each unit are provided within the allocated car parking spaces and hung on the walls so as to not prevent use of the spaces.

***Recycling of the historical materials***

**Condition 81** requires stone salvaged from the demolished buildings to be stored on the site and reused in landscaping works.

***Photographs for the Historical Society***

A photographic record of the existing buildings is required (**Condition 8**) prior to demolition works if the application were to be recommended for approval.

***Traffic impacts upon Victoria Street because of entrance in Spearman Avenue***

The proposed location of the vehicular entrance on Spearman Avenue is considered acceptable by the RTA and Council's engineers. The application has been supported by a traffic management plan which deems the increased traffic generation from the development to be acceptable.

***The development will constrain sites fronting Victoria Street and isolate them and prevent their future development because of the minimal setback***

The development complies with the required setback of 6.0 metres shared with properties fronting Victoria Street. The properties fronting Victoria Street are zoned Residential 2(d3) which permits residential flat building development.

The development proposed is considered against the relevant controls and objectives. The anticipation of a future development and potential impact upon the development proposed cannot be made prematurely. The future solar access implications will be considered if and when a development application for properties fronting Victoria Street is lodged. It is unreasonable to require setbacks greater than the control requires on the basis of a future application being lodged.

***The impact upon adjoining properties during demolition and construction phases***

**Conditions 9 and 73** require the preparation of dilapidation reports for adjoining properties prior to the commencement of works and after completion would be imposed. **Conditions 58, 69 and 70** stipulates construction hours to minimise impacts upon adjoining properties during construction of the development.

***Loss of privacy from balconies overlooking 20 Victoria Street***

The proposal is not considered to result in an unreasonable loss of privacy to the balconies of 20 Victoria Street. This is discussed in detail within the assessment report.

***The proposal will cause irreparable damage to Roseville's unique environment and heritage***

The proposal has been considered by Council's Heritage Adviser, who considers the proposal to be satisfactory in this regard.

***Loss of morning sunlight to 25 Boundary Street***

The proposal will result in a loss of morning sunlight to 25 Boundary Street. This issue is discussed in detail within this report.

***Increased traffic flows and congestion in Victoria and Spearman Streets***

Council's Engineer provided the following comment in regard to traffic levels:

*"Following completion, the development is expected to generate approximately 32 vehicle trips per peak hour. This is not expected to adversely affect traffic flows in the surrounding streets."*

***The development should consist of a mixture of trees and not just the one species***

The proposal incorporates a mix of trees in the submitted landscape plan which is considered satisfactory by Council's Landscape Officer. The proposed evergreen and deciduous species would maintain the existing landscape character.

***To maintain privacy to Victoria Street properties, planter boxes should be provided along north-facing balconies at fifth floor and opaque balustrading***

**Condition 27** requires fixed planter boxes to the north facing terrace at the fifth floor and opaque balustrading.

***Streetscape impact as the opposing side of the road is a conservation area and 5 storey development will be unbalanced in the streetscape***

The application was referred to the Heritage Officer at Willoughby Council for consideration. No formal response was received. However, the application was considered by Ku-ring-gai Council's Heritage Adviser, made the following comments:

*"The site is within the vicinity of a Heritage Conservation Area listed in the Willoughby Local Council Area...In my opinion there would be some impact on the Willoughby Heritage Conservation Area as a result of the proposed development. However, the land is zoned for residential flat development up to 5 storeys in height and the height of the proposed development is within the development expectations of the site."*

***Loss of visual privacy to 22 Boundary Street***

The development will not result in a significant loss of visual privacy to 22 Boundary Street. This is discussed in further detail in the assessment report.

***Reduction to property value of 22 Boundary Street as a result of overshadowing, increased traffic and loss of privacy***

No evidence has been provided to support this submission. The development does not result in overshadowing or a loss of privacy to 22 Boundary Street. Reduced property values are not a relevant consideration under the Environmental Planning and Assessment Act 1979.

***Insufficient plantings along northern boundary to maintain privacy***

The proposed plantings adjacent to the northern boundary include canopy trees, intermediate feature planting trees and screening shrubs to maintain and enhance and resident amenity once mature. Further, the existing row of mature Lilly pillys are being retained with appropriate setbacks from development works. The proposed plantings, combined with the existing and built form setbacks are considered satisfactory to maintain privacy.

***Truck use on Spearman Street and Roseville Avenue***

The applicant has submitted a traffic management plan – construction and demolition which proposes access for construction vehicles to and from Boundary Street. Approval has been obtained from the RTA for access to the site from Boundary Street. Use of heavy vehicles in Victoria and Spearman Streets within school peak hours would also be prevented.

***Truck use during school drop off and pick up times***

The use of heavy vehicle movements in Victoria Street and Spearman Street during school pick up and drop off periods would be restricted via conditions of consent were the application to be approved.

### ***Damage to roads and pavements***

Recommended **Conditions 7** and **23** ensure the protection of public roads and pavements.

### ***Loss of on street parking on Spearman Street due to increased residents***

The development provides a compliant number of off-street parking spaces in accordance LEP 194 and DCP 55 requirements.

### **Notification after LEC judgement**

In accordance with Council's Notification DCP, owners of adjoining properties were given notice of the application on 30 March 2011. In response, Council received six (6) submissions from the following:

- |                                |                               |
|--------------------------------|-------------------------------|
| 1. Sue Cooper & Barbara Walker | The Archbold Estate           |
| 2. Mr & Mrs Currie             | 23 Victoria Street, Roseville |
| 3. Graham & Helen Johnston     | 19 Victoria Street, Roseville |
| 4. Dr Davis & Mr Healy         | 25 Victoria Street, Roseville |
| 5. TF and CA Sayer             | 33 Victoria Street, Roseville |
| 6. Dr Briony Scott             | Roseville College             |

### ***Traffic impacts from the closure of Hill Street***

There is speculation that Hill Street which is located to the west of the subject site will be closed and there will subsequent traffic impacts as a result of the proposed development. The RTA has not confirmed the closure of Hill Street. This issue has been discussed with Council's Development Engineer and Strategic Planning Engineer. No concerns have been raised from an engineering perspective regarding traffic impacts.

### ***The development will constrain sites fronting Victoria Street and isolate them and prevent their future development because of the minimal setback***

This concern again was raised and reference was made to a recent decision by the Sydney East Joint Regional Planning Panel on 10 March 2011. An application for multi-unit housing at 544- 550 Mowbray Road, Lane Cove North was refused for several reasons, including that the proposal resulted in an *unreasonable and excessive impact on surrounding properties particularly to the south in terms of overshadowing and visual privacy. These impacts are such that the future development of these lands would be seriously affected. This may also preclude compliance with relevant standards.*

In this circumstance, the proposed development is located to the south of the sites fronting Victoria Street. Concern is raised regarding the potential restriction of development potential on the properties fronting Victoria Street because of a shadow impact their future

development may cause upon the subject site to the south. This impact cannot be determined because no proposal is before Council. The circumstance of the decision of the Sydney East Joint Regional Planning Panel was that the proposal was causing the impact upon adjoining sites. In this circumstance, the adjoining properties may cause impact upon the proposed development but the extent of impact is unknown. Impact in this scenario can be minimised through design. In the circumstance considered by the Sydney East Joint Regional Planning Panel the extent of impact caused by a development seeking consent was known.

## CONSULTATION – EXTERNAL TO COUNCIL

### Roads and Traffic Authority

The application was referred to Roads and Traffic Authority pursuant to SEPP (Infrastructure) 2007 and for concurrence in accordance with the Roads Act 1993. The RTA reviewed the development application and indicated it would give concurrence to the application subject to Council's approval and conditions included in the development consent (**Conditions 11, 12, 25, 54, 78, 79, 100, 101, 102, 103, 118 and 119**)

As part of the concurrence, the RTA requires access to the site to be solely via Spearman Street and permits temporary vehicular access from Boundary Street for demolition and construction vehicles. This approval is subject to information being provided prior to the issue of a construction certificate and access not being permitted during 7am – 10am and 3pm – 7 pm to avoid impacts upon peak traffic times. The RTA also prevents a work zone being provided. **Figure 1** below shows the ability for vehicles, particularly for concrete pours to enter and manoeuvre on site without a work zone and reliance upon Spearman Street.

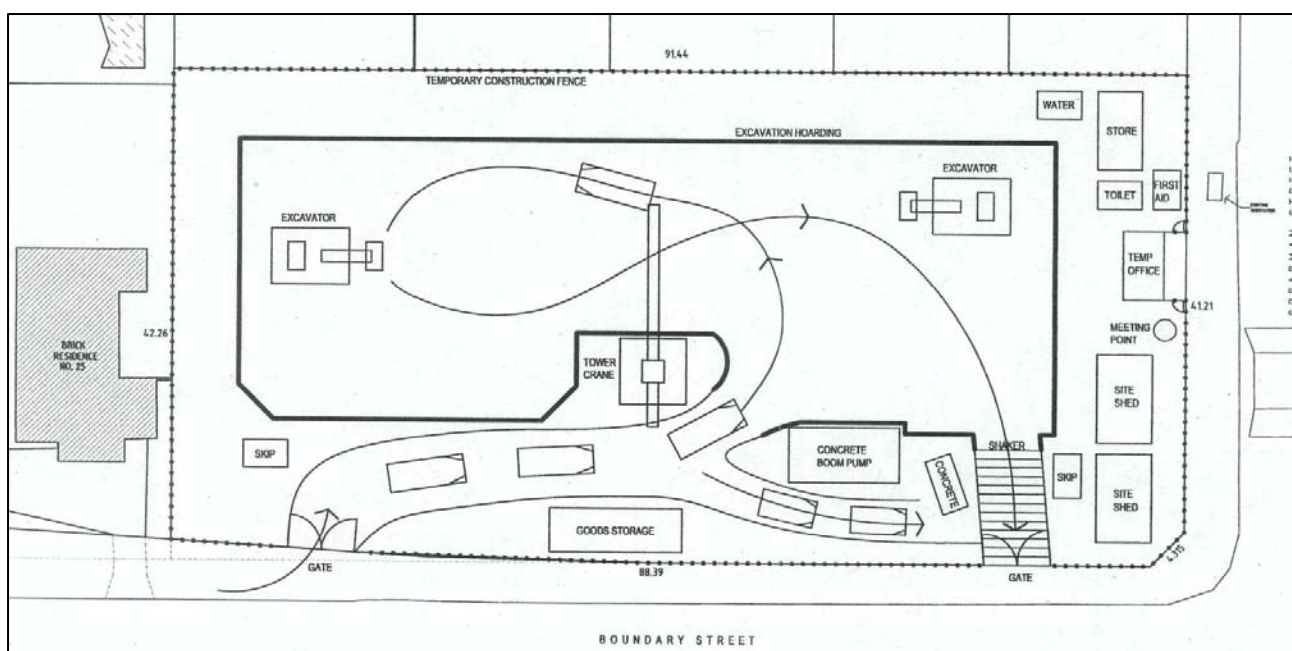


Figure 1 construction management diagram for vehicles without a work zone

## CONSULTATION - WITHIN COUNCIL



## Urban Design

Council's Urban Design Consultant, commented on the proposal as follows:

### ***"1. Review***

*This assessment is made against the design quality principles set out in Part 2 of the State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65) which were developed as a "guide to achieving good design and the means of evaluating the merit of proposed solutions" and the Residential Flat Design Code.*

### ***Principle 1: Context***

*The subject site is regular shaped, comprising four residential allotments addressing Boundary Street. The eastern boundary of the site addresses Spearman Street. There are a number of prominent trees within the frontage along which dominate the streetscape presence of the four allotments. Development in this part of Boundary Street is characteristically single storey detached housing with large frontages and gardens.*

*The proposed residential flat building takes the form of two separated five-storey, apartment buildings. The height of the building is significantly higher than context of the area, however complies with the anticipated future development scale for this location. The two residential buildings provide an all round orientation but incorporate frontages that address Boundary and Spearman Street. The objective of the front setback control is achieved with the proposed buildings set behind gardens and a consistent urban form and definition of the street edge.*

*The proposed development is set back 6m from both the northern and western side setbacks, which provides minimal private and communal open space.*

### ***Principle 2: Scale***

*The scale of the proposal conforms to the desired future character of the area as incorporated in Council's development controls, which permits residential flat buildings up to 5 storeys in height. The potential impact on adjacent development and the streetscape has been addressed by the separation of the building along the frontage, a recessed fifth storey and landscaped set backs which comply with Council's controls. Therefore it is considered that the proposed development conforms to the scale of the identified future character of the area.*

### ***Principle 3: Built form***

*The separated building forms should enable sun access and cross ventilation to be provided to a large majority of units. This is discussed further below. The separation also minimises the overall bulk and mass. The articulation of the built elements including the recessed balconies and projecting wall elements will also assist in minimising this new large built form in this location. Large street setbacks should enable sufficient separation for landscape to establish across the two street*

frontages. The built form is therefore considered to adequately respond to the desired future context and orientation.

#### **Principle 4: Density**

The proposed density of the development is 62 units to be accommodated within a building with a floor space ratio (FSR) of 1.23:1. The FSR complies with Council's maximum permissible FSR of 1.3:1 and the proposed density is therefore consistent with the stated desired future for the area.

The site is located within walking distance of the Roseville station and is consequently in a location that is accessible to major transport infrastructure. With an increase in of 62 new dwellings, sufficient open space should be provided for this development, either as communal or private open space. The Residential Flat Design Code, prepared by the State Government, in part to provide a resource for assessing development under SEPP 65, recommends at least 25-30% of the site area be provided as communal open space. Communal space should be 'consolidated, configured and designed to be useable and attractive'. Given the distance to any public open space or recreational opportunities, consideration to active communal spaces or recreational provision on site should be given.

#### **Principle 5: Resource, energy and water efficiency**

This development is required to comply with the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, which was established to ensure new residential development is sustainable.

The architectural plans indicate that the proposal will exceed the Residential Flat Design Code's recommended standard that 74% of apartments receive sunlight access to living room windows. This should be clarified to ensure that sun access is achieved for three hours between 9am and 3pm at midwinter for more than 70% of the apartments as required, through sun access diagrams. Further, the SEE indicates that 45 apartments equivalent to 73% (more than the required 60%) will achieve cross ventilation to habitable rooms. Our assessment of the potential apartments to achieve cross ventilation is 36 apartments or 58% which does not meet the Code's minimum requirements. The compliance should be demonstrated. The Residential Flat Design Code's recommends a minimum 25% of open space area of a site should be deep soil, whilst Council's controls require that a minimum of 50% of the site area is deep soil landscaping. The proposal's deep soil area is indicated to be 51.8%, which complies with both the Design Code and Council's requirements.

#### **Principle 6: Landscape**

The proposed development should retain prominent trees where possible along the Boundary Street frontage. Council's trees officer should review the plans to ensure that new planting will contribute to the contextual fit of the development within the locality, particularly through the inclusion of a number of tree species along the roadway frontage.

### **Principle 7: Amenity**

*The swimming pools located in the rear yards of Victoria Street, adjacent to the northern boundary of the site, are particularly sensitive land uses with regard to visual privacy. In relation to the potential for overlooking:*

- *the windows and balconies of units along the northern frontage appear to overlook the swimming pools and rear yards and swimming pools as referred to above.*

*This may be resolved by either inviting the applicant to provide additional detail demonstrating appropriate landscape or other means will prevent impacts on privacy, or alternatively by conditioning the relevant windows and balconies to have a minimum sill/balustrade height and/or fixed louvered privacy screens.*

*It is considered that the accessible areas of the level 5 roof terrace should be sufficient to retain visual privacy.*

### **Acoustic privacy**

*Given the highly trafficked nature of Boundary Street, the adequacy of the proposed design in relation to acoustic insulation, particularly of the southern facing apartments, should be assessed by suitably qualified persons on behalf of Council.*

### **Principle 8: Safety and security**

*There are no issues of concern in relation to security or safety. The internal layout of the dwellings promotes the casual surveillance of pedestrians on the adjacent streets and also the communal open spaces and footpaths.*

### **Principle 9: Social dimensions and housing affordability**

*The apartment mix appears appropriate, however this should be considered by Council in relation to the suitability of housing choice in this location.*

### **Principle 10: Aesthetics**

*It is considered that the building incorporates an appropriate composition of building elements, textures, materials and colours that respond to the environment and context. As the first building of its type in this location, the relatively prosaic nature of the design response is unlikely to create an unacceptable precedent in terms of materials and textures. It is recommended, however, that significant trees be provided in the front setback (and retention where possible of large plantings) to ensure a primarily green presentation.”*

Further to this review, amended plans were submitted which demonstrated that compliant solar access and cross ventilation is achieved within the development. Conditions of development consent are recommended regarding a solid balustrade and fixed planter boxes to the upper level north-facing balconies to respond to the privacy concerns raised.

An amended landscape plan was provided which increased significant planting within the front setback.

## **Landscape**

Council's Landscape Assessment Officer, commented on the proposal as follows:

### ***“Tree & Vegetation removal & impacts***

*The proposed development will result in the substantial clearing of the site of existing trees and vegetation to accommodate the proposed development works. With the exception of Tree 8, a mature Phoenix canariensis (Canary Island Date Palm) located centrally adjacent to the Boundary St site boundary (outside the development envelope), Landscape Services can support the nominated tree removal, as none of the trees are considered significant within the broader landscape setting, and despite site amenity, can be replaced with appropriate species for future amenity.*

*Note: Many of the trees to be removed, particularly along the Boundary St frontage are either weed or exempt tree species. Amended plans have identified Tree 8 to be retained.*

*With the exception of Tree 41 Pistacia chinensis (Chinese Pistacio) located within the nature strip at the junction of Spearman and Boundary St, Landscape Services recommends that the existing street trees within Spearman St adjacent to the site be removed and replaced with new trees as the existing street trees (Bottlebrush) are over mature and poorly pruned due to the overhead wires. This can be conditioned.*

### ***Landscape plan/tree replenishment***

*Overall, Landscape Services can support the proposed landscape works for the site. Any changes required can be conditioned.*

*The landscape design proposes an open grassed area adjacent to the northeast site corner which cannot be directly accessed, and therefore does not function as a usable space. It will be conditioned for the lawn to be deleted and the area extensively planted out, including an additional endemic canopy tree.*

*Tree replenishment requirements have been satisfied.*

### ***Deep soil***

*By the applicant's calculations the proposed development will have a deep soil landscape area of 2045sqm or 50.96% of the net site area. Landscape Services is in agreement with the areas included within the deep soil calculations.*

### ***BASIX***

*Landscape Services is satisfied that the development is in compliance with the amended BASIX certificate 254953M\_09. Previous concerns raised have been satisfactorily resolved.*

**Stormwater plan**

*Overall Landscape Services raises no objections to the proposed concept stormwater plans. Previous concerns raised have been satisfactorily resolved through the deletion of the drainage swale.*

**Conclusion**

*The application can be supported by Landscape Services with conditions."*

Following the decision of the Land and Environment Court, it was determined that the site area definition of Clause 25B of the KPSO does not exclude the inclusion of the road reserve within the site area calculation. Therefore, the proposal could rely upon the road reserve area to achieve compliance with the deep soil landscape area development standard of Clause 25I(2) of the KPSO.

