

## SUMMARY SHEET

<b>JRPP REF NO:</b>	2009SYW024
<b>REPORT TITLE:</b>	3 – 7 LORNE AVENUE, KILLARA – CONSTRUCTION OF FIVE RESIDENTIAL FLAT BUILDINGS COMPRISING 99 UNITS, LANDSCAPING AND ASSOCIATED WORKS.
<b>WARD:</b>	Gordon
<b>DEVELOPMENT APPLICATION N<sup>o</sup>:</b>	778/09
<b>SUBJECT LAND:</b>	3 – 7 Lorne Avenue, Killara
<b>APPLICANT:</b>	Frasers Property Group Pty Ltd
<b>OWNER:</b>	Frasers Property Group Pty Ltd
<b>DESIGNER:</b>	PTW Architects
<b>PRESENT USE:</b>	Residential
<b>ZONING:</b>	Residential 2(d3)
<b>HERITAGE:</b>	Yes
<b>PERMISSIBLE UNDER:</b>	Ku-ring-gai Planning Scheme Ordinance (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
<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>	16 November 2009
<b>40 DAY PERIOD EXPIRED:</b>	26 December 2009
<b>PROPOSAL:</b>	Construction of five residential flat buildings comprising 99 units, landscaping and associated works.
<b>RECOMMENDATION:</b>	Approval

<b>DEVELOPMENT APPLICATION N<sup>o</sup></b>	<b>0778/09</b>
<b>PREMISES:</b>	<b>3-7 LORNE AVENUE, KILLARA</b>
<b>PROPOSAL:</b>	<b>CONSTRUCTION OF FIVE RESIDENTIAL FLAT BUILDINGS COMPRISING 99 UNITS, LANDSCAPING AND ASSOCIATED WORKS.</b>
<b>APPLICANT:</b>	<b>FRASERS GROUP PTY LTD</b>
<b>OWNER:</b>	<b>FRASERS GROUP PTY LTD</b>
<b>DESIGNER</b>	<b>PTW ARCHITECTS</b>

## **PURPOSE FOR REPORT**

To determine Development Application No.0778/09, which is for construction of 5 residential flat buildings comprising 99 units, landscaping and associated works. The application relies upon a basement approved under DA1307/06 and modified by MOD0128/10.

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

## **EXECUTIVE SUMMARY**

<b>Issues:</b>	No. of storeys and top floor area
<b>Submissions:</b>	3
<b>Land &amp; Environment Court</b>	
<b>Appeal:</b>	No
<b>Recommendation:</b>	Approval

## **HISTORY**

Development application history:

DA0997/05	Demolition of existing structures and construction of 3 residential flat buildings comprising 64 dwellings, basement parking and landscaping was approved by Council on 28 February 2006.
DA0498/07	Demolition of four (4) dwellings and ancillary structures was approved under staff delegation on 29 June 2007.
DA1307/06	Demolition of dwellings and construction of a residential flat building (60 units), carparking and strata subdivision was approved by Council on 25 September 2007.

MOD0128/10

Modification application to reconfigure basement layout, changes to landscaping and mechanical ventilation was approved on 5 August 2010.

The constructed basement is not consistent with the approved plans of the development consent DA1307/06. The subject application seeks to rely upon the approved basement. Modification application MOD0128/10 was lodged to amend the approved plans to reflect the constructed basement. This application was approved on 5 August 2010.

**Current application DA0778/09:**

26 August 2009

Pre-DA meeting for construction of a residential flat building consisting of 96 units and basement carpark. Issues discussed at the meeting included compliance with development standards, solar access, landscaping and building width.

16 November 2009

DA0778/09 lodged.

27 November – 27 December 2009

Application notified.

4 February 2010

Correspondence sent to the applicant raising issues with building separation, unit depth and layout, solar access, private open space, aesthetics, non-compliance with deep soil landscape area, number of storeys and manageable units. Landscape concerns relating to front setback, communal open space and landscape screening. Insufficient information and inaccuracies between drawings. The correspondence recommended withdrawal of the application.

19 February 2010

Meeting with the applicant and their representatives regarding the issues raised by Council's letter dated 4 February.

4 March 2010

Council wrote to the applicant regarding the partially constructed basement which as approved was inconsistent with the approved basement under development consent DA1307/06.

12 March 2010

Amended plans and additional information was received, which reduced the number of units proposed to 101 from 102 by reducing the

	number of 2 bedroom units to create 1 bedroom units with studies.
29 April 2010	Council officers brief the JRPP on the application.
3 May 2010	Council wrote to the applicant regarding the partially constructed basement, deep soil landscape area compliance plan, number of storeys and site slope.
15 May 2010	Applicant requests an extension until 28 May 2010 to submit information, which was granted.
28 May 2010	Applicant submits amended plans deleting 2 units, reducing the floor area at the 6 <sup>th</sup> floors and reducing the height of Building A. An amended SEPP 1 objection and deep soil landscape plan were also provided.
	Modification Application MOD0128/10 was lodged to DA1307/06 seeking approval for the amended basement design upon which the current DA relies.
1 June 2010	Council wrote to the applicant raising concerns that the submitted SEPP 1 objections were not well founded.
7 June 2010	Amended SEPP 1 Objections submitted.
24 June 2010	Council wrote to applicant raising concern with inconsistencies between the landscape plans and the architectural plans relating to ground levels and access. Minor design issues were also raised.
14 July 2010	Applicant submits amended plans.
28 July 2010	Council wrote to the applicant indicating that the concerns raised in the letter of 24 June had not been adequately addressed.
2 August 2010	Applicant submits further amended plans.