**Heritage**

Council's Heritage Advisor, commented on the proposal as follows:

***"Heritage status***

*Clause 25 D (1) of the KPSO requires the applicant to submit a Heritage Impact Statement (HIS) to describe the impact of development on heritage items within the vicinity of the site.*

*Clause 61 E of the KPSO requires Council to consider impact on any heritage items within the vicinity of a heritage item.*

*There are a number of heritage items and conservation area in the adjoining Willoughby side of Boundary Street. Some consideration should be given to any impacts on those items and conservation areas.*

*The site is within a National Trust Urban Conservation Area - UCA 3 - Roseville. DCP 55 provides statutory recognition and management of the rezoned sites in the UCAs.*

*The following is a shortened Statement of Significance for the area:*

*The area is visually distinctive in its overall cohesiveness of high-quality, mainly single storey houses from the Federation and Inter War periods complemented by a small number of flats and is remarkable for the high proportion of contributory items. These buildings combine with large private gardens and significant avenue plantings, which help create substantially harmonious regular grided settlement pattern, with buildings on similar-sized allotments and set back uniformly from the street behind low fences.*

**Nearby heritage items**

*There are no adjoining heritage items and the nearby items are a reasonable distance from the site. The closest items are:*

*3 Boundary Street – block of 1920s flats  
5 Victoria Street.  
1 Hill Street.*

### **Proposed works**

*Demolition of all existing built elements, tree removal and construction of a five storey residential flat building designed as two separate blocks over a basement car parking level.*

### **Demolition**

*The site contains 4 one storey brick houses. All houses are graded as contributory to the National Trust UCA and are considered representative of the type of residential development that took place in the area following subdivision and establishment of the railway line. No 27, and 31 are typical late Federation houses. No 29 is a Post War house and No 33 is a simple Inter war brick cottage. All appear to be in reasonable condition. The applicant's heritage report recommends that recycling of building materials should be undertaken.*

*Demolition of the house is acceptable provided photographic archival recording of the site is undertaken before any works commence. Stone salvaged from demolition works should be retained on the site and used in landscaping works*

### **DCP 55 issues – 3.4 within a UCA**

#### **Design Controls for development within a UCA**

*C – 1 New development should respect the predominant architectural character of the UCA and be designed with reference to it. Major issues are massing, style, roof pitch and complexity of roof shapes, proportions of doors and windows, materials and colours*

*The proposed development is contemporary in form and character and does not relate to the existing low scale residential character. An issue with this site is that it is on the edge of the LGA and the development would form a buffer between the low scale residential streets and the main road. The facades provide some articulation and the use of materials and general fenestration pattern relates to the area.*

*C – 2 Facades well articulated to avoid long continuous facades.*

*The development is designed as two separate buildings further articulated by the use of different materials in horizontal bands with a clearly defined base and top.*

- C – 3      Scale and massing should be proportioned to respect and enhance character of adjacent development.*

*The scale and massing of the development is larger than the surrounding development. Given the rezoning of the site and the objectives of DCP 55, the scale and massing is considered satisfactory*

- C – 4      Form and outline of new development should be designed to respect existing development, particularly roof forms.*

*The form and outline is consistent with the zoning of the site and does not try to mimic the lower scaled development. The roof is flat but provides a degree of variety and a recessive character.*

- C – 5      Setback should not be located forward of existing development.*

*The development is not setback forward of the neighbouring development. Planning consideration should be given to the proposed road widening in Boundary Street that will ultimately affect the front setback.*

- C – 6      The building layout should not orientated across the site contrary to existing pattern.*

*The development is broken into two blocks and further articulated to relate to existing lot layouts.*

- C – 7      Development should be good contemporary design but sympathetic to the character of the UCA.*

*It is considered that the proposed development achieved this control.*

- C – 8      A range of building materials should be chosen and that are commonly used in the area and the colour range should blend with existing development.*

*The use of materials and colours is considered acceptable and compatible with the surrounding development.*

- C – 9      Colours and building textures should be complimentary to UCA*

*The proposed colours and textures are found in the UCA*

- C – 10, 11 & 12.*

*Front fences to be compatible with existing and neighbouring sites. If existing fences contribute to overall UCA, they should be retained. If the existing fences are unsympathetic they should be removed and replaced with more appropriate type.*

*The proposed front fence consist of a variety of solid stone clad masonry and open horizontal timber fencing between masonry piers to a height of about 1800mm. Given the context of the site on a busy main road, the fence is considered acceptable.*

### **DCP 55 issues - 3.5 within the vicinity of a heritage item**

*The site does not adjoin any listed items and is a reasonable distance from listed items in the immediate area. It is considered there would be on adverse impacts on the nearby items in Ku-ring-gai.*

*The site is within the vicinity of a Heritage Conservation Area and listed item in the Willoughby Local Council Area. The application should be referred to Willoughby Council for consideration and comment.*

### **Comments**

*This part of Ku-ring-gai is relatively uniform and consistent in appearance with regular size lots on relatively flat land with housing developed in the Federation and Inter War periods. Gardens are mature and mainly exotic plantings. There is a fall on the site from west to east. The front portion of the site is included in a future road widening corridor.*

*The proposed development is planned in two blocks separated by about 14m over a basement parking area. Each block is very similar in plan and external appearance. Each block is further articulated by a vertical façade pattern. Materials are face brick, rendered masonry with the use of a stone lad base. Some use is made of render inscribed with groves to resemble block work and coining.*

*The proposed building with two separate blocks, consistent elevations, articulation and rhythm has some relation to the existing development and lots pattern. The nearby buildings are mainly face brick with limited use of rendered or painted surfaces, although some brick houses have been painted. The use of colours and materials is considered satisfactory.*

*The proposed front fence is high but given the location of the site on a busy road and the variety from the different materials with some transparency is considered acceptable.*

### **Conclusions and recommendations**

*Demolition of the existing houses is acceptable, provided photographic archival recording is undertaken before any works commence. Stone salvaged from the demolished buildings should be carefully stored on the site and reused in landscaping works.*



*The proposed development complies with the heritage objectives in DCP 55 and is consistent with the zoning of the land. It is considered satisfactory in this regard.*

*Comments should be sought from Willoughby Council as the site is opposite the North Chatswood Conservation Area and may affect its context and setting."*

The application was notified to Willoughby Council's Heritage Officer but no response has been received.

## **Engineering**

Council's Team Leader, Engineering, commented on the proposal as follows:

### ***"Water management***

*The site is subject to a Council drainage easement across the south-eastern corner. The flood study results show that overland flow is generally confined to the road, and therefore no impacts are expected to result from the development. As well, the ground floor has adequate freeboard above the 1:100 year flood level.*

*The BASIX water commitments are for a 10 000 litre rainwater tank, with re-use for irrigation.*

*The stormwater plans show 76 cubic metres of on site detention which has been calculated in accordance with DCP 47. The site has gravity drainage to Spearman Street.*

*The proposed water management for the development is satisfactory.*

### ***Traffic and parking***

*The proposed access to the basement carpark is in Spearman Street, to the north of the hump. This is considered the most suitable location. The landscape plan indicates that only low-growing plants are proposed within the splays required for pedestrian sight lines at the driveway entry/exit point.*

*Following completion, the development is expected to generate approximately 32 vehicle trips per peak hour. This is not expected to adversely affect traffic flows in the surrounding streets.*

*The site is further than 400 metres from Roseville Station, so 66 resident and 16 visitor spaces are required. A total of 85 spaces is provided, which complies.*

*Dimensions and grades are in accordance with the requirements of AS2890.1:2004 Off street car parking.*

### ***Construction management***

*The traffic report contains an appendix “Traffic Management Plan - Demolition and Construction”.*

*The Plan proposes access for construction vehicles to and from Boundary Street. This appears to be a suitable option, as it will keep construction vehicles away from residential streets and the school. Approval has been obtained from the RTA for this access, subject to restricted hours. The RTA requirements will be incorporated into the conditions of consent. A restriction on heavy vehicle movements in Victoria Street and Spearman Street during school pick-up and drop-off periods is also recommended.*

*A palm tree, Tree 8, is located in the path of vehicles using the proposed construction entry, and Council’s Landscape Assessment Officer requires its retention. The proposed access was only roughly indicated on the plan and the recommended conditions will include a requirement for the access to be relocated so that Tree 8 can be protected.*

*The RTA have vetoed a works zone in Boundary Street, however, it is considered that a works zone should be set up in Spearman Street, even if only small.*

### **Waste management**

*The waste storage and collection area is conveniently located inside the entrance to the Basement Level 1 carpark. A turning bay is provided for the waste collection vehicle and the driveway grades and clear headroom are satisfactory.*

### **Geotechnical investigation**

*One borehole was drilled, to about 2 metres below basement level. Residual clay was encountered to 5 metres depth, underlain by sandstone of medium to high strength. Seepage was noted into the excavation at about 3.5 metres depth.*

*The report contains recommendations for further subsurface and groundwater investigation, as well as excavation support, vibration monitoring and foundations. The recommended conditions reflect the recommendations of the report, including a requirement for further investigation prior to commencement of bulk excavation.”*

## **STATUTORY PROVISIONS**

### **State Environmental Planning Policy No. 55 - Remediation of Land**

The provisions of SEPP 55 require consideration of the potential for a site to be contaminated. The subject site has a history of residential use and, as such, it is unlikely to contain any contamination and further investigation is not warranted in this case.

## State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development RFDC)

SEPP65 aims to improve the design quality of residential flat buildings across NSW and provides an assessment framework, the Residential Flat Design Code (RFDC), for assessing 'good design'.

Clause 50(1A) of the EPA Regulation 2000 requires the submission of a design verification statement from the building designer at lodgement of the development application. This documentation has been submitted and is satisfactory.

The SEPP requires the assessment of any development application for residential flat development against 10 principles contained in Clauses 9-18 and Council is required to consider the matters contained in the publication "Residential Flat Design Code". As such, the following consideration has been given to the requirements of the SEPP and Design Code.

### Residential Flat Design Code Compliance Table

Pursuant to Clause 30(2) of SEPP 65 in determining a development application for a residential flat building the consent authority is to take into consideration the Residential Flat Design Code (RFDC). The following table is an assessment of the proposal against the guidelines provided in the RFDC.

	<i>Guideline</i>	<i>Consistency with Guideline</i>
<b>PART 02 SITE DESIGN</b>		
<b>Site Configuration</b>		
<i>Deep Soil Zones</i>	A minimum of 25 percent of the open space area of a site should be a deep soil zone; more is desirable. Exceptions may be made in urban areas where sites are built out and there is no capacity for water infiltration. In these instances, stormwater treatment measures must be integrated with the design of the residential flat building.	YES  The proposal complies with the development standard of 50% deep soil landscape area and satisfies the control requirement.
<i>Open Space</i>	The area of communal open space required should generally be at least between 25 and 30 percent of the site area. Larger sites and brown field sites may have potential for more than 30 percent.	YES
<i>Planting on Structures</i>	In terms of soil provision there is no minimum standard that can be applied to all situations as the requirements vary with the size of plants and trees at maturity. The following are recommended as minimum standards for a range of plant sizes:  Medium trees (8 metres canopy diameter at maturity) - minimum soil volume 35 cubic metres - minimum soil depth 1 metre - approximate soil area 6 metres x 6 metres or equivalent	YES  The long section shows the depth of the planter over the basement has a depth between 1.4 metres and 600mm. The submitted landscape plan shows a mixture of small and medium trees set amongst shrubs and ground cover.
<i>Safety</i>	Carry out a formal crime risk assessment for all residential developments of more than 20 new dwellings.	YES  A formal crime risk assessment has

		been submitted.
<i>Visual Privacy</i>	Refer to Building Separation minimum standards	NO  Building B at ground level is located within 8.2 metres of the adjoining dwelling at 25 Boundary Street. Addressed by condition 27.
<i>Pedestrian Access</i>	Identify the access requirements from the street or car parking area to the apartment entrance.	YES  Defined pedestrian entries are proposed from both street frontages.
	Follow the accessibility standard set out in Australian Standard AS 1428 (parts 1 and 2), as a minimum.  Provide barrier free access to at least 20 percent of dwellings in the development.	YES  A lift has been provided from the basement to each level of the development. The application has been supported by an accessibility report.
<i>Vehicle Access</i>	Generally limit the width of driveways to a maximum of six metres.	YES  Council's Traffic Engineer has reviewed the proposal and has raised no objections to the width of the driveway.
	Locate vehicle entries away from main pedestrian entries and on secondary frontages.	YES  Council' Traffic Engineer has reviewed the proposal and has raised no objections to the location of the basement entrance.
<b>PART 03 BUILDING DESIGN</b>		
<b>Building Configuration</b>		
<i>Apartment layout</i>	Single-aspect apartments should be limited in depth to 8 metres from a window.	YES  Units 3,5,7,10,12,14,17,19,21,24,26 and 28 are single aspect apartments. The depths of the units are within 8 metres of a window.
	The back of a kitchen should be no more than 8 metres from a window.	YES  The back of all kitchens within the development are generally within 8 metres of a window.
	The width of cross-over or cross-through apartments over 15 metres deep should be 4 metres or greater to avoid deep narrow apartment layouts.	YES  The minimum width of the crossover apartments within the development is approximately 4.5m.
	If Council chooses to standardise apartment sizes, a range of sizes that do not exclude affordable housing should be used. As a guide, the Affordable Housing Service suggest the following minimum apartment sizes, which can contribute to housing affordability: (apartment size is only one factor influencing affordability)  - 1 bedroom apartment 50m <sup>2</sup> - 2 bedroom apartment 70m <sup>2</sup> - 3 bedroom apartment 95m <sup>2</sup>	YES  Development contains 8 x studio, 1 x 1 bedroom unit, 49 x 2 bedroom and 4 x 3 bedroom units. All units comply with the minimum required apartment size.

<i>Apartment Mix</i>		
<i>Balconies</i>	Provide primary balconies for all apartments with a minimum depth of 2 metres. Developments which seek to vary from the minimum standards must demonstrate that negative impacts from the context-noise, wind – can be satisfactorily mitigated with design solutions.	YES
<i>Ceiling Heights</i>	<p>The following recommended dimensions are measured from finished floor level (FFL) to finished ceiling level (FCL). These are minimums only and do not preclude higher ceilings, if desired.</p> <ul style="list-style-type: none"> <li>- in residential flat buildings or other residential floors in mixed use buildings: <ul style="list-style-type: none"> <li>- in general, 2.7 metre minimum for all habitable rooms on all floors, 2.4 metres is the preferred minimum for all non-habitable rooms, however 2.25m is permitted.</li> <li>- for two storey units, 2.4 metre minimum for second storey if 50 percent or more of the apartment has 2.7 metre minimum ceiling heights</li> </ul> </li> </ul>	<p>YES</p> <p>All habitable rooms have a floor to ceiling height of 2.7m.</p>
<i>Ground Floor Apartments</i>	Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site.	<p>NO</p> <p>Ground floor apartments are not provided within separate entries. Addressed by condition 29.</p>
	Provide ground floor apartments with access to private open space, preferably as a terrace or garden.	<p>YES</p> <p>All ground floor apartments have direct access to private open space areas which include balconies and courtyards.</p>
<i>Internal Circulation</i>	<p>In general, where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to eight. Exceptions may be allowed:</p> <ul style="list-style-type: none"> <li>- for adaptive reuse buildings</li> <li>- where developments can demonstrate the achievement of the desired streetscape character and entry response</li> <li>- where developments can demonstrate a high level of amenity for common lobbies, corridors and units, (cross over, dual aspect apartments).</li> </ul>	<p>YES</p> <p>Lift provides access to a maximum of 7 units. The application has been supported by an accessibility report.</p>
<i>Storage</i>	<p>In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:</p> <ul style="list-style-type: none"> <li>- studio apartments 6m<sup>3</sup></li> <li>- one-bedroom apartments 6m<sup>3</sup></li> <li>- two-bedroom apartments 8m<sup>3</sup></li> <li>- three plus bedroom apartments 10m<sup>3</sup></li> </ul>	<p>YES</p> <p>64 storage spaces plus 3 common storage spaces nominated within garage. Proposed areas acceptable.</p>
<b>Building Amenity</b>		
<i>Daylight Access</i>	Living rooms and private open spaces for at least 70 percent of apartments in a development should receive a minimum of three hours direct sunlight between 9 am and 3 pm in mid winter. In dense	<p>YES</p> <p>A detailed solar access study has been submitted with the application.</p>

	urban areas a minimum of two hours may be acceptable.	The study demonstrates that all of the units will receive solar access to both 50% of their private open space and window to the main living area between 9am and 3pm mid winter.
	Limit the number of single-aspect apartments with a southerly aspect (SW-SE) to a maximum of 10% of the total units proposed. Developments which seek to vary from the minimum standards must demonstrate how site constraints and orientation prohibit the achievement of these standards and how energy efficiency is addressed (see Orientation and Energy Efficiency).	NO  Units 7, 14, 21 and 28 within each building (8 in total) have a southern orientation. This equates to 12.9% of the total units proposed. Refer to assessment below.
<i>Natural Ventilation</i>	Building depths, which support natural ventilation typically range from 10 to 18 metres.	YES  The building depth is generally between 10-18 metres.
	Sixty percent (60%) of residential units should be naturally cross ventilated.	YES  Units 3, 5, 7, 10, 12, 14, 17, 19, 21, 24, 26, 28 are all single aspect. This equates to 20 units within the development, which results in 70% compliance.  The development complies with the 60% control requirement.
<b>Building Performance</b>		
<i>Waste Management</i>	Supply waste management plans as part of the development application submission as per the NSW Waste Board.	YES  A Waste Management Plan has been submitted with the application.
<i>Water Conservation</i>	Rainwater is not to be collected from roofs coated with lead- or bitumen-based paints, or from asbestos- cement roofs. Normal guttering is sufficient for water collections provided that it is kept clear of leaves and debris.	YES  The proposed development is satisfactory in this regard.

## Building separation and visual privacy

The following separation distances between buildings are required under the RFDC for five storey buildings:

- 18 metres between habitable rooms/balconies
- 13 metres between habitable/balconies and non-habitable rooms
- 9 metres are provided between non-habitable rooms.

The objectives of the suggested dimensions are to provide visual and acoustic privacy for existing and new residents, control overshadowing and ensure that new development is scaled to support the desired area character with appropriate massing and spaces between buildings, to allow for the provision of open space and to provide deep soil zones.

Building B at ground level is located within 8.2 metres of the adjoining dwelling at 25 Boundary Street and does not satisfy the required separation distance. Concern has been raised by the owner of this property regarding potential loss of privacy.

Building B and Building A provide at least 17 metres separation between the dwellings and associated decks of adjoining properties fronting Victoria Street to the north. Concern has also been raised by the owners of these properties regarding possible loss of privacy.

Between Buildings A and B a minimum separation distance of 13 metres is provided which is consistent with the control requirements.

The dwelling at 25 Boundary Street adjoins the south-western corner of Building B. The siting of the existing dwelling adjoins the location of two bedrooms associated within units 2, 9, 16 and 23 and the balcony associated with Units 1, 8, 15 and 22. There is no concern regarding the bedrooms, given the low intensity usage of these rooms. **Figure 1** below represents the relationship between Building B and the existing dwelling at 25 Boundary Street. A sight line has been drawn from 1.6 metres on the balcony at Levels 3 and 4 to a distance of 9 metres at 45°. This demonstrates that the balconies within the development above Level 2 will not impact on the privacy of this property.

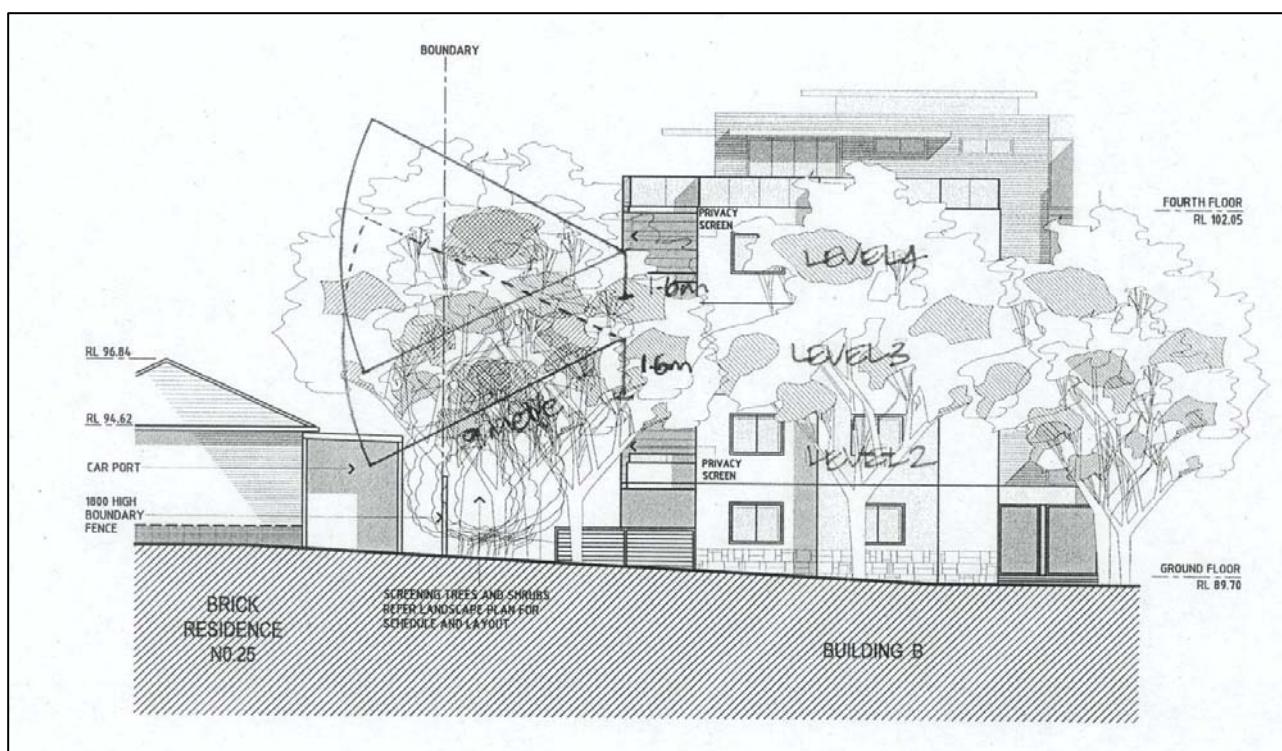


Figure 2 privacy relationship between 25 Boundary Street and proposal

It is considered that the provision of privacy screens at Levels 1 and 2, combined with the extensive landscaping along the western boundary will provide a reasonable level of privacy to 25 Boundary Street.

**Condition 27** is recommended to require the proposed planter boxes to be extended in a western direction along the northern elevation and southern direction at Level 5 and to have landscaping with a height of 1.8 metres to maintain the relationship with properties fronting Victoria Street.

## Ground floor apartments

The RFDC requires designs to optimise the number of ground floor apartments with separate entries. Presently, Unit 2 within each building is provided with separate entry. However, a review of the plans indicates separate entry can be provided from the communal open space areas through the private courtyards to the apartments at ground floor. **Condition 29** requires separate access to be provided to these apartments.

### **Building amenity**

The RFDC state the number of single aspect apartments with a southerly aspect should be limited to a maximum of 10% of the total units proposed. The development proposes eight (8) apartments which have a southern orientation and are single aspect. This equates to 12.9% of the total units proposed and does not satisfy the design requirement.

The control permits developments which seek to vary from the minimum standards to demonstrate how site constraints and orientation prohibit the achievement of these standards and how energy efficient is addressed.

The applicant has indicated that the apartments should not be considered single aspect as they have an external wall to a western elevation. The RFDC defines a dual aspect apartment as follows:

*Apartments which have at least two major external walls facing in different directions, including corner, cross over and cross through apartments.*

In accordance with the strict definition of the RFDC, these apartments can be defined as dual aspect and the proposal would be considered compliant.

The site is a corner allotment with a north-south orientation due to the required relationship with Boundary Street and its secondary street Spearman Street. The southern orientation fronts Boundary Street with the eastern fronting Spearman Street. The proposal has been designed to maximise solar access to the northern and eastern elevations by the provision of two separate buildings and the incorporation of complying side and rear setbacks and the required spatial separation between the two buildings. It is considered the proposed building footprint is appropriate to achieve solar access to the proposed buildings. The development application has additionally been supported by a satisfactory BASIX Certificate.

The proposal, despite the exceedance of the single aspect unit requirement by 2 units is considered reasonable.

### **State Environmental Planning Policy Infrastructure 2007 (SEPPi 2007)**

Pursuant to Clause 104 in SEPPi 2007, the application was referred to the Roads and Traffic Authority for consideration under the provisions of Clause 104 and Column 3 of Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007. The RTA has granted its concurrence under Section 138 of the Roads Act 1993 to the development application subject to condition of consent (**Conditions 11, 12, 25, 54, 78, 79, 100, 101, 102, 103, 118 and 119**)



## **State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

A valid BASIX certificate has been submitted with the application (Certificate No. 254953M\_10 dated 17 November 2009). The certificate demonstrates compliance with the provisions of the SEPP and adequately reflects all amendments to the application.

The application was previously recommended for refusal due to the BASIX Certificate making numerous landscape related commitments for the development which relied upon the area within the Boundary Street frontage that is part of the Country Road Reservation. The concerns were that this area could be resumed for road expansion and contain structures which would prevent landscaping. The further advice from the RTA indicates the road widening will not occur and therefore it can be accepted that this area can be utilised for landscaping to support the proposed development.

## **SREP (Sydney Harbour Catchment) 2005**

Matters for consideration under SREP 2005 include biodiversity, ecology and environmental protection, public access to and scenic qualities of foreshores and waterways, maintenance of views, control of boat facilities and maintenance of a working harbour. The proposal is not in close proximity to, or within view, of a waterway or wetland and is considered satisfactory.

## **KU-RING-GAI PLANNING SCHEME ORDINANCE (KPSO)**

### **Zoning, permissibility and aims and objectives for residential zones**

#### **Clause 13**

The assessment report considered by the Sydney West joint Regional Planning Panel on 7 July 2011 recommended refusal of the development application for six reasons. Council had recommended that the proposal was prohibited and had advanced reasons as to why it is considered that the development was prohibited and why it was considered that the facts of the matter would not support the conclusion that is required under clause 13(2) to approve the development.

Since the deferral by the JRPP, further information from the RTA and a decision by the Land and Environment Court have occurred that alters Council's recommendation to the Panel.

On 28 July 2011, the Land and Environment Court decision was handed down in *Friends of Turrumurra Inc v Minister of Planning* which declared the Ku-ring-gai Town Centres Local Environmental Plan to be of *no legal force or effect*.

The RTA has advised Council in writing that no objection is raised to the proposed works and the land reserved for the purpose of road widening is no longer required in totality. It is therefore felt that the purpose for which the land is reserve will not be carried into effect within a reasonable time, given the appointed day referred to in Clause 13(1) of the KPSO

is 1 October 1971 and the most recent correspondence dated 18 August 2011 from the RTA.

The front portion of the site is vacant land reserved for widening of existing county roads. Clause 13 of the KPSO states:

***Buildings, etc, not to be erected on reserved land without consent***

13. (1) *Except as provided in subclause (2) of this clause a person shall not on land reserved under this Division erect a building or carry out or alter a work of a permanent character or make or alter a permanent excavation other than a building or a permanent work or a permanent excavation required for or incidental to the purpose for which the land is so reserved.*
- (2) *Where it appears to the responsible authority that the purpose for which the land is reserved under this Division cannot be carried into effect within a reasonable time after the appointed day the owner of such land may with the consent of the responsible authority and of the Commissioner for Main Roads erect a building or carry out or alter a work of a permanent character or make or alter a permanent excavation.*
- (3) *Any such consent shall be subject to such conditions with respect to the removal or alteration of the building, work or excavation or any such alteration of a work or excavation or the reinstatement of the land or the removal of any waste material or refuse, with or without payment of compensation, as the responsible authority thinks fit, and to such conditions as the Commissioner for Main Roads requires to be imposed.*
- (4) *Nothing in this clause shall operate to prohibit the erection of a fence on any land reserved under this Division.*

The appointed day referred to is 1 October 1971. Clause 13(1) is the control which prohibits the proposed works on the road reserve. Council Officers do not have the delegated authority to form the essential opinion under Clause 13(2) which provides for the circumstance where the responsible authority may lift the prohibition. The proposal seeks consent to carry out work of a permanent character on the road reserve. For the development to be permissible, an opinion would need to be formed pursuant to Clause 13(2) of the KPSO that the purpose for which the road reserve is reserved could not be carried into effect within a reasonable time after the appointed day.

There is disagreement between the applicant and Council officers that the development involves carrying out of works of a permanent character on the road reserve within the meaning of Clause 13(1) of the KPSO. The applicant has submitted amended plans which relocate the drainage works outside of the road reserve. Despite this amendment, the proposal maintains landscaping and access pathways which are of a permanent character and are located within the road reserve. The applicant indicates these works are not of a permanent nature but the decision of Justice Biscoe in paragraph 61 indicates *...the works compromising landscaping and access pathways, at least, are of a permanent character and are located along the frontage of the Land, well within the DLEP area*. Therefore, it is considered the prohibition in clause 13(1) of the KPSO does apply as the works are of a permanent nature and the need for the exercise of the dispensing power in clause 13(2) is relevant.

If the JRPP were to form the requisite opinion it would need to resolve that it is satisfied that the purpose for which the land is reserved under Division 3 of the KPSO cannot be carried into effect within a reasonable time after the appointed day.

If the Panel does not form the requisite opinion then Clause 13(2) does not apply to the development and the proposal is prohibited pursuant to Clause 13(1) of the KPSO. This is a decision for the Panel to make. However, the following reasons are advanced for consideration by the Panel to reach the conclusion required under clause 13(2):

- The road reserve is for the purpose of “widening of existing county roads”
- The appointed day referred to in Clause 13(1) of the KPSO is 1 October 1971.
- The Ku-ring-gai Local Environmental Plan (Town Centres) 2010 has been declared to have no effect.
- The RTA letter dated 18 August 2011 has granted consent and indicates as a result of the road widening project in Boundary Street, Roseville between the Pacific Highway and Spearman Street only 29.7m<sup>2</sup> of the road reserve is required for the reserved purpose.

On this basis, it is open for the responsible authority to make the decision whether the purpose for which the land is reserved can be carried into effect within a reasonable time.

### Part IIIA Clause 25A

Under Clause 25B (definitions) of KPSO – LEP 194, a residential flat building is defined as ‘a building containing three or more dwellings’. The residential flat buildings proposed on the land zoned 2(d3) is permissible with consent. Subject to the JRPP forming the requisite opinion under Clause 13(2) of the KPSO the approval of works within the road reservation is also permissible with the consent of the responsible authority.

The development is considered to be consistent with the aims and objectives under Clause 25C and 25D of the KPSO as the proposal utilising the land within the road reservation will achieve the required balance between soft landscape area and built form. The proposal provides an acceptable level of internal amenity for future occupants and does not result in any significant adverse impacts upon adjoining properties or the streetscape.

COMPLIANCE TABLE		
DEVELOPMENT STANDARD	PROPOSED	COMPLIES
<b>Site area (min):</b> 1200m <sup>2</sup>	4013m <sup>2</sup> (all land) 3252.5m <sup>2</sup> (zoned 2(d3))	YES
<b>Deep landscaping (min):</b> 50% (2006.5m <sup>2</sup> )	50%	YES
<b>Street frontage (min):</b> 23m	88.9m Boundary and 41.2m spearman	YES
<b>Number of storeys (max):</b> 4 + top storey (maximum of 5 storeys)	Building A: 5 storeys Building B: 5 storeys	YES YES
<b>Site coverage (max):</b> 35% (1138.375m <sup>2</sup> )	42.77% (1391.09m <sup>2</sup> )	NO
<b>Top floor area (max):</b> 60% of	Building A = 372m <sup>2</sup> (60%)	YES

COMPLIANCE TABLE		
DEVELOPMENT STANDARD	PROPOSED	COMPLIES
level below	Building B = 372m <sup>2</sup> (60%)	YES
<b>Storeys and ceiling height (max):</b> 5 storeys and 13.4m	Building A = 5 & 13.2m	YES
<b>Car parking spaces (min):</b>	Building B = 5 & 13.2m	YES
<input type="checkbox"/> 16(visitors)	16	YES
<input type="checkbox"/> 66 (residents)	69	YES
<input type="checkbox"/> 82 (total)	85	YES
<b>Zone interface setback (min):</b> 9m	Adjoining 2(d3) sites	YES
<b>Manageable housing (min):</b> 10% or 7 units	7 units	YES
<b>Lift access:</b> required if greater than three storeys	All lifts service all floors including basement levels.	YES

### Clause 25I(6) Site Coverage

The site is zoned Residential 2(d3) and has an area of 3252.5m<sup>2</sup>. The development standard requires a maximum site coverage of 35% which equates to 1138.375m<sup>2</sup>. The proposal results in a site coverage of 1391.09m<sup>2</sup> or 42.77% of the site area. The applicant has submitted a SEPP 1 Objection seeking a variation to the development standard. The following is an assessment of the SEPP 1 objection:

#### ***whether the planning control in question is a development standard***

The maximum site coverage for land zoned Residential 2(d3) for multi unit housing of 35% prescribed under Clause 25I(6) of the KPSO is a development standard. The applicant agrees this is a development standard, but makes the following comments:

*The definition of 'site area' is critical in [the] application of this objection and therefore is important to closely analyse the implication of the various definitions contained in Ku-ring-gai PSO, which have [bearing] on this application. It could be argued that the definitions of 'site area' and 'site coverage' contained in Clause 25B of the KPSO take precedence over the sub-definition of site area contained in Sub-clause 25I(b) for the purpose of calculations of the site coverage. The definitions are quoted below:*

*'site area' is defined in Clause 25B as:*

*In relation to the proposed development means the area of land to which an application for consent to carry out the development relates, excluding the area of any access handle.*

*'site coverage' is defined in Clause 25B as:*

*The proportion of the building footprint to the site area expressed as a percentage.*

*Subclause 25I(6) which deals with site coverage states:*

*Buildings of a kind described below are not to occupy a greater percentage of the site area than is specified below for the kind of buildings. If a site is comprised of land in*

*Zone No. 2(d3) and other land, the other land is not to be included in calculating site area.*

*Residential flat buildings – 35%*

*The development application was submitted for a site of 4013m<sup>2</sup> identified on all DA plans, which includes 760m<sup>2</sup> of the County Road Reservation. The definition of site area in CL25B clearly allows for the inclusion of the CRR in the site area. Based on this definition the development complies with the 35% site coverage standard.*

*However, if the sub-definition in CL25I(6) is adopted for the purpose of determining the site coverage, an area of 760m<sup>2</sup>, which represents the current County Road Reservation, has to be excluded from the 'site area'. This results in a 'site area' of 3253m<sup>2</sup> and 'site coverage' of 43%, which exceeds the nominal site coverage by 8%.*

There is no disagreement that the land not zoned Residential 2(d3) does not form part of the site for the purpose of Clause 25I(6) which states:

*(6) Maximum site coverage*

*Buildings of a kind described below are not to occupy a greater percentage of the site area than is specified below for the kind of buildings. If a site is comprised of land in zone no 2(d3) and other land, the other land is not to be included in calculating the site area.*

The site area for the purpose of this control is 3252.5m<sup>2</sup> and the proposal results in a site coverage of 1391.09m<sup>2</sup> or 42.77%.

***the underlying objective or purpose behind the standard***

The control sets a maximum site coverage based on the building type. The applicant indicates in their SEPP 1 objection that:

*It is impossible to discern the specific purpose of the sub-definition of 'site area' provided in Clause 25I(6), which excludes land not zoned 2(d3) from site area and is contrary to [the] definition of site area and site coverage contained in CL 25B.*

*The purpose of the sub-definition for determining of site coverage is questionable since the deep soil landscaping standard only refers only to site area as defined in Clause 25B. The rationale for the sub-definition of site area in Clause 25I(6) for [the] calculation of site coverage is further eroded by the fact that a development application for a residential flat building can only be made for land zoned 2(d3) and, subject to RTA concurrence, for land zoned County road Reservation. It cannot include land in a zone, which expressly prohibits residential flat buildings.*

*Clause 25B and Clause 25I(6) are silent as to the purpose of the site coverage standard, however the general purpose of the site coverage standard can be discerned from the objectives set out in Clause 25C(2) and Clause 25D(2) which are quoted below:*

25C(2)

*to achieve high quality urban design and architectural design...*

*to achieve a high level of residential amenity in building design for the occupants of buildings through sun access, acoustic control, privacy protection, natural ventilation, passive security design, outdoor living, landscape design, indoor amenity and storage provision.*

25D(2)

*(e) to provide built upon area controls to protect tree canopy of Ku-ring-gai, and to ensure particularly the provision of viable deep soil landscaping in order to maintain and improve the tree canopy in a sustainable way, so the tree canopy will be in scale with the built form.*

The applicant's objection does not provide any comments with respect to how the development meets the above identified objectives.

It is accepted that Clause 25D(2)(e) reflects the underlying objective of the control, to provide built upon area controls to ensure the provision of viable deep soil landscaping so as to achieve a balance between the built form and landscaping. However, other provisions within Part IIIA of the KPSO also serve to inform the underlying objectives. The heads of consideration for consent authorities considering multi-unit housing, as set out at Clause 25I provides:

- (a) the desirability to provide a high proportion of deep soil landscape to the site area,*
- (b) the impact of any overshadowing, and any loss of privacy and loss of outlook, likely to be caused by the proposed development,*
- (c) the desirability to achieve an appropriate separation between buildings and site boundaries and landscaped corridors along rear fence lines,*
- (d) the environmental features that are characteristic of the zone in which the site is situated by requiring sufficient space on site for effective landscaping,*
- (e) the desirability of adequate landscaping so that the built form does not dominate the landscape,*
- (f) how the principles of water cycle management can be applied to limit the impacts of run-off and stormwater flows off site.*

These considerations, in addition to the objectives in Clause 25D(2)(e), demonstrate that the objectives of the control in seeking to limit site coverage is to enable landscaping with an aim to minimise the opportunity for impacts resulting from the bulk and scale of built form. Limiting site coverage allows for greater landscaping opportunities. By way of example, villas, which by definition of Clause 25B of the KPSO are only single storey in scale and permitted a site coverage of 50%. Conversely, a residential flat building by definition will be at least three storeys in scale and will be limited to a 35% site coverage. The controls reduce site coverage to be commensurate with the scale of the built form permitted.

The purpose for which the front portion of the site is reserved is not considered to be carried out within a reasonable time. It is considered appropriate to permit use of the front proportion of the site for landscaping and setbacks for the proposed residential flat building. In doing so, the proposal will result in a technical non-compliance with the development standard as a result of the definition specifically excluding the reliance upon land not zoned Residential 2(d3). Nonetheless, this area will not be utilised for the purpose in which it is reserved and to permit development it is considered appropriate it be used for landscaping.

***whether compliance with the development standard is consistent with the aims of the policy and, in particular, whether compliance with the development standard hinders the attainment of the objectives specified under Section 5(A)(i), (ii), (iii) and (iv) of the Environmental Planning and Assessment Act 1979***

For the reasons indicated above, it is considered that in this instance strict compliance with the standard would not be consistent with the aims of the policy. Compliance with the maximum site coverage would hinder the objectives of the Act. The utilisation of the land reserved for county road widening for the purposes of landscape area and pathways is considered to promote and coordinate an orderly and economic development of the land.