## THE SITE

Zoning:	Residential 2(d3)
Visual Character Study Category:	1920-45

Lot Number:	Lot B in DP 414382 (3 Lorne Avenue), Lot 1 in DP 602960 (5 Lorne Avenue), Lot 2 in DP 602960 (5A Lorne Avenue) and Lot 3 in DP 526399 (7 Lorne Avenue)
Area:	6,216m <sup>2</sup>
Side of Street:	Northern
Cross Fall:	West to east
Stormwater Drainage:	Easement along northern boundary to Culworth Avenue
Heritage Affected:	Yes – within vicinity of 8, 10, 14 and 21 Lorne Avenue which are listed heritage items.
Integrated Development:	No
Bush Fire Prone Land:	No
Endangered Species:	Yes – Sydney Blue Gum High Forest - No detrimental impacts
Urban Bushland:	No
Contaminated Land:	No

## THE SITE AND SURROUNDING AREA

### The site

The site comprises four lots and is located on the northern side of Lorne Avenue, approximately 50 metres to the west of the intersection with Culworth Avenue. The site is irregular in shape with an area of 6216m<sup>2</sup>. The site has a frontage of 87.99 metres to Lorne Avenue, a stepped western boundary with a total length of 95.825 metres, a northern rear boundary of 48.695 metres and an eastern boundary of 95.97 metres.

Along Lorne Avenue the site falls from the west (RL117.8) to east (RL116.24). While at the rear, it falls from the west (RL109.06) to the east (RL107.63). The site had a slope of approximately 10% prior to construction works at the rear portion and the front portion of the site had a slope of 15%.

A drainage easement running parallel with the rear northern boundary traverses the site and drains in an easterly direction towards Culworth Avenue.

The site presently contains a partially constructed two level basement.

There are presently six (6) trees on site in addition to eleven (11) street trees along Lorne Avenue. The streetscape is dominated by Jacarandas.

### Surrounding development

The site is bounded by the Pacific Highway to the west and the North Shore Railway Line to the east. The streetscape is characterised by detached single dwellings, including heritage items at 8, 10, 14 and 21 Lorne Avenue but also includes recently constructed residential flat buildings at 25 – 27 Lorne Avenue.

Properties to the north and east of the site, fronting Culworth Avenue, are zoned Residential 2(d3) which permits multi-unit development. A Council carpark is located to the south of the site along with single residential dwellings which are zoned Residential 2(b) and 2(c2). The properties immediately to the south, with the exception of 21 Lorne Avenue, are zoned Residential 2(d3).

## THE PROPOSAL

The application has been amended through-out the assessment process. The proposal as amended is for:

Construction of five residential flat buildings containing 99 units (6 x 1 bedroom, 31 x 1 bedroom plus study, 57 x 2 bedroom and 5 x 3 bedroom) and reliance upon a partially constructed basement levels for parking over three levels with a total of 163 car spaces.

Details of each floor level are as follows:

Basement 2, RL 102.93	49 resident car parking spaces, 4 disabled spaces and 2 lifts and stair access.
Basement 1 RL105.930	60 resident car parking spaces, 5 disabled spaces, bicycle storage area, 3 lifts, plant room, switch room, detention and retention tanks and stair access.
Level 0, RL 109.33	15 resident car parking spaces, 3 disabled spaces, 27 visitor car parking spaces, 3 lifts, stairs, hydrant pump room and plant room.

### ***Building A (north)***

Level 0 RL109.13	8 units (5 x 2 bedrooms, 3 x 1 bedroom plus study)
Level 1 RL 112.23	8 units (5 x 2 bedrooms, 3 x 1 bedroom plus study)
Level 2 RL115.33	8 units (5 x 2 bedrooms, 3 x 1 bedroom plus study)
Level 3 RL118.43	8 units (5 x 2 bedrooms, 3 x 1 bedroom plus study)
Level 4 RL121.63	2 units (2 x 3 bedrooms)

### ***Building B (west)***

Level 1	
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RL 112.150	4 units (3 x 2 bedrooms and 1 x 1 bedroom plus study), garbage room for 103 bins, plant room, switch room, car wash bay.
Level 2 RL 115.600	8 units (5 x 2 bedrooms and 3 x 1 bedroom plus study)
Level 3 RL 118.700	8 units (6 x 2 bedrooms and 2 x 1 bedroom plus study)
Level 4 RL 121.800	8 units (6 x 2 bedrooms and 2 x 1 bedroom plus study)
Level 5 RL 124.900	8 units (6 x 2 bedrooms and 2 x 1 bedroom plus study)
Level 6 RL 128.100	2 units (2 x 3 bedrooms)