***whether compliance with the development standard is unreasonable or unnecessary in the circumstances of the case***

The applicant submits that strict compliance with the site coverage standard, based on Clause 25I(6) of [the] Ku-ring-gai PSO, is unreasonable and unnecessary in the circumstances on the following grounds:

*The apparent departure from the site coverage standard is triggered only by sub-definition of site area in Clause 25B. If the definitions of site area and site coverage under Cl25B are applied, the development would comply with the site coverage standard and an objection under SEPP 1 would not be required.*

*The departure from the standard is of a technical nature only. The site component which is currently identified as Country Road Reservation and excluded from the site area pursuant to C25I(6), is no longer required by RTA for the purpose of road widening. If the County Road Reservation land, which is no longer required by RTA, is included in the site area, the development fully complies with all objectives of the Ku-ring-gai PSO concerning quality of urban and architectural design, high level of residential amenity and provision of viable deep soil landscaping which can sustain tall trees canopy, consistent with the desired garden setting character of Ku-ring-gai.*

*While partly zoned 2(d3) Residential and partly County Road Reservation, the site area subject to the application is consistent with the definition of 'site area' and 'site coverage' under Clause 25B. The proposed development can be carried out on the site, subject to concurrence of the RTA, pursuant to Clause 13(2) of the KPSO, which may be assumed in view of RTA registration of the land subdivision, which reflects its actual requirements for road widening. The development is also consistent with the proposed R4 High Density Residential zone under the Draft Ku-ring-gai LEP (Town Centres) 2008, which is awaiting gazettal. (\*)*

*This surplus land, currently zoned County Road Reservation, being situated between land zoned 2(d3) residential and the existing county road, can only be utilised for residential flat buildings development. This option is clearly confirmed by the R4 zoning of the abandoned County Road Reservation, proposed in the Draft Ku-ring-gai LEP (Town Centres) 2008. (\*)*

*It is evident from the above that strict application of the site coverage standard based on provision of Clause 25I(6) would prevent residential flat building development at scale and density envisaged by Ku-ring-gai PSO and Draft Ku-ring-gai LEP (Town Centres) 2008. It would sterilise 760m<sup>2</sup> of land and reduce the residential development potential assumed under the Draft Ku-ring-gai LEP (Town Centres) 2008 and in the NSW Draft North Sub-Regional Strategy for Ku-ring-gai LGA. (\*)*

*Flexible application of the 'site coverage' standard under Clause 25I(6) of KPSO is, in the circumstances, fully consistent with the objectives specified in Section 5(a)(1)(ii) of the Environmental Planning and Assessment Act 1979, namely:*

*the proper management development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, town and villages for the purposes of promoting the social and economic welfares of the community and a better environment*

*(ii) the promotion and coordination of the orderly and economic use and development of land.*

An additional submission was provided by Kanjian & Company, dated 16 February 2011, which outlines the following additional reasons to support the SEPP 1 objection:

- 1. the objection commences on the premise also adopted by Council that the underlying purpose of the site coverage development standard finds immediate, but not exclusive, expression in cl 25D(2)(e) KPSO which reads:*

*to provide built upon area controls to protect tree canopy of Ku-ring-gai, and to ensure particularly the provision of viable deep soil landscaping in order to maintain and improve the tree canopy in a sustainable way, so the tree canopy will be in scale with the built form.*

- 2. the core objective is reinforced by the suite of matters which cl25I(1) KPSO requires the consent authority to take into account before granting consent*
- 3. the focus of the core objective is to achieve a satisfactory balance or interplay between deep soil landscaping and the built form of a development*
- 4. the first point to be made is that as the DA complies with the deep soil landscaping development standard, prima facie, the extent of tree canopy must be acceptable for a site having an overall area of 4043m<sup>2</sup>*
- 5. if the KPSO road reserve applied to the site without more, Hyecorp concedes that a 42.77% site coverage ratio would be somewhat difficult to justify given that it entails a 22.2% exceedance over the 35% benchmark*



6. *however, the incontestable reality is that the KPSO road reserve does not apply to the site without more. The acquisition plan liberates 730.8m<sup>2</sup> of the KPSO road reserve. There is no sound reason, either at law or in policy, not to allow this liberated area to be subsumed into de facto site coverage calculations to determine whether there is merit in relacing a KPSO standard which is only breached if one applies an out of date and superseded measure for the road reserve.*
7. *seen in this light, the DA achieves a site coverage ratio of 34.98% which is compliant with cl 251(6) KPSO if it is read and applied in the context of that which is proposed by the RTA as the relevant statutory authority*
8. *simply put, there is no social, economic or planning benefit derived by the indiscriminate or inflexible application of that which in truth is now an anachronistic metric for the road reserve*
9. *the entire purpose of SEPP 1 is to give the consent authority latitude to make due allowance where due allowance is called for and is otherwise justified*
10. *in this instance, to do otherwise and to reject the SEPP 1 objection:*
  - (a) *firstly, serves no discernible beneficial purpose because by adopting the proposed de facto calculations for site coverage, the physical and visual balance between deep soil landscaping and built form is achieved*
  - (b) *secondly, ignores the underlying reality of that which in time will occur; and*
  - (c) *thirdly, unnecessarily sterilises a significant part of the site which I its own right is a valuable economic and social resource husbanded conformably with the overarching objectives in s5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979 which we earlier recounted and which, after all, combine to constitute the fulcrum on which SEPP 1 objections ultimately turn for their outcome.*

Clause 251(6) specifically excludes land not zoned Residential 2(d3) from being part of the site area. The clause states that *if a site is comprised of land in Zone No 2(d3) and other land, the other land is not to be included in calculating site area*. The purpose for the standard doing this is to prevent the double dipping of site area to increase built upon area upon a site which is not zoned for that purpose. Council has received written advice from the RTA on 18 August 2011 which indicates the front portion of the site required for future road widening is 24.7m<sup>2</sup> and the remainder is no longer required for this purpose.

The purpose to which this land has been reserved has not been carried out within a reasonable time and the perquisite question can be satisfied under clause 13(2) of the KPSO. It is a reasonable planning outcome that this land be utilised as part of the adjoining land zoned Residential 2(d3). The proposal results in a technical non-compliance with the development standard as a result of the definition. The area reserved for road widening forms part of the subject site albeit not by definition for the purpose of this standard, and if this area is included in the calculation of the site area, the proposal would comply with the development standard.

Given the written advice from the RTA dated 18 August 2011 and the Ku-ring-gai LEP (Town Centres) having no effect, it is considered unreasonable and unnecessary for the proposal to comply with the development standard given it is a technical breach. It is

considered the impediment of Clause 13 of the KPSO can be satisfied and therefore it is reasonable to accept the variation sought under the SEPP 1.

Comments marked by an asterisk (\*) refer to comments in the SEPP 1 objection that involves the Ku-ring-gai LEP (Town Centres) which was declared to be of no effect. These comments cannot be considered in the assessment of the SEPP 1 objection.

### ***whether the objection well founded***

For the reasons detailed above, the objection is considered to be well founded.

### **Clause 33 – Aesthetic appearance**

The subject site adjoins a main road, being Boundary Street and the proposed development will be visible from the main road. The proposed development complies with the height requirement and number of storeys. The development is considered to provide adequate setbacks and separation from surrounding properties and the streetscape. The modulated built form and landscaping proposed will mean an acceptable aesthetic appearance is presented to the streetscape. The proposal is therefore considered satisfactory.

### **Clause 61E – Development in the vicinity of heritage items**

The site is in the vicinity of three heritage items (No. 1 Hill Street, 5 Victoria Street and 3 Boundary Street) and is located within vicinity of a Heritage Conservation Area and listed item in the Willoughby Local Council Area. The proposed development is not considered to result in any significant impact upon the heritage items or conservation area and is satisfactory with respect of Clause 61E of the KPSO.

## **POLICY PROVISIONS**

### **Development Control Plan No. 55 - Railway/Pacific Highway Corridor & St Ives Centre**

Clause 1.3 of DCP 55 states that this plan applies to land zoned Residential 2(d3) under the Ku-ring-gai Planning Scheme Ordinance 1974 (as amended). Therefore, the front portion of the land which is identified for road widening is excluded from all calculations.

<b>COMPLIANCE TABLE</b>		
<b>Development control</b>	<b>Proposed</b>	<b>Complies</b>
<b>Part 4.1 Landscape design:</b>		
<b>Consolidated deep soil landscaping (min)</b> 150m <sup>2</sup> per 1000m <sup>2</sup> of site area = 601.95m <sup>2</sup>	1211m <sup>2</sup>	YES
<b>No. of tall trees required (min):</b> 14 trees	14+ trees	YES
<b>Private outdoor space differentiation</b> Up to 1.2m solid wall with at least 30% transparent component	Up to 1.8 timber fencing	YES

COMPLIANCE TABLE		
Development control	Proposed	Complies
<b>Part 4.2 Density:</b>		
<b>Building footprint (max):</b> 35% of total site area	42.77%	NO
<b>Floor space ratio (max):</b> 1.3:1	1.52:1	NO
<b>Part 4.3 Setbacks:</b>		
<b>Street boundary setback (min):</b> 10-12 metres   <40% of the zone occupied by building footprint)	Building A and B 600mm to 4.2 metres on Boundary Street frontage	NO
	Building A is 10-12 metres from Spearman Street	YES
	40% Spearman Street frontage >40% Boundary Street frontage	YES NO
<b>Side and rear boundary setback (min):</b> 6m	Building A and B - 6m from northern boundary - 6 m from western boundary	YES YES
<b>Setback of ground floor courtyards to street boundary (min):</b> 8m	Building A – 11m to Spearman Building B – 600mm and Building A – 1.4 metres to Boundary Street	YES NO
<b>% of total area of front setback occupied by private courtyards (max):</b> 15%	<15% Spearman Street frontage >15% Boundary Street frontage	YES NO
<b>Part 4.4 Built form and articulation:</b>		
<b>Façade articulation:</b> Wall plane depth >600mm	>600mm	YES
Wall plane area <81m <sup>2</sup>	<81m <sup>2</sup>	YES
<b>Built form:</b> Building width < 36 metres	Building A – 26.8m Spearman Street 32m to Boundary Street  Building B – 32.6m Boundary Street	YES YES  YES
Balcony projection < 1.2 metres	All < 1.2metres	YES
<b>Part 4.5 Residential amenity</b>		
<b>Solar access:</b> >70% of units receive 3+ hours direct sunlight in winter solstice	>70%	YES
>50% of the principle common open space of the development receives 3+ hours direct sunlight in the winter solstice	The principle common open space located to the north east of the development will receive 3+ hours of direct sunlight in the winter solstice	YES

COMPLIANCE TABLE		
Development control	Proposed	Complies
<15% of the total units are single aspect with a western orientation	12.9% single aspect	YES
<b>Visual privacy:</b>		
Separation b/w windows and balconies of a building and any neighbouring building on site or adjoining site:		
Storeys 1 to 4	<u>Ground Floor</u>	
12 metres b/w habitable rooms	Building A - minimum 24.6m to north Building B – minimum 17.8m to north	YES
	Building B to west 10.2 m	NO
	<u>Floors 1 to 4</u>	
	Building A– minimum 24.8m to north Building B– minimum 17.8m to north	YES
	Building B to west 10.8m	NO
	Between Building A and B minimum 13m	YES
5th Storey	Buildings A – 24.8m Building B – 22.8m	YES
18 metres b/w habitable rooms	Building B- 17.6m balcony to balcony	
	Between A and B – 19.6m Building B 10.8m to west	YES NO
<b>Internal amenity:</b>		
Habitable rooms have a minimum floor to ceiling height of 2.7 metres	>2.7m	YES
Non-habitable rooms have a minimum floor to ceiling height of 2.4m	>2.7m	YES
1-2 bedroom units have a minimum plan dimension of 3m in all bedroom	All bedrooms have 3 metres minimum dimension	YES
3+ bedroom units have a minimum plan dimension of 3m in at least two bedrooms	All bedrooms have 3 metres minimum dimension	YES
Single corridors: - serve a maximum of 8 units 1.8m wide at lift lobbies	7 units per floor (GF – third) 4 units on fourth floor  1.8m at lift	YES  YES
<b>Outdoor living:</b>		
Ground floor apartments have a terrace or private courtyard greater than 25m <sup>2</sup> in area	>25m <sup>2</sup>	YES

COMPLIANCE TABLE		
Development control	Proposed	Complies
Balcony sizes: - 10m <sup>2</sup> – 1 bedroom unit - 12m <sup>2</sup> – 2 bedroom unit - 15m <sup>2</sup> – 3 bedroom unit NB. At least one space >10m <sup>2</sup> primary outdoor space has a minimum dimension of 2.4m	10m <sup>2</sup> (Units 5,7, 13, 20 &27) 12m <sup>2</sup> (min) to 68m <sup>2</sup> (Units 1 -4,6, 8-12, 14-19, 21 – 26, 28 & 31) 79m <sup>2</sup> - 142m <sup>2</sup> (Units 29 and 30) >2.4 metres	YES YES YES YES
Common Open space ( 30% Of the site area	32.5%	YES
Private open space adjoining common open space not to be enclosed with high solid fences	No high solid fencing, timber to be used.	YES
<b>Part 4.7 Social dimensions:</b>		
<b>Visitable units (min):</b> 70%	46 units (74%)	YES
<b>Housing mix:</b> Mix of sizes and types	9 x studio, 49 x 2 bedroom and 4 x 3 bedroom units	YES
<b>Part 5 Parking and vehicular access:</b>		
<b>Car parking (min):</b> 66 resident spaces 16 visitor spaces 82 total spaces	69 spaces 16 spaces 85 spaces	YES YES YES

## Part 4.2 Density

The exclusion of the road reserve from the site calculation results in a FSR of 1.52:1 which does not comply with the control C-4 of Part 4.2 Density of DCP 55 requires a maximum floor space ratio of 1.3:1 for multi-unit housing. The inclusion of this land results in a compliant FSR.

## Part 4.3 Setbacks

The report to the JRPP on 7 July 2011 recommended refusal of the application given the proposal results in a setback between 600mm and 4.2 metres from the Boundary Street frontage and occupied more than 40% of this zone with the building footprint. Control C-1(b) of Part 4.3 Setbacks of DCP 55 requires a setback zone of between 10 – 12 metres and no more than 40% of this zone may be occupied by the building footprint.

The non compliance resulted from the exclusion of the area reserved for road widening being included in the setback area. The inclusion of the area reserved for road widening means the development achieves the required 10 – 12 metres front setback and the building footprint does not occupy more than 40% of this zone. Concern was held that insufficient area was provided to accommodate landscape screening because of the certainty of the reliance upon the land zoned for road widening was not known. The RTA advice, dated 18 August 2011, indicates this land will not be utilised for road widening. It is therefore considered reasonable to utilise this area for landscape and the front setback of the proposed residential flat building.

## Part 4.5 Residential amenity

### Solar access

Concerns have been raised by the owners of adjoining properties to the north regarding the proposed development resulting in a site constraint for their future development due to the proposed setbacks. The concern is that the proposed development being to the south, having the minimum setback will prevent their development due to the potential future solar access impacts from their development.

It is considered that any future development of the properties fronting Victoria Street will inevitably result in shadow being cast upon the proposed development. However, in the absence of an actual proposal, it is unreasonable for Council to require the proposed development to provide a greater setback or be designed to prevent a future development on the adjoining property impacting their solar access. The objector provided a recent decision by the Sydney East Joint Regional Planning Panel in which a development was refused because of impact on an adjoining property and restriction of their development potential. In that circumstance, the properties being impacted were to the south and therefore the impact was more foreseeable than in this circumstance where it would necessitate a design to be prepared by the assessing officer to determine a likely impact.

Concern has also been raised by the owners of 25 Boundary Street regarding potential loss of morning sun. The proposal will result in a shadow impact to 23 and 25 Boundary Street at 9am. At 10am, the shadow impact would be limited to the dwelling at 25 Boundary Street only and the shadow impact progressively decreases until the dwelling is unaffected by 12 noon. However, it is recognised that the dwelling will cast shadow on itself at 12 noon, with the rear of the dwelling and north-eastern corner being in sunlight at 12 noon. Despite the shadow impact in the morning period, the proposal is not considered to result in an unacceptable impact. The rear private open space and rear of the dwelling will be maintained in sunlight from 10am in accordance with Council's policy.

### Visual privacy

Concern has been raised by the owner of the adjoining property to the west, 25 Boundary Street regarding loss of privacy. Similar concerns have also been raised by the owners of properties to the north.

Building B results in a non-compliance with the minimum required separation distances to 25 Boundary Street. The development is set back 8.2 metres where a minimum setback of 12 metres is required at storeys 1 to 4 and 18 metres at Level 5.

As discussed above under the SEPP 65 assessment, the development is not considered to result in a significant loss of privacy to 25 Boundary Street. The upper levels of the development overlook the dwelling as demonstrated in **Figure 1**. The lower levels are provided with privacy screens and landscape screening within the side setback which is considered sufficient to maintain privacy.

**Condition 27** requires that the proposed planter boxes to be extended along the northern elevation in a western direction and along the southern boundary to maintain privacy to the

private open space of 21 Victoria Street. This would reduce the impact to a satisfactory level.

### **Air conditioning**

Air conditioning (A/C) units have been located within the basement associated with the individual spaces for each unit. It is recommended if the development were approved, that all mechanical ventilation be installed in accordance with the BCA and Australian Standard requirements and shall not emit a noise level of greater than 5dbA above the background when measured at the nearest adjoining property (**Condition 42**).

### **Development Control Plan No. 31 Access**

Matters for assessment under DCP 31 have been taken into account in the assessment of this application against DCP 55 and the proposal is satisfactory in this regard.

### **Development Control Plan No. 40 - Construction and Demolition Waste Management**

Matters for assessment under DCP 40 have been taken into account in the assessment of this application against DCP 55 and the proposal is satisfactory in this regard.

### **Development Control Plan No. 43 - Car Parking**

Matters for assessment under DCP 43 have been taken into account in the assessment of this application against DCP 55 and the proposal is satisfactory in this regard.

### **Development Control Plan No.47 - Water Management**

Matters for consideration under DCP 47 have been taken into account in the assessment of this application against DCP 55 and the proposal is satisfactory in this regard.

### **Section 94 Plan**

The development attracts a section 94 contribution of \$1,328,832,01 which is required to be paid prior to the issue of the Construction Certificate (**Condition 54**).

### **LIKELY IMPACTS**

The likely impacts of the development have been considered within this report and are deemed to be acceptable, subject to conditions.

### **SUITABILITY OF THE SITE**

The site is zoned to permit 5 storey residential flat buildings. The proposal is considered to be reasonable development which does not result in adverse impacts upon adjoining properties or the streetscape. The site is suitable for the proposed development and this has been demonstrated in the above assessment.

### **ANY SUBMISSIONS**

The matters raised in the submissions have been addressed in this report. The additional information and works proposed by the applicant in response to the questions raised by the JRPP did not require notification to neighbouring properties.

## **PUBLIC INTEREST**

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are minimised. The proposal has been assessed against the relevant environmental planning instruments and policy provisions and is deemed to be unacceptable. On this basis, the proposal is not considered to be contrary to the public interest.

## **ANY OTHER RELEVANT CONSIDERATIONS**

There are no other relevant considerations.

## **CONCLUSION**

This application has been assessed under the heads of consideration of Section 79C of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies.

The site is partially zoned Residential 2(d3) to permit 5 storey residential flat buildings and contains 760.5m<sup>2</sup> of unzoned land identified as being for County Road Reservation. Pursuant to Clause 13(1) of the KPSO the proposed works landscaping and pathways are of a permanent nature and prohibited without the concession of Clause 13(2). The written advice from the RTA, dated 18 August 2011, allows the responsible authority to make the decision whether the purpose for which the road reserve is so reserved can be carried out within a reasonable time frame from the appointed day.

The development results in a technical exceedance of the maximum permitted site coverage. A SEPP 1 Objection has been submitted regarding the site coverage breach and it is considered to be well founded and is supported.

The provisions of Development Control Plan 55 are relevant to land zoned Residential 2(d3) only, pursuant to Clauses 1.3, 1.4, 1.5 and 1.7 of this DCP. As a result of the technical exclusion of the road reserve from calculations, the development exceeds the permitted FSR and does not comply with the front setbacks. However, with the incorporation of the road reserve the development will achieve compliance with these controls.

The development proposes eight (8) apartments which have a southern orientation and are single aspect. This equates to 12.9% of the total units proposed and does not satisfy the design requirement. The proposal, despite the exceedance of the single aspect unit requirement by two units is considered reasonable.



Having received further advice from the RTA, it is considered that the matters raised by the Sydney West Joint Regional Planning Panel (JRPP) at the 7 July 2011 meeting have been satisfactorily addressed.

The proposal is considered to be consistent with the relevant Council statutory and policy controls. The proposal is consistent with the objectives of these controls. It is, therefore, recommended that the application be approved.

## RECOMMENDATION

- A. That the Sydney West Joint Regional Planning Panel, as the consent authority, is of the opinion that the proposal includes works of a permanent character on land reserved for the purpose of widening of existing county roads and in accordance with Clause 13(2) of the KPSO, the JRPP, as the responsible authority is of the opinion that the purpose for which the land is reserved cannot be carried into effect within a reasonable time after the appointed day, 1 October 1971.
- B. That the Sydney West Joint Regional Planning Panel, as the consent authority, is of the opinion that the objection under State Environmental Planning Policy No.1 – Development Standards to Clause 25I(6) Site Coverage of the KPSO is well founded. The Joint Regional Planning Panel is also of the opinion that strict compliance with the development standards is unreasonable and unnecessary in the circumstances of this case.

AND

- C. That the Sydney West Joint Regional Planning Panel, as the consent authority, being satisfied that the objection under SEPP1 is well founded and also being of the opinion that the granting of consent to DA0410/09 is consistent with the aims of the Policy, grant development consent to DA0410/09 for the demolition of four existing dwellings and construction of 2 residential flat buildings comprising 62 units including basement car parking, front fence and landscaping at 27 – 33 Boundary Street, Roseville for a period of five (5) years from the date of the Notice of Determination, subject to the following conditions:

### Conditions that identify approved plans:

#### 1. Approved architectural plans and documentation (new development)

The development must be carried out in accordance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:

Plan no.	Drawn by	Dated
DA01 – Site Calculations Revision 3	Amglen P/LVan Aratoon	11/11/2009
DA02 – Basement Level 2	Amglen P/LVan Aratoon	26/06/2009
DA03 Revision 2 – Basement Level 1	Amglen P/LVan Aratoon	12/01/2010

<b>Plan no.</b>	<b>Drawn by</b>	<b>Dated</b>
DA04 Revision 4 – Ground Floor	Amglen P/LVan Aratoon	23/12/2009
DA05 – First Floor DA06 – Second Floor DA07 –Third Floor DA08 – Fourth Floor All Revision 2	Amglen P/LVan Aratoon	23/12/2009
DA09 Revised – Roof Plan	Amglen P/LVan Aratoon	14/09/2009
DA10 Long Section	Amglen P/LVan Aratoon	26/06/2009
DA11 – Elevations North & South DA12 – Elevations East & West DA13 – Elevations E & W internal All Revision 1	Amglen P/LVan Aratoon	11/11/2009
DA14 - Fence Details	Amglen P/LVan Aratoon	26/06/2009
DA18 – Car Park Entry Long Section	Amglen P/LVan Aratoon	26/06/2009
Landscape Plan 50.09/085'C'	iScape Landscape Architecture	12-11-2009
Landscape Plan 50.09/086'C' TWO/TWO	iScape Landscape Architecture	12-11-2009
HDA01 Revision P2	George Floth Pty Ltd	22.06.2009
HDA02 Revision P1	George Floth Pty Ltd	15.06.2009
HDA03 Revision P1	George Floth Pty Ltd	15.06.2009
HDA04 Revision P1	George Floth Pty Ltd	15.06.2009
HDA05 Revision P4	George Floth Pty Ltd	08.02.2011
HDA06 Revision P2	George Floth Pty Ltd	22.06.2009
HDA07 Revision P1	George Floth Pty Ltd	15.06.2009
HDA08 Revision P2	George Floth Pty Ltd	13.10.2009

<b>Document(s)</b>	<b>Dated</b>
Landscape Specification prepared by iScape Landscape Architecture	June 2009
Statement of Heritage Impact prepared by NBRs+ Partners	March 2009
Tree Report prepared by Treescan	June 2009
Traffic and Parking Impact Assessment Project No. 9006 prepared by Ray Dowsett Traffic and Transport Planning Pty Ltd	17 June 2009
Acoustic Report - Report 4104 prepared by RSA Acoustics	April 2009
Access Report prepared by Accessibility Solutions Pty Ltd	16 November 2009
Flood Report prepared by WaterPlan Pty Ltd Ref – R-rbou-90524	24 May 2009
Geotechnical Report prepared by Geotechnique Ref: 12077/1-AA	30 July 2009
Demolition and Waste Management Plan prepared by applicant	16/06/2009
Crime Risk Assessment prepared by Metroplan	March 2011

**Reason:** To ensure that the development is in accordance with the determination.

## **2. Inconsistency between documents**

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

**Reason:** To ensure that the development is in accordance with the determination.

## **3. Approved landscape plans**

Landscape works shall be carried out in accordance with the following landscape plan(s), listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:

<b>Plan no.</b>	<b>Drawn by</b>	<b>Dated</b>
50.09/085'C'	iScape	12/11/2009

**Reason:** To ensure that the development is in accordance with the determination.

## **CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION:**

## **4. Road opening permit**

The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a road opening permit being obtained from Council (upon payment of the required fee) beforehand.

**Reason:** Statutory requirement (Roads Act 1993 Section 138) and to maintain the integrity of Council's infrastructure.

## **5. Notice of commencement**

At least 48 hours prior to the commencement of any development (including demolition, excavation, shoring or underpinning works), a notice of commencement of building or subdivision work form and appointment of the principal certifying authority form shall be submitted to Council.

**Reason:** Statutory requirement.

## **6. Notification of builder's details**

Prior to the commencement of any development or excavation works, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.

**Reason:** Statutory requirement.

## **7. Dilapidation survey and report (public infrastructure)**

Prior to the commencement of any development or excavation works on site, the Principal

Certifying Authority shall be satisfied that a dilapidation report on the visible and structural condition of all structures of the following public infrastructure, has been completed and submitted to Council:

**Public infrastructure**

- Full road pavement width, including kerb and gutter, of Boundary Street and Spearman Street over the site frontage, including the full intersection.
- All driveway crossings and laybacks opposite the subject site.

The report must be completed by a consulting structural/civil engineer. Particular attention must be paid to accurately recording (both written and photographic) existing damaged areas on the aforementioned infrastructure so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development.

The developer may be held liable to any recent damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded by the requirements of this condition prior to the commencement of works.

**Note:** A written acknowledgment from Council must be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any excavation works.

**Reason:** To record the structural condition of public infrastructure before works commence.

## **8. Archival recording of buildings**

Prior to the commencement of any development or excavation works on site, the Principal Certifying Authority shall be satisfied that an archival report has been submitted to Council's Heritage Advisor.

The report must consist of an archival standard photographic record of the building (internally and externally), its garden and views of it from the street illustrating its relationship to neighbouring properties and the streetscape. Recording shall be undertaken in accordance with the guidelines for "Photographic Recording of Heritage Items Using Film or Digital Capture (2006)" prepared by the New South Wales Heritage Office.

Information shall be bound in an A4 report format. It shall include copies of photographs, referenced to plans of the site. Two (2) copies (one (1) copy to include negatives or CD of images shall be submitted to Council's Heritage Advisor. The recording document will be held in the local studies collection of Ku-ring-gai Library, the local historical society and Council's files.

**Note:** A written acknowledgment from Council must be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works.

**Reason:** To ensure the proper management of historical artefacts and to ensure their preservation.

## **9. Dilapidation survey and report (private property)**

Prior to the commencement of any demolition or excavation works on site, the Principal Certifying Authority shall be satisfied that a dilapidation report on the visible and structural condition of all structures upon the following lands, has been completed and submitted to Council:

### **Address**

- 25 Boundary Street
- 23-31 Victoria Street

The dilapidation report must include a photographic survey of adjoining properties detailing their physical condition, both internally and externally, including such items as walls ceilings, roof and structural members. The report must be completed by a consulting structural/geotechnical engineer as determined necessary by that professional based on the excavations for the proposal and the recommendations of the submitted geotechnical report.

In the event that access for undertaking the dilapidation survey is denied by a property owner, the applicant must demonstrate in writing to the satisfaction of the Principal Certifying Authority that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed.

**Note:** A copy of the dilapidation report is to be provided to Council prior to any excavation works been undertaken. The dilapidation report is for record keeping purposes only and may be used by an applicant or affected property owner to assist in any civil action required to resolve any dispute over damage to adjoining properties arising from works.

**Reason:** To record the structural condition of likely affected properties before works commence.

## **10. Geotechnical report**

Prior to the commencement of any bulk excavation works on site, the applicant shall submit to the Principal Certifying Authority, the results of the detailed geotechnical investigation comprising a minimum of three cored boreholes to at least 1 metre below the proposed basement level and installation of piezometers as recommended in the report by Geotechnique. The report is to address such matters as:

- appropriate excavation methods and techniques
- vibration management and monitoring

- dilapidation survey
- support and retention of excavated faces
- hydrogeological considerations

The recommendations of the report are to be implemented during the course of the works.

**Reason:** To ensure the safety and protection of property.

## **11. Construction and traffic management plan**

The applicant must submit to Council a Construction Traffic Management Plan (CTMP), which is to be approved prior to the commencement of any works on site.

The plan is to consist of a report with Traffic Control Plans attached.

**Evidence must be submitted that the plan has already been endorsed by RTA, with any conditions imposed by RTA attached.**

The report is to contain commitments which must be followed by the demolition and excavation contractor, builder, owner and subcontractors. The CTMP applies to all persons associated with demolition, excavation and construction of the development.

The report is to contain construction vehicle routes for approach and departure to and from all directions.

The report is to contain a site plan showing entry and exit points. Swept paths are to be shown on the site plan showing access and egress for an 11 metre long heavy rigid vehicle.

The Traffic Control Plans are to be prepared by a qualified person (red card holder). One must be provided for each of the following stages of the works:

- Demolition
- Excavation
- Concrete pour
- Construction of vehicular crossing and reinstatement of footpath
- Traffic control for vehicles reversing into or out of the site.

Traffic controllers must be in place at the site entry and exit points to control heavy vehicle movements in order to maintain the safety of pedestrians and other road users.

**For pedestrian and motorist amenity, no construction vehicle movements are to take place in Spearman Street or Victoria Street during school drop-off (8.00am to 9.30am) and pick-up hours (2.30pm to 4.00pm).**

**The CTMP is also to detail the means of protecting Tree 8, with endorsement by the project arborist.**

When a satisfactory CTMP is received, a letter of approval will be issued with conditions attached. Traffic management at the site must comply with the approved CTMP as well as any conditions in the letter issued by Council. Council's Rangers will be patrolling the site regularly and fines will be issued for any non-compliance with this condition

**Reason:** To ensure that appropriate measures have been considered during all phases of the construction process in a manner that maintains the environmental amenity and ensures the ongoing safety and protection of people.

## **12. Work zone**

No work zones will be permitted along Boundary Street. Provision is to be made to accommodate all construction vehicles on site in accordance with sketch 1 Construction Management Plan Concept A prepared by Amglen P/L and received by Council 20 January 2010.

**Reason:** To ensure that appropriate measures have been made for the operation of the site during the construction phase and to ensure the development meets the RTA conditional approval.

## **13. Sediment controls**

Prior to any work commencing on site, sediment and erosion control measures shall be installed along the contour immediately downslope of any future disturbed areas.

The form of the sediment controls to be installed on the site shall be determined by reference to the 'NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction'. The erosion controls shall be maintained in an operational condition until the development activities have been completed and the site fully stabilised. Sediment shall be removed from the sediment controls following each heavy or prolonged rainfall period.

**Reason:** To preserve and enhance the natural environment.

## **14. Erosion and drainage management**

Earthworks and/or demolition of any existing buildings shall not commence until an erosion and sediment control plan is submitted to and approved by the Principal Certifying Authority. The plan shall comply with the guidelines set out in the NSW Department of Housing manual "Managing Urban Stormwater: Soils and Construction" certificate. Erosion and sediment control works shall be implemented in accordance with the erosion and sediment control plan.

**Reason:** To preserve and enhance the natural environment.

## 15. Tree protection fencing

To preserve the following tree/s, no work shall commence until the area beneath their canopy is fenced off at the specified radius from the trunk/s to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site.

### Schedule

Tree/Location	Radius in metres
#8 <i>Phoenix canariensis</i> (Canary Island Date Palm) Adjacent to southern site boundary	3.0m
#14-19 <i>Syzigium paniculatum</i> (Magenta Cherry) Adjacent to northern site boundary	3.0m
#20 <i>Phoenix canariensis</i> (Canary Island Date Palm) Adjacent to northern site boundary	3.0m
#21 <i>Syzigium paniculatum</i> (Magenta Cherry) Adjacent to northern site boundary	3.0m
#33 <i>Ficus microcarpa</i> 'Hillii' (Hill's Fig) Adjacent to northern site boundary in neighbouring property	5.0m
#45 <i>Ficus microcarpa</i> 'Hillii' (Hill's Fig) Adjacent to north-east site corner in neighbouring property	7.0m

**Reason:** To protect existing trees during the construction phase.

## 16. Tree protective fencing type galvanised mesh

The tree protection fencing shall be constructed of galvanised pipe at 2.4 metres spacing and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres in height prior to work commencing.

**Reason:** To protect existing trees during construction phase.

## 17. Tree protection signage

Prior to works commencing, tree protection signage is to be attached to each tree protection zone, displayed in a prominent position and the sign repeated at 10 metres intervals or closer where the fence changes direction. Each sign shall contain in a clearly legible form, the following information:

Tree protection zone.

- This fence has been installed to prevent damage to the trees and their growing environment both above and below ground and access is restricted.
- Any encroachment not previously approved within the tree protection zone shall be the subject of an arborist's report.
- The arborist's report shall provide proof that no other alternative is available.
- The Arborist's report shall be submitted to the Principal Certifying Authority for further



consultation with Council.

- The name, address, and telephone number of the developer.

**Reason:** To protect existing trees during the construction phase.

### **18. Tree protection mulching**

Prior to works commencing and throughout construction, the area of the tree protection zone is to be mulched to a depth of 100mm with composted organic material being 75% Eucalyptus leaf litter and 25% wood.

**Reason:** To protect existing trees during the construction phase.

### **19. Tree fencing inspection**

Upon installation of the required tree protection measures, an inspection of the site by the Principal Certifying Authority is required to verify that tree protection measures comply with all relevant conditions.

**Reason:** To protect existing trees during the construction phase.

### **20. Construction waste management plan**

Prior to the commencement of any works, the Principal Certifying Authority shall be satisfied that a waste management plan, prepared by a suitably qualified person, has been prepared in accordance with Council's DCP 40 – Construction and Demolition Waste Management.

The plan shall address all issues identified in DCP 40, including but not limited to: the estimated volume of waste and method for disposal for the construction and operation phases of the development.

**Note:** The plan shall be provided to the Certifying Authority.

**Reason:** To ensure appropriate management of construction waste.

### **21. Noise and vibration management plan**

Prior to the commencement of any works, a noise and vibration management plan is to be prepared by a suitably qualified expert addressing the likely noise and vibration from demolition, excavation and construction of the proposed development and provided to the Principal Certifying Authority. The management plan is to identify amelioration measures to ensure the noise and vibration levels will be compliant with the relevant Australian Standards and Ku-ring-gai Council's Code for the Control and Regulation of Noise on Building Sites. The report shall be prepared in consultation with any geotechnical report that itemises equipment to be used for excavation works.

The management plan shall address, but not be limited to, the following matters:

- identification of the specific activities that will be carried out and associated noise sources
- identification of all potentially affected sensitive receivers, including residences, churches, commercial premises, schools and properties containing noise sensitive equipment
- the construction noise objective specified in the conditions of this consent
- the construction vibration criteria specified in the conditions of this consent
- determination of appropriate noise and vibration objectives for each identified sensitive receiver
- noise and vibration monitoring, reporting and response procedures
- assessment of potential noise and vibration from the proposed demolition, excavation and construction activities, including noise from construction vehicles and any traffic diversions
- description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction
- construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency
- construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency
- procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration
- contingency plans to be implemented in the event of non-compliances and/or noise complaints
- compliance with Council's Code for the Control and Regulation of Noise on Building Sites

**Reason:** To protect the amenity afforded to surrounding residents during the construction process.

## **22. CCTV report of existing Council pipe system near works**

Prior to the commencement of any works on site, qualified practitioners must undertake a closed circuit television inspection and then report on the existing condition of the Council drainage pipeline traversing the subject property. The report must be provided to Council's, Development Engineer and is to include a copy of the video footage of the pipeline. A written acknowledgment from Council's Development Engineer (attesting to this condition being appropriately satisfied) shall be obtained and submitted to the Principal Certifying Authority prior to the commencement of any works on site.

**Reason:** To protect Council's infrastructure.

## **23. Support for Council roads, footpaths, drainage reserves**

Council property adjoining the construction site must be fully supported at all times during all excavation and construction works. Details of shoring, propping and anchoring of works adjoining Council property, prepared by a qualified structural engineer or geotechnical engineer, must be submitted to and approved by the Principal Certifying Authority (PCA), before the commencement of the works. A copy of these details must be forwarded to

Council. Backfilling of excavations adjoining Council property or any void remaining at completion of construction between the building and Council property must be fully compacted prior to the completion of works.

**Reason:** To protect Council's infrastructure.

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

### **25. Consolidation of lots**

Prior to issue of the Construction Certificate the Applicant must consolidate the existing Torrens lots which will form the development site. Evidence of lot consolidation, in the form of a plan registered with Land and Property Information, must be submitted for approval of the Principal Certifying Authority prior to issue of the Construction Certificate.

**Reason:** To ensure continuous structures will not be placed across separate titles.

### **26. Temporary Vehicular Access from Boundary Street**

The construction of the temporary vehicular access from Boundary Street for demolition/construction vehicles will be subject to the following matters being addressed:

- a) satisfactory arrangements being made with Forest Coach Lines and/or the NSW Transport & Infrastructure agency for the relocation of the existing bus zone fronting the development (along Boundary Street)
- b) Evidence of satisfactory arrangements as mentioned above being presented to the Council and RTA prior to the issue of a construction certificate.

The design and construction of the temporary gutter crossings off Boundary Street for demolition/construction vehicles shall be in accordance with AS2890.2 – 2002 and the RTA's requirements. Further details of these requirements could be obtained from the RTA's Project Service Manager, Traffic Projects Section, Parramatta Ph: 8849 2144.

A Certified copy of the design plans shall be submitted to the RTA for consideration and approval prior to the release of the construction certificate by Council and before commencement of road works.

The RTA fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of the works.

**Reason:** To ensure the development meets the RTA conditional requirements.

### **27. Privacy to 21 Victoria Street**

The planter box shown on drawing DA08 Revision 1 is to be extended along the northern elevation to the western end of the terrace. The planter box is also to extend in a southern direction along the western elevation for a length of 8.4 metres. The planter boxes shall

have a height of 600mm above the finished floor level of the terrace and incorporate planting of a species that is capable of reaching a height of 1.8 metres at maturity.

All balustrading to Level 4 shall be 75% obscure to prevent downward looking. Plans and specifications shall be provided prior to the issue of a construction certificate.

**Reason:** To maintain privacy to the neighbouring property.

## 29. Amendments to approved landscape plan

Prior to the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that the approved landscape plans, listed below and endorsed with Council's stamp, have been amended in accordance with the requirements of this condition as well as other conditions of this consent:

Plan no.	Drawn by	Dated
#50.09/086 'C'	iScape	12/11/2009

The above landscape plan(s) shall be amended in the following ways:

- The proposed grassed/lawn area adjacent to the northeast site corner is to be deleted and the area planted out with screening shrubs and groundcovers. An additional endemic canopy tree capable of attaining a minimum height of 13.0m is to be planted centrally.
- Tree 40 *Cyathea cooperii* (Coinspot Tree Fern) is to be shown to be removed.
- An additional native endemic tree species capable of attaining a minimum height of 13.0m is to be planted centrally within the proposed lawn area adjacent to the northern site boundary between the two buildings, to improve neighbour amenity.
- Pathways, no greater than 1 metre in width are to be provided to all ground floor apartments to provide separate entrance to the units in accordance with the RDFC.
- Stone salvaged from the demolished buildings is required to be carefully stored on site and reused in the landscaping works. Details should be provided in an amended landscape plan.
- The ground floor apartments within the development are to be provided with separate entrances through the private open space.