### ***Building C (east)***

Level 1 RL 112.150	3 units (1 x 2 bedrooms and 2 x 1 bedroom plus study), community room.
Level 2 RL 115.600	5 units (1 x 2 bedrooms, 3 x 1 bedroom and 1 x 1 bedroom plus study)
Level 3 RL 118.700	6 units (3 x 2 bedrooms, 1 x 1 bedroom and 2 x 1 bedroom plus study)
Level 4 RL 121.800	6 units (3 x 2 bedrooms, 1 x 1 bedroom and 2 x 1 bedroom plus study)
Level 5 RL 124.900	6 units (3 x 2 bedrooms, 1 x 1 bedroom and 2 x 1 bedroom plus study)
Level 6 RL 128.100	1 unit (1 x 3 bedrooms)

### **Vehicular and pedestrian access**

Vehicular access to the basement car park area is provided from Lorne Avenue via a curved entry/exit driveway ramp located to the south-eastern corner of the site. A main pedestrian entrance is proposed from Lorne Avenue which connects Building B and C with the rear Building A via a pedestrian bridge.

### **CONSULTATION - COMMUNITY**

In accordance with Council's Notification DCP, owners of adjoining properties were given notice of the application on 27 November 2009. In response, Council received three (3) submissions from the following:

- |    |                         |                          |
|----|-------------------------|--------------------------|
| 1. | Mrs Joyce Burke         | 23 Lorne Avenue, Killara |
| 2. | Gail and Russell Hooper | 21 Lorne Avenue, Killara |
| 3. | Mary Chicherio          | 14 Lorne Avenue, Killara |

The submissions raised the following issues:

***location of the driveway adjacent to the eastern boundary***

The proposal does not seek consent for any driveway or basement. The proposal relies upon the approved basement and driveway under the development consent to DA1307/06.

***nature of the development seems like high density and not medium density***

The site is zoned Residential 2(d3) where a permitted FSR of 1.3:1 is applicable. The proposed development complies with the permitted FSR and is correctly described as medium density housing.

***noise impacts from the number of residents and likely tenants***

The site is zoned Residential 2(d3) to permit medium density housing. The proposal is compliant with the permitted FSR and the density is appropriate. The resultant noise from future occupants is not considered to be inconsistent with the noise expected in a residential area.

***traffic impacts upon Lorne Avenue and Culworth Avenue***

The application and accompanying traffic report were considered by Council's Team Leader of Engineering, who provided the following comments regarding this issue:

*The traffic report has used a high density figure to estimate the traffic generation potential of the development. It is considered that medium density figures are more applicable to the subject development, however the difference is not significant, with the development expected to generate 19 to 27 vehicle trips per peak hour, that is, one movement every 2-3 minutes. The report concludes that the effect of the development will be acceptable because of the minor additional traffic generation and the fact that the majority of additional traffic would approach and depart the site via the Pacific Highway. This is accepted.*

***building height and bulk***

The proposed number of storeys is consistent with the development approved under development consent DA1307/06. The upper levels of Buildings B and C are stepped to address the bulk of the buildings which is considered to be appropriate.

***privacy impacts***



The proposal complies with the required side setbacks. The proposal is adjoined by sites zoned Residential 2(d3) and, given the complaint side setbacks, will achieve the required spatial separation for future development. **Condition 20** is recommended to ensure access is restricted along the western elevation of level 6 of Building B to maintain privacy to the adjoining dwelling.

### ***streetscape impacts***

The proposed location of the Buildings B and C which front Lorne Avenue is consistent with the footprint approved under development consent DA1307/06. The proposed buildings provide for articulation at the fifth and sixth storeys to lessen their visual impact on the streetscape. Additionally, the proposal provides for increased separation of the built form (between Buildings B and C) at the streetscape, providing a break in the massing of the buildings.

## **CONSULTATION – EXTERNAL TO COUNCIL**

The application was referred to RailCorp as an adjoining property owner. RailCorp indicated concern regarding future occupants of the development encountering rail related noise and vibration from the adjacent rail corridor. RailCorp requested that Council include two conditions of development consent in accordance with the requirements of the Department of Planning which released the document titled “Development Near Rail Corridors and Busy Roads- Interim Guidelines”. **Conditions 18 and 19** reflect the requirements of Rail Corp.