Landscape Plans 50.09/085 and 50.09/086 both Issue C are to be amended to provide external access to all ground floor apartments through the courtyards by the addition of stepping stones or pathways less than a 1 metre in width. The access is to be provided directly to common open space areas.

Prior to the issue of the Construction Certificate, the Principal Certifying Authority shall be satisfied that the landscape plan has been amended as required by this condition. An amended landscape plan, prepared by a landscape architect or qualified landscape designer shall be submitted to the Certifying Authority.

**Reason:** To ensure that the development is in accordance with the determination.

## 30. Long service levy

In accordance with Section 109F(i) of the Environmental Planning and Assessment Act a Construction Certificate shall not be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided to Council.

**Reason:** Statutory requirement.

### **31. Builder's indemnity insurance**

The applicant, builder, developer or person who does the work on this development, must arrange builder's indemnity insurance and submit the certificate of insurance in accordance with the requirements of Part 6 of the Home Building Act 1989 to the Certifying Authority for endorsement of the plans accompanying the Construction Certificate.

It is the responsibility of the applicant, builder or developer to arrange the builder's indemnity insurance for residential building work over the value of \$12,000. The builder's indemnity insurance does not apply to commercial or industrial building work or to residential work valued at less than \$12,000, nor to work undertaken by persons holding an owner/builder's permit issued by the Department of Fair Trading (unless the owner/builder's property is sold within 7 years of the commencement of the work).

**Reason:** Statutory requirement.

### **32. External finishes and materials (new building)**

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that the external finishes of the building are consistent with the character of the streetscape. The materials are to be complimentary to the approved architectural appearance of the development. Nothing in this condition is to be construed as permitting the replacement of previously submitted materials with inferior or inadequate materials or finishes.

**Note:** Details of the colour, finish and substance of all external materials, including schedules and a sample board of materials and colours, are to be submitted.

**Reason:** To protect the streetscape and the integrity of the approved development.

### **33. Outdoor lighting**

Prior to the issue of a Construction Certificate, the Certifying Authority shall be satisfied that all outdoor lighting will comply with AS/NZ1158.3: 1999 Pedestrian Area (Category P) Lighting and AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting.

**Note:** Details demonstrating compliance with these requirements are to be submitted prior to the issue of a Construction Certificate.

**Reason:** To provide high quality external lighting for security without adverse affects on

public amenity from excessive illumination levels.

### **34. Air drying facilities**

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that a common open space area dedicated for open air drying of clothes is provided. This area is to be located at ground level behind the building line and in a position not visible from the public domain.

In lieu of the above, written confirmation that all units will be provided with internal clothes drying facilities prior to the Occupation Certificate is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

**Reason:** Amenity & energy efficiency.

### **35. External service pipes and the like prohibited**

Proposed water pipes, waste pipes, stack work, duct work, mechanical ventilation plant and the like must be located within the building. Details confirming compliance with this condition must be shown on construction certificate plans and detailed with construction certificate specifications. Required external vents or vent pipes on the roof or above the eaves must be shown on construction certificate plans and detailed with construction certificate specifications. External vents or roof vent pipes must not be visible from any place unless detailed upon development consent plans. Where there is any proposal to fit external service pipes or the like this must be detailed in an amended development (S96) application and submitted to Council for determination.

Vent pipes required by Sydney Water must not be placed on the front elevation of the building or front roof elevation. The applicant, owner and builder must protect the appearance of the building from the public place and the appearance of the streetscape by elimination of all external services excluding vent pipes required by Sydney Water and those detailed upon development consent plans.

**Reason:** To protect the streetscape and the integrity of the approved development.

### **36. Access for people with disabilities (residential)**

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that access for people with disabilities from the public domain and all car parking areas on site to all tenancies within the building is provided. Consideration must be given to the means of dignified and equitable access.

Compliant access provisions for people with disabilities shall be clearly shown on the plans submitted with the Construction Certificate. All details shall be provided to the Principal Certifying Authority prior to the issue of the Construction Certificate. All details shall be prepared in consideration of the Disability Discrimination Act and the relevant provisions of AS1428.1, AS1428.2, AS1428.4 and AS 1735.12.

**Reason:** To ensure the provision of equitable and dignified access for all people in

accordance with disability discrimination legislation and relevant Australian standards.

### **37. Adaptable units**

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that the nominated adaptable units within the development application, [B5, B12, B19, B26, A12, A19, A26], are designed as adaptable housing in accordance with the provisions of Australian Standard AS4299-1995: Adaptable Housing.

**Note:** Evidence from an appropriately qualified professional demonstrating compliance with this control is to be submitted to and approved by the Certifying Authority prior to the issue of the Construction Certificate.

**Reason:** Disabled access & amenity.

### **38. Stormwater management plan**

Prior to issue of the Construction Certificate, the applicant must submit, for approval by the Principal Certifying Authority, scale construction plans and specifications in relation to the stormwater management and disposal system for the development. The plan(s) must include the following detail:

- exact location and reduced level of discharge point to the public drainage system
- Layout of the property drainage system components, including but not limited to (as required) gutters, downpipes, spreaders, pits, swales, kerbs, cut-off and intercepting drainage structures, subsoil drainage, flushing facilities and all ancillary stormwater plumbing - all designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence)
- location(s), dimensions and specifications for the required rainwater storage and reuse tanks and systems and where proprietary products are to be used, manufacturer specifications or equivalent shall be provided
- specifications for reticulated pumping facilities (including pump type and manufacturer specifications) and ancillary plumbing to fully utilise rainwater in accordance with Ku-ring-gai Council Development Control Plan 47 and/or BASIX commitments
- details of the required on-site detention tanks required by Ku-ring-gai Water Management DCP 47, including dimensions, materials, locations, orifice and discharge control pit details as required (refer Chapter 6 and Appendices 2, 3 and 5 of DCP 47 for volume, PSD and design requirements)
- the required basement stormwater pump-out system is to cater for driveway runoff and subsoil drainage (refer appendix 7.1.1 of Development Control Plan 47 for design)

The above construction drawings and specifications are to be prepared by a qualified and experienced civil/hydraulic engineer in accordance with Council's Water Management Development Control Plan 47, Australian Standards 3500.2 and 3500.3 - Plumbing and Drainage Code and the Building Code of Australia. The plans may be generally based on the Concept Stormwater Management Plans by George Floth submitted with the development application, which are to be advanced as necessary for construction certificate issue purposes.

**Reason:** To protect the environment.

### **39. Stormwater retention**

Prior to the issue of a Construction Certificate, the Principal Certifying Authority is to be satisfied that:

1. A mandatory rainwater retention and re-use system, comprising storage tanks and ancillary plumbing is provided. The minimum total storage volume of the rainwater tank system, and the prescribed re-use of the water on site must satisfy all relevant BASIX commitments and the requirements specified in Chapter 6 of Ku-ring-gai Water Management Development Control Plan 47; and
2. An on-site stormwater detention system must be provided to control the rate of runoff leaving the site. The minimum volume of the required on-site detention system must be determined in accordance with Chapter 6 of the Ku-ring-gai Council Water Management Development Control Plan 47 - having regard to the specified volume concession offered in lieu of installing rainwater retention tanks. The on-site detention system must be designed by a qualified civil/hydraulic engineer and must satisfy the design controls set out in Appendix 5 of DCP 47.

**Reason:** To protect the environment.

### **40. Recycling and waste management**

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that the development provides a common garbage collection/separation area sufficient in size to store all wheelie garbage bins and recycling bins provided by Council for the number of units in the development in accordance with DCP 40. The garbage collection point is to be accessible by Council's Waste Collection Services.

The responsibility for:

- the cleaning of waste rooms and waste service compartments; and
- the transfer of bins within the property, and to the collection point once the development is in use;

shall be determined when designing the system and clearly stated in the Waste Management Plan.

**Note:** The architectural plans are to be amended and provided to the Certifying



Authority.

**Reason:** Environmental protection.

#### **41. Noise from road and rail (residential only)**

Prior to the issue of the Construction Certificate, the Certifying Authority shall submit evidence to Council demonstrating that the development will be acoustically designed and constructed to ensure that the following LAeq levels are not exceeded:

- (a) in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am,
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

Plans and specifications of the required acoustic design shall be prepared by a practicing acoustic engineer and shall be submitted to the Principal Certifying Authority.

**Reason:** To minimise the impact of noise from the adjoining road or rail corridor on the occupants of the development.

#### **42. Noise from plant in residential zone**

Where any form of mechanical ventilation equipment or other noise generating plant is proposed as part of the development, prior to the issue of the Construction Certificate the Certifying Authority, shall be satisfied that the operation of an individual piece of equipment or operation of equipment in combination will not exceed more than 5dB(A) above the background level during the day when measured at the site's boundaries and shall not exceed the background level at night (10.00pm –6.00 am) when measured at the boundary of the site.

**C1. Note:** A certificate from an appropriately qualified acoustic engineer is to be submitted with the Construction Certificate, certifying that all mechanical ventilation equipment or other noise generating plant in isolation or in combination with other plant will comply with the above requirements.

**Reason:** To comply with best practice standards for residential acoustic amenity.

#### **43. Location of plant (residential flat buildings)**

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that all plant and equipment (including but not limited to air conditioning equipment) is located within the basement.

**C1. Note:** Architectural plans identifying the location of all plant and equipment shall be provided to the Certifying Authority.

**Reason:** To minimise impact on surrounding properties, improved visual appearance and amenity for locality.

#### 44. Driveway crossing levels

Prior to issue of the Construction Certificate, driveway and associated footpath levels for any new, reconstructed or extended sections of driveway crossings between the property boundary and road alignment must be obtained from Ku-ring-gai Council. Such levels are only able to be issued by Council under the Roads Act 1993. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings".

Specifications are issued with alignment levels after completing the necessary application form at Customer Services and payment of the assessment fee. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant development application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment.

This development consent is for works wholly within the property. Development consent does not imply approval of footpath or driveway levels, materials or location within the road reserve, regardless of whether this information is shown on the development application plans. The grading of such footpaths or driveways outside the property shall comply with Council's standard requirements. The suitability of the grade of such paths or driveways inside the property is the sole responsibility of the applicant and the required alignment levels fixed by Council may impact upon these levels.

The construction of footpaths and driveways outside the property in materials other than those approved by Council is not permitted.

**Reason:** To provide suitable vehicular access without disruption to pedestrian and vehicular traffic.

#### 45. Driveway grades – basement carpark

Prior to the issue of the Construction Certificate, longitudinal driveway sections are to be prepared by a qualified civil/traffic engineer and be submitted for to and approved by the Certifying Authority. These profiles are to be at 1:100 scale along both edges of the proposed driveway, starting from the centreline of the frontage street carriageway to the proposed basement floor level. The traffic engineer shall provide specific written certification on the plans that:

- vehicular access can be obtained using grades of 20% (1 in 5) maximum and
- all changes in grade (transitions) comply with Australian Standard 2890.1 –“Off-street car parking” (refer clause 2.5.3) to prevent the scraping of the underside of vehicles.

If a new driveway crossing is proposed, the longitudinal sections must incorporate the driveway crossing levels as issued by Council upon prior application.

**Reason:** To provide suitable vehicular access without disruption to pedestrian and vehicular traffic.

#### 46. Basement car parking details

Prior to issue of the Construction Certificate, certified parking layout plan(s) to scale showing all aspects of the vehicle access and accommodation arrangements must be submitted to and approved by the Certifying Authority. A qualified civil/traffic engineer must review the proposed vehicle access and accommodation layout and provide written certification on the plans that:

- all parking space dimensions, driveway and aisle widths, driveway grades, transitions, circulation ramps, blind aisle situations and other trafficked areas comply with Australian Standard 2890.1 – 2004 “Off-street car parking”
- a clear height clearance of 2.6 metres (required under DCP40 for waste collection trucks) is provided over the designated garbage collection truck manoeuvring areas within the basement
- no doors or gates are provided in the access driveways to the basement car park which would prevent unrestricted access for internal garbage collection at any time from the basement garbage storage and collection area
- the vehicle access and accommodation arrangements are to be constructed and marked in accordance with the certified plans

**Reason:** To ensure that parking spaces are in accordance with the approved development.

#### 47. Car parking allocation

Car parking within the development shall be allocated in the following way:

Resident car spaces	69
Visitor spaces	16
Total spaces	85

Each adaptable dwelling must be provided with car parking complying with the dimensional and location requirements of AS2890.1 – parking spaces for people with disabilities.

At least one visitor space shall also comply with the dimensional and location requirements of AS2890.1 – parking spaces for people with disabilities.

Consideration must be given to the means of access from disabled car parking spaces to other areas within the building and to footpath and roads and shall be clearly shown on the plans submitted with the Construction Certificate.

**Reason:** To ensure equity of access and appropriate facilities are available for people with disabilities in accordance with federal legislation.

#### 48. Number of bicycle spaces

The basement car park shall be adapted to provide 13 bicycle spaces in accordance with DCP 55. The bicycle parking spaces shall be designed in accordance with AS2890.3.

Details shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

**Reason:** To provide alternative modes of transport to and from the site.

#### **49. Energy Australia requirements**

Prior to issue of the Construction Certificate, the applicant must contact Energy Australia regarding power supply for the subject development. A written response detailing the full requirements of Energy Australia (including any need for underground cabling, substations or similar within or in the vicinity the development) shall be submitted to the Principal Certifying Authority for approval prior to issue of the Construction Certificate.

Any structures or other requirements of Energy Australia shall be indicated on the plans issued with the Construction Certificate, to the satisfaction of the Principal Certifying Authority and Energy Australia. The requirements of Energy Australia must be met in full prior to issue of the Occupation Certificate.

**Reason:** To ensure compliance with the requirements of Energy Australia.

#### **50. Utility provider requirements**

Prior to issue of the Construction Certificate, the applicant must make contact with all relevant utility providers whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifying Authority, must be obtained. All utility services or appropriate conduits for the same must be provided by the developer in accordance with the specifications of the utility providers.

**Reason:** To ensure compliance with the requirements of relevant utility providers.

#### **51. Underground services**

All electrical services (existing and proposed) shall be undergrounded from the proposed building on the site to the appropriate power pole(s) or other connection point. Undergrounding of services must not disturb the root system of existing trees and shall be undertaken in accordance with the requirements of the relevant service provided. Documentary evidence that the relevant service provider has been consulted and that their requirements have been met are to be provided to the Certifying Authority prior to the issue of the Construction Certificate. All electrical and telephone services to the subject property must be placed underground and any redundant poles are to be removed at the expense of the applicant.

**Reason:** To provide infrastructure that facilitates the future improvement of the streetscape by relocation of overhead lines below ground.

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE OR PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION (WHICHEVER COMES FIRST):**

## 52. Infrastructure restorations fee

To ensure that damage to Council Property as a result of construction activity is rectified in a timely matter:

- a) All work or activity taken in furtherance of the development the subject of this approval must be undertaken in a manner to avoid damage to Council Property and must not jeopardise the safety of any person using or occupying the adjacent public areas.
- b) The applicant, builder, developer or any person acting in reliance on this approval shall be responsible for making good any damage to Council Property, and for the removal from Council Property of any waste bin, building materials, sediment, silt, or any other material or article.
- c) The Infrastructure Restoration Fee must be paid to the Council by the applicant prior to both the issue of the Construction Certificate and the commencement of any earthworks or construction.
- d) In consideration of payment of the Infrastructure Restorations Fee, Council will undertake such inspections of Council Property as Council considers necessary and also undertake, on behalf of the applicant, such restoration work to Council Property, if any, that Council considers necessary as a consequence of the development. The provision of such restoration work by the Council does not absolve any person of the responsibilities contained in (a) to (b) above. Restoration work to be undertaken by the Council referred to in this condition is limited to work that can be undertaken by Council at a cost of not more than the Infrastructure Restorations Fee payable pursuant to this condition.
- e) In this condition:

“Council Property” includes any road, footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, letter bins, trees, shrubs, lawns, mounds, bushland, and similar structures or features on any road or public road within the meaning of the Local Government Act 1993 (NSW) or any public place; and

“Infrastructure Restoration Fee” means the Infrastructure Restorations Fee calculated in accordance with the Schedule of Fees & Charges adopted by Council as at the date of payment and the cost of any inspections required by the Council of Council Property associated with this condition.

**Reason:** To maintain public infrastructure.

## 53. Post development stormwater discharge

The post development stormwater discharge from the site into the RTA drainage system is not to exceed the pre development discharge. Detailed plans and hydraulic calculations of any changes to the RTA stormwater drainage system are to be submitted to the RTA for

approval, prior to the commencement of any works.

Details should be forwarded to:

The Sydney Asset Management  
PO Box 973  
Parramatta CBD NSW 2124

A plan checking fee may be payable and a performance bond may be required before the RTA's approval is issued. With regard to the Civil Works requirement please contact the RTA's Project Engineer, External Works Phone: 8849 2114 or Fax: 8849 2766.

**Reason:** To comply with the RTA requirements.

#### **54. Development contributions (Town and Local Centres)**

This development is subject to a development contribution calculated in accordance with Ku-ring-gai Contributions Plan 2010, being a s94 Contributions Plan in effect under the Environmental Planning and Assessment Act, as follows:

<b>Key Community Infrastructure</b>	<b>Amount</b>
Local parks and Local sporting facilities	\$599,914.55
Local recreation and cultural facilities;	\$99,215.38
Local social facilities	
Local roads, Local bus facilities & Local Drainage facilities (new roads and road modifications)	\$50,180.91
Local roads, Local bus facilities & Local Drainage facilities (townscape, transport & pedestrian facilities)	\$579,521.17
<b>Total:</b>	<b>\$1,328,832,.01</b>

The contribution shall be paid to Council prior to the issue of any Construction Certificate, Linen Plan, Certificate of Subdivision or Occupation Certificate whichever comes first in accordance with Ku-ring-gai Contributions Plan 2010.

The contributions specified above are subject to indexation and may vary at the time of payment in accordance with Ku-ring-gai Contributions Plan 2010 to reflect changes in the consumer price index and housing price index. Prior to payment, please contact council directly to verify the current contributions due and payable.

Copies of Ku-ring-gai Contributions Plan 2010 may be viewed online at [www.kmc.nsw.gov.au](http://www.kmc.nsw.gov.au) and at the Council Chambers in Gordon.

**Reason:** To ensure the provision, extension or augmentation of the Key Community Infrastructure identified in Ku-ring-gai Contributions Plan 2010 that will, or is likely to be, required as a consequence of the development.

#### **56. Tree protection bond**

Prior to the commencement of any development or excavation works or prior to the issue

of the Construction Certificate (whichever comes first) the applicant must lodge a \$1 000.00 tree protection bond with Council. This bond is to provide security that the following tree is maintained in a healthy condition as found prior to commencement of work upon the site:

#### **Schedule**

##### **Tree/Location**

*Pistacia chinensis* (Chinese Pistacio)  
Spearman st nature strip

##### **Bond value**

\$1 000.00

The bond shall be lodged in the form of a deposit or bank guarantee. The bond will be returned following issue of the Occupation Certificate, provided the trees are undamaged and are in a healthy condition.

In the event that any specified trees are found damaged, dying or dead as a result of any negligence by the applicant or its agent or as a result of the construction works at any time during the construction period, Council will have the option to demand the whole or part therefore of the bond.

**Reason:** To ensure that the trees are maintained in the same condition as found prior to commencement of work.

#### **CONDITIONS TO BE SATISFIED DURING THE DEMOLITION, EXCAVATION AND CONSTRUCTION PHASES:**

##### **57. Prescribed conditions**

The applicant shall comply with any relevant prescribed conditions of development consent under clause 98 of the Environmental Planning and Assessment Regulation. For the purposes of section 80A (11) of the Environmental Planning and Assessment Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:

- The work must be carried out in accordance with the requirements of the Building Code of Australia.
- 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 works commence.