## **CONSULTATION - WITHIN COUNCIL**

### **Urban Design**

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

#### ***“1.0 Design Review***

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

*SEPP 65 : Good design responds and contributes to its context.....Responding to context involves identifying the desirable elements of a locations current character, or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies.*

*Comment:*

*The site has a frontage to Lorne Avenue. The existing context is comprised of elements of the built environment and the natural environment. The existing built form context for this development is comprised of detached houses.*

*Adjoining lots to the north, east and west are zoned 2 ( d3 ). There is no need for zoning transitions across side boundaries. The proposed development is within 400m of Killara train station.*

*There are heritage items opposite the site at 8 and 10 Lorne Avenue. These buildings are set back a substantial distance from Lorne Avenue and the front yards contain some trees, which partially screen the items. Due to the distance of separation and the partial screening, the proposed development does not visually impact on these items.*

*A heritage item is located to the west of the site, at 21 Lorne Avenue. The proposed development is separated from the heritage item by an existing 6m wide driveway and the proposed 6m setback from the side boundary, plus the 3m-side setback of the item from its boundary. This creates a 15m distance between the existing and the proposed building, which is acceptable.*

*The natural environment is an important characteristic of Lorne Avenue, which is lined by large trees, many of which are planted in private properties. One of the primary objectives of DCP 55 is for buildings to be viewed in their landscaped setting. This proposal achieves that objective with respect to the street frontage, by providing a 13m- 15m building setback from the street frontage, with substantial plantings of large-scale tree species in the setback and use of colours / materials similar to characteristics within the surrounding context.*

*The 6m setbacks from the eastern, northern and western boundaries are acceptable, and contain sufficient landscaping to create a landscaped setting for the buildings. The proposed development is acceptable in regard to context.*

## **2: Scale**

*SEPP 65: Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings. Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing transition proposed bulk and height needs to achieve the scale identified for the desired future character of the area.*

*Comment:*

*The building footprint is 35% of the site area and complies with KPSO and the proposal's FSR is 1.31:1, which is slightly additional to DCP 55. A SEPP No.1 Objection is submitted with the application in relation to the non-compliance to the amount of building footprint for a development on a sloping site as required by clause 25K(a) of the KPSO.*

## **Principle 3: Built Form**

*SEPP 65 : Good design achieves an appropriate built form for a site and the buildings purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.....*

*Comment:*

*All setbacks comply with DCP55.*

*The separation between Building B2 and Building C has been increased at the southern end and bedroom windows in Building C oriented away from Building B2. A curved roof line distinguishes one building from the other. This separation and gesture towards the public domain enhances the separation when viewed from Lorne Avenue, and is acceptable.*

## **Principle 4: Density**

*SEPP 65 : Good design has a density appropriate to its site and its context, in terms of floor space yields ( or numbers of units or residents).....*

*Comment:*

*The proposal's footprint is 2176.2m<sup>2</sup>, the top floor complies with the 60% maximum and 50.1% of deep soil planting is proposed. Therefore, the density of the development appears to be appropriate, complies with KPSO and is acceptable.*

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

*SEPP 65: Sustainability is integral to the design process. Aspects include.....layouts and built form, passive solar design principles,..... soil zones for vegetation and reuse of water.*

*Comment:*

*The proposal contains 70% of apartments gaining 3 hours sunlight access to living rooms/balconies at midwinter between 9am and 3pm, which meets the minimum 70% solar access required.*

*More than 25% of kitchens, as recommended in the Residential Flat Design Code, are located on external walls. More than 60% of the apartments are naturally ventilated. The proposed development has a deep soil zone of approximately 50.1%.*

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

*SEPP 65: Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.*

*Comment:*

*The landscaping is acceptable.*

#### **Principle 7: Amenity**

*SEPP 65: Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts, and service areas, outlook and ease of access for all age groups and degrees of mobility.*

*Comment:*

*Many bedrooms have been re-designed and converted to studies, in response to Council's previous comments. This is supported, and it is important that these studies are used as studies into the future. Studies function well as niches adjoining living areas, and this is recommended. Currently many studies have short blade walls that may encourage their conversion to bedrooms. To avoid this, it is recommended that the short, freestanding blade walls are deleted from the following studies. It may be preferable to re-hang front doors to some apartments where blade walls are removed:*

*Studies and media rooms in apartments A103, A108, B101, C101, C103, A203, A208, B201, B205, C201, C205, A303, A308, B301, B305, C301, C305, B401, B405, C401, B501, B505, C501*

**Condition 21** requires this design change.

### **Principle 8: Safety and Security**

*SEPP 65: good design optimises safety and security, both internal to the development and for the public domain. This is achieved by maximising activity on the streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.*

Comments:

*There are no perceived safety and security issues.*

### **Principle 9: Social Dimensions**

*SEPP 65: Good design responds to the social context and needs of the local community in terms of lifestyles, affordability and access to social facilities. New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood, or, in the case of precincts undergoing transition, provide for the desired future community.*

Comments:

*The mix and sizes of units will provide a more affordable range of apartments within this area.*

### **Principle 10: Aesthetics**

*SEPP 65: Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements if the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.*

Comments:

*The use of the terracotta tiles and the contrast of the soft wall colours are acceptable along with the provision of trellises for creeping vines and green planters. The landscaping proposed will complement the development. The colours and materials selected are acceptable.*

## **2.0 Recommendations**

*It is recommended that:*

*Studies and media rooms in apartments A103, A108, B101, C101, C103, A203, A208, B201, B205, C201, C205, A303, A308, B301, B305, C301, C305, B401, B405, C401, B501, B505, C501, are re-designed to make them more open to living areas, by deleting the short, freestanding blade walls that separate them from the living areas.*

*In terms of SEPP No. 65 the proposal would be acceptable and recommended for approval on the basis that it provides amendments as outlined in above comments.”*

The deletion of the freestanding blade walls is required by **Condition 21**.