**Reason:** Statutory requirement.

##### **58. Demolition, excavation and construction work hours**

Demolition, construction work and deliveries of building material and equipment must not take place outside the hours of 7.00am to 5.00pm Monday to Friday and 8.00am to 12 noon Saturday. No work and no deliveries are to take place on Sundays and public holidays.

Excavation or removal of any materials using machinery of any kind, including

compressors and jack hammers, must be limited to between 7.30am and 5.00pm Monday to Friday, with a respite break of 45 minutes between 12 noon 1.00pm.

Where it is necessary for works to occur outside of these hours (ie) placement of concrete for large floor areas on large residential/commercial developments or where building processes require the use of oversized trucks and/or cranes that are restricted by the RTA from travelling during daylight hours to deliver, erect or remove machinery, tower cranes, pre-cast panels, beams, tanks or service equipment to or from the site, approval for such activities will be subject to the issue of an "outside of hours works permit" from Council as well as notification of the surrounding properties likely to be affected by the proposed works.

**Note:** Failure to obtain a permit to work outside of the approved hours will result in on the spot fines being issued.

**Reason:** To ensure reasonable standards of amenity for occupants of neighbouring properties.

## **59. Survey of ground floor formwork**

At the stage when formwork for the ground floor slab is in place and prior to concrete being poured, a registered surveyor is to:

- ascertain the reduced level of the underside of the slab at the driveway entry,
- certify that the level is not lower than the level shown on the approved DA plans; and
- certify that the minimum headroom of 2.6 metres will be available for the full path of travel of the small waste collection vehicle from the street to the collection area.

**Reason:** So that access will be available for Council's contractors to collect waste from the collection point.

## **60. Inspection of formwork by Council**

At the stage when formwork for the ground floor slab is in place and prior to concrete being poured, Council's Development Engineer and Manager Waste Services are to carry out an inspection of the site to confirm the clearance available for the full path of travel of the small waste collection vehicle from the street to the collection area. This inspection cannot be carried out by a private certifier because waste management is not a matter listed in Clause (1) of Section 161 of the Environmental Planning and Assessment Regulation 2000.

**Reason:** So that access will be available for Council's contractors to collect waste from the collection point.

## **61. On site retention of waste dockets**

All demolition, excavation and construction waste dockets are to be retained on site, or at suitable location, in order to confirm which facility received materials generated from the site for recycling or disposal.



1. Each docket is to be an official receipt from a facility authorised to accept the material type, for disposal or processing.
2. This information is to be made available at the request of an Authorised Officer of Council.

**Reason:** To protect the environment.

## **62. Truck Warning Signs**

Truck warning signs (W5 - 22A) must be displayed in Boundary Street on each approach to the site for the duration of the project and removed at the end of the completion of works.

**Reason:** To ensure the development meets the RTA conditional requirements.

## **63. Temporary Vehicle Access**

The temporary vehicle access from Boundary Street for demolition and construction vehicles must be limited in times of use as follows:

- a) Not to be used during week day AM peak – 7am – 10 am
- b) Not to be used during week day PM peak – 3pm – 7pm

**Reason:** To ensure the development does not adversely impact upon traffic flows during peak periods on Boundary Street.

## **64. Traffic Controller**

An accredited traffic controller shall be provided to facilitate the movement of construction vehicles to and from Boundary Street.

**Reason:** To ensure adequate measures are taken to not interrupt traffic on Boundary Street.

## **65. Works permit on Boundary Street**

No work zones will be permitted along Boundary Street. Works should be undertaken on site in accordance with the construction management plan concept A prepared by Amglen Pty Ltd and received by Council on 20th January 2010.

**Reason:** To comply with the RTA requirements.

## **66. Approved plans to be on site**

A copy of all approved and certified plans, specifications and documents incorporating conditions of consent and certification (including the Construction Certificate if required for the work) shall be kept on site at all times during the demolition, excavation and construction phases and must be readily available to any officer of Council or the Principal

Certifying Authority.

**Reason:** To ensure that the development is in accordance with the determination.

## **67. Engineering fees**

For the purpose of any development related inspections by Ku-ring-gai Council engineers, the corresponding fees set out in Councils adopted Schedule of Fees and Charges are payable to Council. A re-inspection fee per visit may be charged where work is unprepared at the requested time of inspection, or where remedial work is unsatisfactory and a further inspection is required. Engineering fees must be paid in full prior to any final consent from Council.

**Reason:** To protect public infrastructure.

## **68. Statement of compliance with Australian Standards**

The demolition work shall comply with the provisions of Australian Standard AS2601: 2001 The Demolition of Structures. The work plans required by AS2601: 2001 shall be accompanied by a written statement from a suitably qualified person that the proposal contained in the work plan comply with the safety requirements of the Standard. The work plan and the statement of compliance shall be submitted to the satisfaction of the Principal Certifying Authority prior to the commencement of any works.

**Reason:** To ensure compliance with the Australian Standards.

## **69. Hours of work**

Demolition, excavation, construction work and deliveries of building material and equipment must not take place outside the hours of 7.00am to 5.00pm Monday to Friday and 8.00am to 12 noon Saturday. No work and no deliveries are to take place on Sundays and public holidays.

Excavation or removal of any materials using machinery of any kind, including compressors and jack hammers, must be limited to between 7.30am and 5.00pm Monday to Friday, with a respite break of 45 minutes between 12 noon 1.00pm.

Where it is necessary for works to occur outside of these hours (ie) placement of concrete for large floor areas on large residential/commercial developments or where building processes require the use of oversized trucks and/or cranes that are restricted by the RTA from travelling during daylight hours to deliver, erect or remove machinery, tower cranes, pre-cast panels, beams, tanks or service equipment to or from the site, approval for such activities will be subject to the issue of an "outside of hours works permit" from Council as well as notification of the surrounding properties likely to be affected by the proposed works.

**Note:** Failure to obtain a permit to work outside of the approved hours will result in on the spot fines being issued.

**Reason:** To ensure reasonable standards of amenity for occupants of neighbouring properties.

## **70. Construction noise**

During excavation, demolition and construction phases, noise generated from the site shall be controlled in accordance with the recommendations of the approved noise and vibration management plan.

**Reason:** To ensure reasonable standards of amenity to neighbouring properties.

## **71. Site notice**

A site notice shall be erected on the site prior to any work commencing and shall be displayed throughout the works period.

The site notice must:

- be prominently displayed at the boundaries of the site for the purposes of informing the public that unauthorised entry to the site is not permitted
- display project details including, but not limited to the details of the builder, Principal Certifying Authority and structural engineer
- be durable and weatherproof
- display the approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice
- be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted

**Reason:** To ensure public safety and public information.

## **72. Dust control**

During excavation, demolition and construction, adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood. The following measures must be adopted:

- physical barriers shall be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust
- earthworks and scheduling activities shall be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed
- all materials shall be stored or stockpiled at the best locations
- the ground surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs
- all vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust

- all equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays
- gates shall be closed between vehicle movements and shall be fitted with shade cloth
- cleaning of footpaths and roadways shall be carried out daily

**Reason:** To protect the environment and amenity of surrounding properties.

### **73. Post-construction dilapidation report**

The applicant shall engage a suitably qualified person to prepare a post construction dilapidation report at the completion of the construction works. This report is to ascertain whether the construction works created any structural damage to adjoining buildings, infrastructure and roads. The report is to be submitted to the Principal Certifying Authority. In ascertaining whether adverse structural damage has occurred to adjoining buildings, infrastructure and roads, the Principal Certifying Authority must:

- compare the post-construction dilapidation report with the pre-construction dilapidation report
- have written confirmation from the relevant authority that there is no adverse structural damage to their infrastructure and roads.

A copy of this report is to be forwarded to Council at the completion of the construction works.

**Reason:** Management of records.

### **74. Further geotechnical input**

The geotechnical and hydro-geological works implementation, inspection, testing and monitoring program for the excavation and construction works must be in accordance with the report by Geotechnique and the report submitted prior to commencement of bulk excavation. Over the course of the works, a qualified geotechnical/hydro-geological engineer must complete the following:

- further geotechnical investigations and testing recommended in the above report(s) and as determined necessary
- further monitoring and inspection at the hold points recommended in the above report(s) and as determined necessary
- written report(s) including certification(s) of the geotechnical inspection, testing and monitoring programs

**Reason:** To ensure the safety and protection of property.

### **75. Compliance with submitted geotechnical report**

A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee

excavation.

Geotechnical aspects of the development work, namely:

- appropriate excavation method and vibration control
- support and retention of excavated faces
- hydro-geological considerations

must be undertaken in accordance with the recommendations of the geotechnical report prepared by Geotechnique and the report submitted prior to commencement of bulk excavation. Approval must be obtained from all affected property owners, including Kuring-gai Council, where rock anchors (both temporary and permanent) are proposed below adjoining property(ies).

**Reason:** To ensure the safety and protection of property.

#### **76. Use of road or footpath**

During excavation, demolition and construction phases, no building materials, plant or the like are to be stored on the road or footpath without written approval being obtained from Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.

**Reason:** To ensure safety and amenity of the area.

#### **77. Guarding excavations**

All excavation, demolition and construction works shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.

**Reason:** To ensure public safety.

#### **78. Toilet facilities**

During excavation, demolition and construction phases, toilet facilities are to be provided, on the work site, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

**Reason:** Statutory requirement.

#### **79. Protection of public places**

If the work involved in the erection, demolition or construction of the development is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

If necessary, a hoarding is to be erected, sufficient to prevent any substance from, or in

connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

Any hoarding, fence or awning is to be removed when the work has been completed.

**Reason:** To protect public places.

## **80. Certification of footings & excavation adjacent to easements**

During demolition and construction, the Principal Certifying Authority shall be satisfied that:

- footings, and any required permanent excavation or drainage easement support, are constructed in accordance with the conditions of this consent relating to footings and excavation adjacent to drainage easements and/or drainage pipes
- footings allow for complete future excavation over the full width of the easement to a depth of the invert of the pipe, without the need to support or underpin the subject structure

**Reason:** Safety.

## **81. Recycling of building material (specific)**

During demolition and construction, the Principal Certifying Authority shall be satisfied that, in addition to building materials generally suitable for recycling, that stone salvaged from the demolished buildings should be carefully stored on site and reused in landscaping works on site,

**Reason:** To facilitate recycling of materials and the reuse of materials on site.

## **82. Construction signage**

All construction signs must comply with the following requirements:

- are not to cover any mechanical ventilation inlet or outlet vent
- are not illuminated, self-illuminated or flashing at any time
- are located wholly within a property where construction is being undertaken
- refer only to the business(es) undertaking the construction and/or the site at which the construction is being undertaken
- are restricted to one such sign per property
- do not exceed 2.5m<sup>2</sup>
- are removed within 14 days of the completion of all construction works

**Reason:** To ensure compliance with Council's controls regarding signage.

### **83. Approval for rock anchors**

Approval is to be obtained from the property owner for any anchors proposed beneath adjoining private property. If such approval cannot be obtained, then the excavated faces are to be shored or propped in accordance with the recommendations of the geotechnical and structural engineers.

**Reason:** To ensure the ongoing safety and protection of property.

### **84. Maintenance period for works in public road**

A maintenance period of six (6) months applies to all work in the public road reserve carried out by the applicant - after the works have been completed to the satisfaction of Ku-ring-gai Council. In that maintenance period, the applicant shall be liable for any section of the public infrastructure work which fails to perform in the designed manner, or as would reasonably be expected under the operating conditions. The maintenance period shall commence once the applicant receives a formal letter from Council stating that the works involving public infrastructure have been completed satisfactorily.

**Reason:** To protect public infrastructure.

### **85. Road reserve safety**

All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials must not be stored in the road reserve. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "Traffic Control Devices for Work on Roads". If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.

**Reason:** To ensure safe public footways and roadways during construction.

### **86. Road repairs necessitated by excavation and construction works**

It is highly likely that damage will be caused to the roadway at or near the subject site as a result of the construction (or demolition or excavation) works. The applicant, owner and builder (and demolition or excavation contractor as appropriate) will be held responsible for repair of such damage, regardless of the Infrastructure Restorations Fee paid (this fee is to cover wear and tear on Council's wider road network due to heavy vehicle traffic, not actual major damage).

Section 102(1) of the Roads Act states "A person who causes damage to a public road is liable to pay to the appropriate roads authority the cost incurred by that authority in making good the damage."

Council will notify when road repairs are needed, and if they are not carried out within 48 hours, then Council will proceed with the repairs, and will invoice the applicant, owner and relevant contractor for the balance.

**Reason:** To protect public infrastructure.

## **87. Services**

Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the applicants full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services (including water, phone, gas and the like). Council accepts no responsibility for any matter arising from its approval to this application involving any influence upon utility services provided by another authority.

**Reason:** Provision of utility services.

## **88. Temporary rock anchors**

If the use of temporary rock anchors extending into the road reserve is proposed, then approval must be obtained from Council and/or the Roads and Traffic Authority in accordance with Section 138 of the Roads Act 1993. The Applicant is to submit details of all the work that is to be considered, and the works are not to commence until approval has been granted. The designs are to include details of the following:

- How the temporary rock anchors will be left in a way that they will not harm or interfere with any future excavation in the public road
- That the locations of the rock anchors are registered with Dial Before You Dig
- That approval of all utility authorities likely to use the public road has been obtained. All temporary rock anchors are located outside the allocations for the various utilities as adopted by the Streets Opening Conference.
- That any remaining de-stressed rock anchors are sufficiently isolated from the structure that they cannot damage the structure if pulled during future excavations or work in the public road.
- That signs will be placed and maintained on the building stating that de-stressed rock anchors remain in the public road and include a contact number for the building manager. The signs are to be at least 600mm x 450mm with lettering on the signs is to be no less than 75mm high. The signs are to be at not more than 60m spacing. At least one sign must be visible from all locations on the footpath outside the property. The wording on the signs is to be submitted to Council's Director Technical Services for approval before any signs are installed.

Permanent rock anchors are not to be used where any part of the anchor extends outside the development site into public areas or road reserves.

All works in the public road are to be carried out in accordance with the Conditions of Construction issued with any approval of works granted under Section 138 of the Roads



Act 1993.

**Reason:** To ensure the ongoing safety and protection of property.

## **89. Footings and excavation near easements**

Footings to be located adjacent to easements and/or Council drainage pipes shall be sited and constructed so that all footings are located outside of easement boundaries.

The applicant shall refer to Council Plan 80-011 concerning such works. Footings must extend to at least the depth of the invert of the adjacent pipe within the easement unless the footings are to be placed on competent bedrock. If there is no pipe within the easement, a future depth of pipe of 1.6 metres is to be assumed for future pipe placement. If there is a Council pipe without an easement a future easement width of 1.8 metres centred on the pipeline is to be adopted.

If permanent excavation is proposed beneath the obvert of the pipe within the easement, suitable means to protect the excavation from seepage or other water flow from the pipe and trench and means to retain the easement and associated pipe cover are to be provided at no cost to Council. Council accepts no liability for such seepage or water flows now or at any time in the future resulting from such excavation.

**Reason:** To ensure structural stability.

## **90. Structures to be clear of drainage easements**

During all phases of demolition, excavation and construction, it is the full responsibility of the applicant and their contractors to:

- ascertain the exact location of the Council drainage pipe traversing the site in the vicinity of the works
- take full measures to protect the in-ground Council drainage system
- ensure dedicated overland flow paths are satisfactorily maintained through the site

Drainage pipes can be damaged through applying excessive loading (such as construction machinery, material storage and the like). All proposed structures and construction activities are to be sited fully clear of Council drainage pipes, drainage easements, watercourses and trunk overland flow paths on the site. Trunk or dedicated overland flow paths must not be impeded or diverted by fill or structures unless otherwise approved.

If a Council drainage pipeline is uncovered during construction, all work is to cease and the Principal Certifying Authority and Council must be contacted immediately for advice. Any damage caused to a Council drainage system must be immediately repaired in full as directed and at no cost to Council.

**Reason:** To protect existing Council infrastructure and maintain over land flow paths.

## 91. Erosion control

Temporary sediment and erosion control and measures are to be installed prior to the commencement of any works on the site. These measures must be maintained in working order during construction works up to completion. All sediment traps must be cleared on a regular basis and after each major storm and/or as directed by the Principal Certifying Authority and Council officers.

**Reason:** To protect the environment from erosion and sedimentation.

## 92. Drainage to street

Stormwater runoff from all new impervious areas and subsoil drainage systems shall be piped to the street drainage system. New drainage line connections to the street drainage system shall conform and comply with the requirements of Sections 5.3 and 5.4 of Ku-ring-gai Water Management Development Control Plan No. 47.

**Reason:** To protect the environment.

## 93. Sydney Water Section 73 Compliance Certificate

The applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing CoOrdinator. The applicant is to refer to “Your Business” section of Sydney Water’s web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the “e-develop” icon or telephone 13 20 92. Following application a “Notice of Requirements” will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the CoOrdinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

**Reason:** Statutory requirement.

## 94. Arborist’s report

The tree/s to be retained shall be inspected, monitored and treated by a qualified Arborist during and after completion of development works to ensure their long term survival. Regular inspections and documentation from the Arborist to the Principal Certifying Authority are required at the following times or phases of work:

### Schedule

#### Tree/Location

#8 *Phoenix canariensis* (Canary Island Date Palm)  
Adjacent to southern site boundary

#14-19 *Syzigium paniculatum* (Magenta Cherry)  
Adjacent to northern site boundary

#20 *Phoenix canariensis* (Canary Island Date

#### Time of inspection

\* Immediately prior to the commencement of work on site.

\* Immediately after demolition works and prior to excavation and regrading of the site.

Palm)  
Adjacent to northern site boundary

\* At the completion of excavation/regrading of the site.

#21 *Syzigium paniculatum* (Magenta Cherry)  
Adjacent to northern site boundary

\* At four monthly intervals during construction/development works.

#41 *Pistacia chinensis* (Chinese Pistacio)  
Spearman St nature strip

\* At the completion of all works on site.

**Reason:** To ensure protection of existing trees.

## **95. Disposal of seepage and stormwater**

Any seepage or rainwater collected on-site during construction shall not be pumped to the street stormwater system unless separate prior approval is given in writing by Council's Environmental Health Officer.

**Reason:** To protect the environment.

## **96. Trees on nature strip**

Removal/pruning of the following tree/s from Council's nature strip shall be undertaken at no cost to Council by an experienced tree removal contractor/arborist holding public liability insurance amounting to a minimum cover of \$10,000,000:

### **Schedule**

#### **Tree/Location**

*Callistemon viminalis* (Weeping Bottlebrush) x 2  
Spearman St nature strip

**Reason:** To ensure protection of existing trees.

## **97. Treatment of tree roots**

If tree roots are required to be severed for the purposes of constructing the approved works, they shall be cut cleanly by hand, by an experienced Arborist/Horticulturist with a minimum qualification of Horticulture Certificate or Tree Surgery Certificate. All pruning works shall be undertaken as specified in Australian Standard 4373-2007 – Pruning of Amenity Trees.