The proposal does not exceed the permitted floor space ratio and is compliant with the control requirement. A risk assessment report was not submitted, however this is addressed by **Condition 17**.

## **Landscape**

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

### ***“Deep soil***

*Numerical compliance: 50.1%*

### ***Tree & vegetation removal & impacts***

*An arborist's report, prepared by Urban Forestry, dated 29/10/09, was submitted as part of the original application. Tree numbers refer to this report. The tree numbers are consistent with the numbers used in the tree report (Treescan 2006) prepared as part of DA1307/06 and thus are consistent with previous conditions of consent.*

### ***Significant trees to be removed***

*No significant trees on site are required to be removed for the development. Two trees, however are assessed as being in poor condition, with four recommended for removal (being Trees 17, 18, 19 and 46). The proposed removal of Trees 17, 18 and 19 is not supported because these trees provide existing amenity to the adjoining property.*

### ***Trees to be retained***

- *Castanospermum australe (Moreton Bay Chestnut) Tree 16, 500 DBH, fair condition, SULE 3B*
- *Brachychiton acerifolius (Flame Tree) Tree 17*
- *Jacaranda mimosifolia (Jacaranda) Tree 18*
- *Ulmus glabra 'Lutescens' (Golden Wych Elm) Tree 19*

*Arborist report states that pallets of sandstone rocks are stored within the tree protection zone (TPZ) of existing trees.*

*Proposed changes to landscape contours within existing trees are not supported. To be conditioned.*

*Two trees proposed for transplanting (Trees 23 and 25) are also recommended for removal due to their poor condition. This is supported, subject to replacement. To be conditioned.*

### ***Trees on adjoining properties***

- *Cupressus sempervirens (Italian Cypress) Tree 15*

- *Cedrus deodara* (Himalayan Cedar) Tree 15A
- *Cupressus macrocarpa* (Monterey Cypress) Tree 20
- *Alnus jorullensis* (Evergreen Alder) Tree 34-37

#### **Street trees to be retained**

- *Jacaranda mimosifolia* (Jacaranda) Tree 40,42, 44, 45, 47-49, 51
- *Trachycarpus fortunei* (Chinese Windmill Palm) Tree 41 and 43

#### **Street trees to be removed**

*Jacaranda mimosifolia* (Jacaranda) Tree 46 is considered in poor condition with a split stem and is recommended for removal. This is supported, subject to replacement.

#### **Landscape plan**

##### *Front setback*

*Proposed landscape design of front setback should reflect the heritage character and residential scale of Lorne Avenue. Proposed single pedestrian access to development from Lorne Avenue with additional path access to common areas to side and front setback.*

*Reuse of existing sandstone in feature wall/steps in front garden wall – refer typical landscape sections.*

##### *Common open space*

*The proposed principle common open space is located in the centre of the site. The central communal open space is dissected by a pedestrian footbridge approximately 6 metres above natural ground level. The bridge connects from the ground floor lobby between Building B and C to the Level 2 entry to Building A. The bridge is approximately 1.8m wide and runs straight through the site. A path runs directly beneath the bridge. This width of bridge will allow two people to pass comfortably.*

*DCP55 requires that 'at least one area of not less than 150m<sup>2</sup> per 1000m<sup>2</sup> or 900m<sup>2</sup> of deep soil landscaping area provided, preferably at the rear or middle of the site. The proposal provides an area in the middle of the site of approximately 600m<sup>2</sup>.*

##### *Access*

*Disabled access to the principle communal open space is via the bridge and lift in Building A or via the lift in Building B and through the carpark. There is additional access from Building B via two flights of stairs.*

##### *Privacy*

*To preserve residential amenity, the private open spaces, approximately 2.5 metres above the adjoining communal open space, have been set behind sloped gardens. Private open space to Unit B1.02 has been set back with terraces to break up scale of eastern retaining wall and to reduce overlooking.*

##### *Access*

To provide residential amenity and maintenance access for mowing of lawn areas, gates from private courtyards to communal open space should be provided as required by Clause C-10, Section 4.1, DCP55; Clause 25C, (2)(g) LEP194. The development does not provide this but it is recommended as part of the conditions of consent.

### *Screen Planting*

*The screen planting consists of the following:*

#### *Building A*

*Northern boundary – Clerodendron tomentosum (Hairy Clerodendron) 2m, Persoonia levis (Broad-leaf Geebung) 3-4m, 3 Backhousia myrtifolia (Grey Myrtle)4m, 2 Elaeocarpus reticulatus (Blueberry Ash)8m*

*Western boundary – Ceratopetalum gummiferum (NSW Christmas Bush) 3m, Banksia ericifolia 3m, Backhousia myrtifolia (Grey Myrtle)4m, Elaeocarpus reticulatus (Blueberry Ash)8m*

*Eastern boundary – Persoonia levis (Broad-leaf Geebung) 3-4m, 1 Backhousia myrtifolia (Grey Myrtle)4m, 3 Elaeocarpus reticulatus (Blueberry Ash)8m*

#### *Building B*

*Northern boundary – Clerodendron tomentosum (Hairy Clerodendron) 2m,*

*Western boundary (to heritage property)– Viburnum tinus (Laurestinus) 3m, 1 Backhousia myrtifolia (Grey Myrtle)4m*

*Eastern boundary – Ceratopetalum gummiferum (NSW Christmas Bush) 3m*

#### *Building C*

*Eastern boundary – Clerodendron tomentosum (Hairy Clerodendron) 2m, 2 Backhousia myrtifolia (Grey Myrtle) 4m, 1 Elaeocarpus reticulatus (Blueberry Ash) 8m*

*To provide sufficient area for effective landscape to setbacks of development, the proposed pathways are to be set back a minimum of 3 metres from the site boundary. Screen planting to boundaries is to be layered to include in addition to tall trees, medium trees, small trees and shrubs (Clause 4.1, C-8(ii), DCP55). To be conditioned.*

### **BASIX**

*Some 1787m<sup>2</sup> of indigenous/low water use species are nominated on the original BASIX Certificate. A Low Water Use Species Plan has been provided including the Roof and on-slab areas.*

*Amended plans include modified private courtyard dimensions. An amended BASIX Certificate has been submitted to reflect the amendments.*

### **Stormwater plan**

Overland flow has been shown indicatively on the Landscape Plan with no details being provided. The landscape plan is required to be in accordance with the engineer's details. Proposed stormwater lines and pits to side setbacks are to be relocated as close as possible to the buildings to preserve viable planting area for tall tree planting. Conditions of consent are recommended to ensure this is achieved.

## **CONCLUSION**

*The proposal is acceptable, subject to conditions"*

## **Heritage**

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

### ***"Background***

*The land, known as the "Lorne Estate" was subdivided into residential lots in 1899 of about one acre in size promoted by the opening of Killara Railway Station, in 1899. Lorne Avenue was intended to be a prestigious area with covenants regulating size, cost and building materials being placed on the land to ensure the quality of buildings and to ensure that purchasers were 'gentlemen of means'. Nos 3, 5 & 5a Lorne Avenue was subdivided from a large lot and 7 Lorne Avenue was formerly part of the heritage item, 21 Lorne Avenue. No 5 and No 21 Lorne Avenue were built shortly after the initial subdivision.*

*Approval for an RFB was issued in 2006 and also for a different scheme in 2007. Construction of the 2007 scheme commenced. Demolition of the existing houses, excavation and basement works has been completed. This application proposes using the basement layout but the building is a different layout now proposing 99 apartments (DA1307/06). The approved scheme was for 60 larger apartments.*

### **Heritage status**

#### **National Trust UCA**

*The subject site is not included in a UCA but adjoins the National Trust Urban Conservation Area No 10 – Culworth Avenue, Killara.*

#### **Within the Vicinity of a Heritage Item**

*Council is required to assess and consider impacts from development within the vicinity of heritage items. There are a number of heritage items within the vicinity of the proposed development as follows.*

#### **No 8 Lorne Avenue**

*The subject site is directly opposite "Windermere", No 8 Lorne Avenue. It is a substantial house on a large lot with mature gardens, typical of the larger houses built in Killara in the Inter War period. The large setback and carefully developed garden enhance the item and provide an appropriate setting.*

#### **No 10 Lorne Avenue**



*This item is a large Californian Bungalow and is opposite the proposed development. Similarly to No 8 it is set back a considerable distance from the street in a mature garden.*

#### **No 14 Lorne Avenue**

*This item is also a large example of an Inter War house set back from the street in a mature garden. It is nearby, but not directly opposite the subject site.*

#### **No 21 Lorne Avenue**

*This house was built prior to 1900 and predates the majority of buildings in Lorne Avenue. The original property was subdivided into 3 lots many years ago. The houses on No 7 & No 9 Lorne Avenue were built on the subdivided lots. This item is separated from the subject site by the access handle to No 9 Lorne Avenue.*

#### **DCP 55 Issues – Chapter 3.5 - Development within the vicinity of a heritage item –**

##### **Design Controls.**

*C-1 Setbacks. DCP 55 requires the side setback to be a minimum of 10m for the first and second floors and 15m for the third and fourth floors. This application meets the side setback requirements in DCP 55.*

*DCP 55 also requires the new development to be set back from the front boundary so that it is not closer than the adjoining heritage item. The heritage item is set at an angle to the street with its setback varying between 13m and 21m. The heritage item is set out in line with its side setbacks, not the street alignment the greater setback - 21m is adjacent to the development site. The proposed development is set back about 15m next to the heritage item and it increases up to 21m in the middle of the site and results in a minor non-compliance. To comply with this control it would need to be set back an additional 5- 6m.*