**Reason:** To protect existing trees.

## **98. Cutting of tree roots**

No tree roots of 30mm or greater in diameter located within the specified radius of the trunk/s of the following tree/s shall be severed or injured in the process of any works

during the construction period. All pruning works shall be undertaken as specified in Australian Standard 4373-2007 – Pruning of Amenity Trees:

#### **Schedule**

##### **Tree/Location**

##### **Radius from trunk**

#8 <i>Phoenix canariensis</i> (Canary Island Date Palm) Adjacent to southern site boundary	3.0m
#14-19 <i>Syzigium paniculatum</i> (Magenta Cherry) Adjacent to northern site boundary	2.5m
#20 <i>Phoenix canariensis</i> (Canary Island Date Palm) Adjacent to northern site boundary	2.0m
#21 <i>Syzigium paniculatum</i> (Magenta Cherry) Adjacent to northern site boundary	2.5m
#33 <i>Ficus microcarpa</i> 'Hillii' (Hill's Fig) Adjacent to northern site boundary in neighbouring property	5.0m
#41 <i>Pistacia chinensis</i> (Chinese Pistacio) Spearman St nature strip	7.0m
#45 <i>Ficus microcarpa</i> 'Hillii' (Hill's Fig) Adjacent to north-east site corner in neighbouring property	6.0m

**Reason:** To protect existing trees.

#### **99. Approved tree works**

Approval is given for the following works to be undertaken to trees on the site:

#### **Schedule**

##### **Tree/Location**

##### **Approved tree works**

#1 <i>Cinnamomum camphora</i> (Camphor laurel) Adjacent to south-west site corner	Removal
#2 <i>Pittosporum undulatum</i> (Native Daphne) Adjacent to southwest site corner	Removal
#3 <i>Ligustrum lucidum</i> (Large leaf privet) Adjacent to southern site boundary	Removal
#4 <i>Cinnamomum camphora</i> (Camphor laurel) Adjacent to southern site boundary	Removal
#5 <i>Cinnamomum camphora</i> (Camphor laurel) Adjacent to southwest site corner	Removal
#6 <i>Ligustrum lucidum</i> (Large leaf privet) Adjacent to western site boundary	Removal
#7 <i>Cinnamomum camphora</i> (Camphor laurel) Within building footprint	Removal
#9 <i>Lagerstroemia indica</i> (Crepe Myrtle) Adjacent to southern site boundary	Removal
#10 <i>Cinnamomum camphora</i> (Camphor laurel) Within building footprint	Removal

## Schedule

### Tree/Location

### Approved tree works

#11 <i>Jacaranda mimosifolia</i> (Jacaranda) Within building footprint	Removal
#12 <i>Ginkgo biloba</i> (Maidenhair Tree) Centrally located on site	Removal
#13 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to northern site boundary	Removal
#22 <i>Pittosporum undulatum</i> (Native Daphne) Adjacent to southern site boundary	Removal
#23 <i>Ligustrum lucidum</i> (Large leaf privet) Adjacent to southern site boundary	Removal
#24 <i>Pittosporum undulatum</i> (Native Daphne) Adjacent to southern site boundary	Removal
#25 <i>Melia azadarach</i> (White Cedar) Adjacent to southern site boundary	Removal
#26 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	Removal
#27 <i>Jacaranda mimosifolia</i> (Jacaranda) Centrally located on site	Removal
#28 <i>Melia azadarach</i> (White Cedar) Centrally located on site	Removal
#29 <i>Jacaranda mimosifolia</i> (Jacaranda) Centrally located on site	Removal
#30 <i>Washingtonia robusta</i> (Mexican Washingtonia) Centrally located on site	Removal
#31 <i>Lagerstroemia indica</i> (Crepe Myrtle) Centrally located on site	Removal
#32 <i>Pinus radiata</i> (Radiata Pine) Adjacent to northern site boundary	Removal
#34 <i>Morus nigra</i> (Mulberry) Adjacent to southern site boundary	Removal
#35 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southern site boundary	Removal
#36 <i>Prunus spp</i> (Flowering Cherry) Adjacent to south-east site corner	Removal
#37 <i>Pittosporum undulatum</i> (Native Daphne) Adjacent to southeast site corner	Removal
#38 <i>Syragus romanzoffianum</i> (Cocos Palm) Centrally located on site	Removal
#39 <i>Eucalyptus microcorys</i> (Tallowood) Centrally located on site	Removal
#40 <i>Cyathea cooperi</i> (Coinspot Tree Fern) Adjacent to northern site boundary	Removal
#42 <i>Callistemon viminalis</i> (Weeping Bottlebrush) Spearman St nature strip	Removal
#43 <i>Callistemon viminalis</i> (Weeping Bottlebrush) Spearman St nature strip	Removal

Removal or pruning of any other tree on the site is not approved, excluding species exempt under Council's Tree Preservation Order.

**Reason:** To ensure that the development is in accordance with the determination.

#### 100. Excavation near trees

No mechanical excavation shall be undertaken within the specified radius of the trunk/s of the following tree/s until root pruning by hand along the perimeter line of such works is completed:

<b>Schedule Tree/Location</b>	<b>Radius from trunk</b>
#8 <i>Phoenix canariensis</i> (Canary Island Date Palm) Adjacent to southern site boundary	3.0m
#14-19 <i>Syzigium paniculatum</i> (Magenta Cherry) Adjacent to northern site boundary	3.0m
#20 <i>Phoenix canariensis</i> (Canary Island Date Palm) Adjacent to northern site boundary	3.0m
#21 <i>Syzigium paniculatum</i> (Magenta Cherry) Adjacent to northern site boundary	3.0m
#33 <i>Ficus microcarpa</i> 'Hillii' (Hill's Fig) Adjacent to northern site boundary in neighbouring property	6.0m

**Reason:** To protect existing trees.

#### 101. Hand excavation

All excavation within the specified radius of the trunk/s of the following tree/s shall be hand dug:

<b>Schedule Tree/Location</b>	<b>Radius from trunk</b>
#8 <i>Phoenix canariensis</i> (Canary Island Date Palm) Adjacent to southern site boundary	3.0m
#14-19 <i>Syzigium paniculatum</i> (Magenta Cherry) Adjacent to northern site boundary	2.5m
#20 <i>Phoenix canariensis</i> (Canary Island Date Palm) Adjacent to northern site boundary	2.0m
#21 <i>Syzigium paniculatum</i> (Magenta Cherry) Adjacent to northern site boundary	2.5m
#33 <i>Ficus microcarpa</i> 'Hillii' (Hill's Fig) Adjacent to northern site boundary in neighbouring property	5.0m
#41 <i>Pistacia chinensis</i> (Chinese Pistacio) Spearman St nature strip	7.0m
#45 <i>Ficus microcarpa</i> 'Hillii' (Hill's Fig)	6.0m

Adjacent to north-east site corner in neighbouring property

**Reason:** To protect existing trees.

### 102. Thrust boring

Excavation for the installation of any services within the specified radius of the trunk/s of the following tree/s shall utilise the thrust boring method. Thrust boring shall be carried out at least 600mm beneath natural ground level to minimise damage to tree/s root system:

#### Schedule

Tree/Location	Radius from trunk
#8 <i>Phoenix canariensis</i> (Canary Island Date Palm) Adjacent to southern site boundary	3.0m
#14-19 <i>Syzigium paniculatum</i> (Magenta Cherry) Adjacent to northern site boundary	2.5m
#20 <i>Phoenix canariensis</i> (Canary Island Date Palm) Adjacent to northern site boundary	2.0m
#21 <i>Syzigium paniculatum</i> (Magenta Cherry) Adjacent to northern site boundary	2.5m
#33 <i>Ficus microcarpa</i> 'Hilli' (Hill's Fig) Adjacent to northern site boundary in neighbouring property	5.0m
#41 <i>Pistacia chinensis</i> (Chinese Pistacio) Spearman St nature strip	7.0m
#45 <i>Ficus microcarpa</i> 'Hilli' (Hill's Fig) Adjacent to north-east site corner in neighbouring property	6.0m

**Reason:** To protect existing trees.

### 103. No storage of materials beneath trees

No activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order at any time.

**Reason:** To protect existing trees.

### 104. Tree planting on nature strip

The following tree species shall be planted, at no cost to Council, in the nature strip fronting the property along (enter street). The tree/s used shall be a minimum 25 litres container size specimen/s:

#### Schedule

Tree/Species	Quantity	Location
<i>Pistacia chinensis</i> (Chinese Pistacio)	2	Spearman St nature strip

**Reason:** To provide appropriate landscaping within the streetscape.

### **105. Tree removal on nature strip**

Following removal of the *Callistemon viminalis* (Weeping Bottlebrush) from Council's nature strip, the nature strip shall be rehabilitated to the satisfaction of Council's Landscape Assessment Officer at no cost to Council.

**Reason:** To protect the streetscape.

### **106. Removal of refuse**

All builders' refuse, spoil and/or material unsuitable for use in landscape areas shall be removed from the site on completion of the building works.

**Reason:** To protect the environment.

### **107. Canopy replenishment trees to be planted**

The canopy replenishment trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5.0 metres whereby they will be protected by Council's Tree Preservation Order. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species.

**Reason:** To maintain the treed character of the area.

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

### **108. Easement for waste collection**

Prior to issue of the Occupation Certificate, an easement for waste collection is to be created under Section 88B of the Conveyancing Act 1919. This is to permit legal access for Council, Council's contractors and their vehicles over the subject property for the purpose of collecting waste from the property. The terms of the easement are to be generally in accordance with Council's draft terms for an easement for waste collection and shall be to the satisfaction of Council's Development Engineer.

**Reason:** To permit legal access for Council, Council's contractors and their vehicles over the subject site for waste collection.

### **109. Compliance with BASIX Certificate**

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall be satisfied that all commitments listed in BASIX Certificate No.254953M\_08 and dated 15 September 2009 have been complied with.

**Reason:** Statutory requirement.

### **110. Clotheslines and clothes dryers**



Prior to the issue of the Occupation Certificate, the Principal Certifying Authority shall be satisfied that the units either have access to an external clothes line located in common open space or have a mechanical clothes dryer installed.

**Reason:** To provide access to clothes drying facilities.

### **111. Mechanical ventilation**

Following completion, installation and testing of all the mechanical ventilation systems, the Principal Certifying Authority shall be satisfied of the following prior to the issue of any Occupation Certificate:

1. The installation and performance of the mechanical systems complies with:
  - The Building Code of Australia
  - Australian Standard AS1668
  - Australian Standard AS3666 where applicable
2. The mechanical ventilation system in isolation and in association with other mechanical ventilation equipment, when in operation will not be audible within a habitable room in any other residential premises before 7am and after 10pm Monday to Friday and before 8am and after 10pm Saturday, Sunday and public holidays. The operation of the unit outside these restricted hours shall emit a noise level of not greater than 5dbA above the background when measured at the nearest adjoining boundary.

**Note:** Written confirmation from an acoustic engineer that the development achieves the above requirements is to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

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

### **112. Completion of landscape works**

Prior to the release of the Occupation Certificate, the Principal Certifying Authority is to be satisfied that all landscape works, including the removal of all noxious and/or environmental weed species, have been undertaken in accordance with the approved plan(s) and conditions of consent.

**Reason:** To ensure that the landscape works are consistent with the development consent.

### **113. Accessibility**

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall be satisfied that:

- the lift design and associated functions are compliant with AS 1735.12 & AS 1428.2

- the level and direction of travel, both in lifts and lift lobbies, is audible and visible
- the controls for lifts are accessible to all persons and control buttons and lettering are raised
- international symbols have been used with specifications relating to signs, symbols and size of lettering complying with AS 1428.2
- the height of lettering on signage is in accordance with AS 1428.1 – 1993
- the signs and other information indicating access and services incorporate tactile communication methods in addition to the visual methods

**Reason:** Disabled access & services.

#### **114. Provision of copy of OSD designs if Council is not the PCA**

Prior to issue of the Occupation Certificate, the following must be provided to Council's Development Engineer:

- a copy of the approved Construction Certificate stormwater detention/retention design for the site
- A copy of any works-as-executed drawings required by this consent
- The Engineer's certification of the as-built system.

**Reason:** For Council to maintain its database of as-constructed on-site stormwater detention systems.

#### **115. Creation of a floodway restriction**

Prior to issue of the Occupation Certificate, the applicant must create of a restriction-on-use on the title of the subject property. The restriction is to be over the 100 year ARI flood zone identified in the Flood Study report by Water Plan Pty Ltd and must prevent the placement of any structures, walls, fences, fill or other items which may impede the 100 year ARI flood, within that zone. Ku-ring-gai Council is to be named as the Authority whose consent is required to release, vary or modify the restriction.

**Reason:** To protect the environment.

#### **116. Certification of drainage works (dual occupancies and above)**

Prior to issue of the Occupation Certificate, the Principal Certifying Authority is to be satisfied that:

- the stormwater drainage works have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans
- the minimum retention and on-site detention storage volume requirements of BASIX and Ku-ring-gai Water Management Development Control Plan No. 47 respectively, have been achieved
- retained water is connected and available for use
- basement and subsoil areas are able to drain via a pump/sump system installed in

accordance with AS3500.3 and Appendix 7.1.1 of Ku-ring-gai Water Management Development Control Plan No. 47

- all grates potentially accessible by children are secured
- components of the new drainage system have been installed by a licensed plumbing contractor in accordance with the Plumbing and Drainage Code AS3500.3 2003 and the Building Code of Australia
- all enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices

The rainwater certification sheet contained in Appendix 13 of the Ku-ring-gai Water Management Development Control Plan No. 47, must be completed and attached to the certification. Where an on-site detention system has been constructed, the on-site detention certification sheet contained in Appendix 4 of DCP 47 must also be completed and attached to the certification.

**Note:** Evidence from a qualified and experienced consulting civil/hydraulic engineer documenting compliance with the above is to be provided to Council prior to the issue of an Occupation Certificate.

**Reason:** To protect the environment.

#### **117. WAE plans for stormwater management and disposal (dual occupancy and above)**

Prior to issue of the Occupation Certificate, a registered surveyor must provide a works as executed survey of the completed stormwater drainage and management systems. The survey must be submitted to and approved by the Principal Certifying Authority prior to issue of the Occupation Certificate. The survey must indicate:

- as built (reduced) surface and invert levels for all drainage pits
- gradients of drainage lines, materials and dimensions
- as built (reduced) level(s) at the approved point of discharge to the public drainage system
- as built location and internal dimensions of all detention and retention structures on the property (in plan view) and horizontal distances to nearest adjacent boundaries and structures on site
- the achieved storage volumes of the installed retention and detention storages and derivative calculations
- as built locations of all access pits and grates in the detention and retention system(s), including dimensions
- the size of the orifice or control fitted to any on-site detention system
- dimensions of the discharge control pit and access grates
- the maximum depth of storage possible over the outlet control
- top water levels of storage areas and indicative RL's through the overland flow path in the event of blockage of the on-site detention system

The works as executed plan(s) must show the as built details above in comparison to

those shown on the drainage plans approved with the Construction Certificate prior to commencement of works. All relevant levels and details indicated must be marked in red on a copy of the Principal Certifying Authority stamped construction certificate stormwater plans.

**Reason:** To protect the environment.

#### **118. Basement pump-out maintenance**

Prior to issue of the Occupation Certificate, the Principal Certifying Authority shall be satisfied that a maintenance regime has been prepared for the basement stormwater pump-out system.

**Note:** A maintenance regime specifying that the system is to be regularly inspected and checked by qualified practitioners is to be prepared by a suitable qualified professional and provided to the Principal Certifying Authority.

**Reason:** To protect the environment.

#### **119. OSD positive covenant/restriction**

Prior to issue of the Occupation Certificate, the applicant must create a positive covenant and restriction on the use of land under Section 88E of the Conveyancing Act 1919, burdening the owner with the requirement to maintain the on-site stormwater detention facilities on the lot.

The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" and to the satisfaction of Council (refer to appendices of Ku-ring-gai Council Water Management DCP 47). For existing titles, the positive covenant and the restriction on the use of land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the on-site detention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.

Registered title documents, showing the covenants and restrictions, must be submitted and approved by the Principal Certifying Authority prior to issue of an Occupation Certificate.

**Reason:** To protect the environment.

#### **120. CCTV report of pipe after work**

Prior to issue of the Occupation Certificate, a closed circuit television inspection and report on the Council drainage pipeline traversing the site is to be undertaken by appropriate contractors and provided to Council's Development Engineer. The report is to include a copy of the footage of the inside of the pipeline. Any damage that has occurred to the section of the pipeline since the commencement of construction on the site must be repaired in full to the satisfaction of Council's Development Engineer at no cost to Council.

**Reason:** To protect the environment.

### **121. Sydney Water Section 73 Compliance Certificate**

Prior to issue of an Occupation Certificate the Section 73 Sydney water Compliance Cert must be obtained and submitted to the Principal Certifying Authority

**Reason:** Statutory requirement.

### **122. Certification of as-constructed driveway/carpark – RFB**

Prior to issue of an Occupation Certificate, the Principal Certifying Authority is to be satisfied that:

- the as-constructed car park complies with the approved Construction Certificate plans
- the completed vehicle access and accommodation arrangements comply with Australian Standard 2890.1 – 2004 “Off-Street car parking” in terms of minimum parking space dimensions
- finished driveway gradients and transitions will not result in the scraping of the underside of cars
- no doors, gates, grilles or other structures have been provided in the access driveways to the basement carpark, which would prevent unrestricted access for internal garbage collection from the basement garbage storage and collection area
- the vehicular headroom requirements of:
  - Australian Standard 2890.1 – “Off-street car parking”,
  - 2.6 metres height clearance for waste collection trucks (refer DCP 40) are met from the public street into and within the applicable areas of the basement car park.

**Note:** Evidence from a suitably qualified and experienced traffic/civil engineer indicating compliance with the above is to be provided to and approved by the Principal Certifying Authority prior to the issue of an Occupation Certificate.

**Reason:** To ensure that vehicular access and accommodation areas are compliant with the consent.

### **123. Reinstatement of redundant crossings and completion of infrastructure works**

Prior to issue of the Occupation Certificate, the Principal Certifying Authority must be satisfied that the following works in the road reserve have been completed:

- new concrete driveway crossing in accordance with levels and specifications issued by Council
- removal of all redundant driveway crossings and kerb laybacks (or sections thereof) and reinstatement of these areas to footpath, turfed verge and upright kerb and

gutter (reinstatement works to match surrounding adjacent infrastructure with respect to integration of levels and materials)

- full repair and resealing of any road surface damaged during construction
- full replacement of damaged sections of grass verge to match existing

Any redundant driveways along the site's Boundary Street frontage are to be removed with kerb and gutter (Type SA) reinstated to the RTA's requirements.

All other works must be completed in accordance with the General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council, dated November 2004. The Occupation Certificate must not be issued until all damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) is fully repaired to the satisfaction of Council. Repair works shall be at no cost to Council.

**Reason:** To protect the streetscape.

#### **124. Infrastructure repair**

Prior to issue of the Occupation Certificate, the Principal Certifying Authority must be satisfied that any damaged public infrastructure caused as a result of construction works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) is fully repaired to the satisfaction of Council Development Engineer and at no cost to Council.

**Reason:** To protect public infrastructure.

#### **CONDITIONS TO BE SATISFIED AT ALL TIMES:**

##### **125. No door restricting internal waste collection in basement**

At all times, the basement garbage storage and collection area is to be accessible by Council's Waste Collection Services. No doors, grilles, gates or other devices shall be provided in any location which would prevent this service. Where a gate, door or the like is to be erected, unimpeded access to the garbage collection point is to be provided by other means through written agreement with Council's Waste Collection Services.

**Reason:** To facilitate access to the garbage collection point.

##### **126. Noise control – plant and machinery**

All noise generating equipment associated with any proposed mechanical ventilation system/s shall be located and/or soundproofed so the equipment is not audible within a habitable room in any other residential premises before 7am and after 10pm Monday to Friday and before 8am and after 10pm Saturday, Sunday and public holidays. The operation of the unit outside these restricted hours shall emit a noise level of not greater than 5dbA above the background when measured at the nearest boundary.

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

K Munn  
**Executive Assessment Officer**

S Garland  
**Team Leader**

C Swanepoel  
**Manager**  
**Development Assessment Services**

M Miocic  
**Director**  
**Development & Regulation**

- Attachments:**
1. Zoning Extract
  2. Location Sketch
  3. Survey
  4. North and South Elevation
  5. East and West Elevation Boundary Street
  6. East and West Spearman Street
  7. Site calculations
  8. Basement Level 2
  9. Basement Level 1
  10. Ground floor plan
  11. First floor plan
  12. Second floor plan
  13. Third floor plan
  14. Fourth floor plan
  15. Roof plan
  16. Long Section
  17. Fence detail
  18. Landscape plan
  19. Judgement of LEC dated 31/12/2010
  20. RTA letter dated 18 August 2011