*C-2 Screen planting on the boundary with the heritage item should achieve a height of 4m and be relatively continuous. The proposed planting achieves compliance with this control.*

*C-3 The aesthetic character of this development is clearly contemporary and clearly is different from the character of the nearby heritage items, which are Federation and Inter War Californian Bungalows. The intent of the control is to allow new development that respects the aesthetic character of the heritage items and not to dominate it.*

*The architectural design statement states the following - the scheme has been designed to respect the morphology of the area in modern interpretation. The proposal provides an appropriate composition of building elements, texture, materials and colours, reflecting the use, internal design and structure of the development. The development will, through its merits, blend into the streetscape and respond to the desired future character of this important area.*

*This application provides a reasonably articulated facade designed in 5 “blocks”. A bridge joins the three blocks at the front to the two blocks at the rear to the street. The articulation in the façade is related to the variety in scale and character of the streetscape and nearby heritage items. The side elevation adjoining the heritage item is relieved by angular projecting bays.*

*C-4 This application proposes predominantly painted and rendered walls with terra cotta cladding, metal louvres and glazed dark blue bricks on the top floor. The main colour of the walls is light cream. The base of the building is not defined by different materials or colours although the terra cotta panels continue to the ground line. Amendments could consider introducing a contrasting base of stone or brickwork and the main wall colours could be darker. The colours chosen are similar to the adjoining heritage item at No 21 Lorne Avenue.*

*C-5 It is unclear what is proposed for front fencing. The landscape plan indicates a front fence, but no detail is provided. The photomontage shows no front fence but low hedging. More information is required.*

*C-6 The application is accompanied by a heritage impact statement. The statement concludes that; "the proposal will have no adverse impacts on the heritage significance of the items within the vicinity and no heritage grounds there would be no grounds for refusal of the application".*

### **Comments**

*This application is the third for the site. Two previous schemes were approved by Council. Demolition and site works have been completed. The site is now excavated with a partially completed basement. The new application generally follows the footprint of the approved development but the design is very different. The approved scheme was for 66 large apartments, predominantly 3 bedrooms. This application is 99 apartments with a mix of one, two and three bedrooms.*

*The proposed development is for two separate buildings to Lorne Avenue (Building B & C) with one block at the rear of the site (Building A) connected via a bridge/walkway. Each building is designed with two separate wings linked via corridors.*

*The western elevation of Building B facing the heritage item is relieved by projecting angular bays. The balconies are partially enclosed by glass louvres. Part of the facades and the top floor pergolas are proposed to be covered by creeping vines in what is described as a "vertical living garden".*

*The objectives in DCP 55 relating to heritage are:*

- to respect the heritage significance of the nearby heritage items*
- to not visually dominate the item*
- to not reduce views to or from the item and*
- to not impact on the garden setting of the item*

*In my opinion, the scheme could be supported but more information is required on the fences. The materials and colours need further consideration and amendment. It would be desirable to provide a well defined base to the building, with colours generally being more recessive.*

### **Conclusions & recommendations**

*Although the front setback of the proposed development does not strictly comply with the front setback control in DCP 55, in my opinion, the proposed development is set back a reasonable distance, it would not adversely impact on the heritage significance of the item and is acceptable.*

*The scheme can be supported provided more information is provided about fencing and the colour scheme/materials are reconsidered.*

*Stone salvaged from the demolished building should be reused in the landscape design. Interpretation of the demolished buildings should be provided in the foyer of the proposed building."*

Comment: The proposed development does not seek consent for a front fence. The proposal utilises landscaping and change in level between the street level and development site to provide definition along the Lorne Avenue frontage.

The salvaged stone is utilised in a wall running adjacent to the driveway entrance.

**Condition 22** requires the rendered walls to be darkened.

## **Engineering**

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

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

*The site falls to the rear. The downstream property, 36 Culworth Avenue, is subject to a right to use and maintain a 600mm diameter pipe in favour of Council and for the purpose of "conveying and carrying off surface and storm waters from lands in the neighbourhood...". These terms are sufficiently broad to allow the development to drain its runoff onto the pipe.*

*The pipe also extends within the subject properties, along the rear boundaries. Because of the 6 metres setback of the building, overland flow along this system should not affect the development. Ground floor levels are well above the levels along the easement.*

*A CCTV report has been carried out by the applicant and the pipe is dilapidated. The applicant proposes to replace the pipe, and to relocate it further within the property (to maximise the deep soil landscaping). This is supported. The easement will need to be widened or relocated, which will require Council's approval. Because the applicant is upgrading the pipe, approval is expected to be forthcoming, and may be obtained prior to occupation. The design for the new pipe will have to be approved by Operations before issue of the Construction Certificate. The recommended conditions include these items.*

*The BASIX commitments are for 102 000 litres of rainwater retention, with re-use for toilet flushing, irrigation and car washing. On site detention of 97 cubic metres is also shown on the Stormwater Concept Plan. The access points to these tanks are not shown. DCP 47 requires access to detention and retention tanks to be in common areas, not in private courtyards. This appears to be achievable, and the recommended conditions include this. A water quality device is shown upstream of the rainwater tank. The proposed water management system is satisfactory, subject to conditions.*

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

*The site is within 400 metres of Killara Station. Under LEP 194, 102 resident and 26 visitor spaces are required. The development includes 27 visitor spaces, 84 single spaces, 19 pairs of tandem spaces and 12 disabled parking spaces. Potentially 71 units, including the*

*manageable units, would have a single space and 31 units would have two spaces. (not counting three spaces designated "small cars only"). The carparking provision is therefore satisfactory.*

*Dimensions and grades elsewhere comply with AS2890.1:2004. Widths of driveway ramps are generous.*

*The traffic report has used a high density figure to estimate the traffic generation potential of the development. It is considered that medium density figures are more applicable to the subject development, however the difference is not significant, with the development expected to generate 19 to 27 vehicle trips per peak hour, that is, one movement every 2-3 minutes. The report concludes that the effect of the development will be acceptable because of the minor additional traffic generation and the fact that the majority of additional traffic would approach and depart the site via the Pacific Highway. This is accepted.*

### **Waste collection**

*Generous access is available for the small waste collection vehicle. No door is shown which would obstruct entry.*

*Adequate headroom is available, as shown on the longitudinal section provided on the Sheet labelled Sections 2*

### **Construction management**

*On street parking is at a premium in this section of Lorne Avenue. The traffic report contains a brief discussion of construction traffic issues, including heavy vehicle access to the site (to and from Pacific Highway), the need for traffic controllers and pedestrian management. Employee parking in the completed basement is recommended. The western end of the Culworth Avenue carpark may offer a convenient alternative parking area.*

*A detailed Construction Traffic Management Plan will need to be submitted before commencement of works, when more specific details have been finalised.*

### **Geotechnical Investigation**

*Eight boreholes were drilled to depths of 4-12 metres. The site is underlain by topsoil or fill (inferred to be associated with construction of the residences, pools and tennis court) to 1 to 2 metres then residual clays and shale below about 2 to 4 metres depth, of variable strength but increasing with depth.*

*Excavation to achieve basement level is now complete. Dilapidation survey reports were submitted before commencement of works. Further pre-development dilapidation survey is not required."*

## **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.

	<b><i>Guideline</i></b>	<b><i>Consistency with Guideline</i></b>
<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  In accordance with the provision of LEP 194, 50% of the site is deep soil landscape area.
<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  The development satisfies this requirement.
	The minimum recommended area of private open space for each	YES

	apartment at ground level or similar space on a structure, such as on a podium or car park, is 25m <sup>2</sup> .	Ground floor apartments provided with terraces in addition to landscaping.
<i>Planting on Structures</i>	<p>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:</p> <p>Medium trees (8 metres canopy diameter at maturity)</p> <ul style="list-style-type: none"> <li>- minimum soil volume 35 cubic metres</li> <li>- minimum soil depth 1 metre</li> <li>- approximate soil area 6 metres x 6 metres or equivalent</li> </ul>	<p>YES</p> <p>The landscape plan shows a mixture of small and medium trees set amongst shrubs and ground cover. Trees are located along the boundaries and shrubs and turf confined to the areas above the basement with planting on slabs having soil depths of 600mm.</p>
<i>Safety</i>	Carry out a formal crime risk assessment for all residential developments of more than 20 new dwellings.	<p>NO</p> <p>A formal crime risk assessment has not been undertaken. A condition is recommended to address this requirement.</p>
<i>Visual Privacy</i>	<p>Refer to Building Separation minimum standards</p> <ul style="list-style-type: none"> <li>- up to four storeys/12 metres</li> <li>- 12 metres between habitable rooms/balconies</li> <li>- 9 metres between habitable/balconies and non-habitable rooms</li> <li>- 6 metres between non-habitable rooms</li> <li>- five to eight storeys/up to 25 metres</li> <li>- 18 metres between habitable rooms/balconies</li> <li>- 13 metres between habitable rooms/balconies and non-habitable rooms</li> <li>- 9 metres between non-habitable rooms</li> </ul>	<p>NO</p> <p>Building A at ground level is located within 8.2 metres of the adjoining dwelling at 40A Culworth Avenue. Refer to consideration below.</p>
<i>Pedestrian Access</i>	Identify the access requirements from the street or car parking area to the apartment entrance.	<p>YES</p> <p>Defined pedestrian entries</p>

		are proposed from street frontage.
	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.
<i>Vehicle Access</i>	Generally limit the width of driveways to a maximum of six metres.	N/A  The proposal relies upon the approved driveway width under DA1307/06. No concerns raised.
	Locate vehicle entries away from main pedestrian entries and on secondary frontages.	N/A  The proposal relies upon the approved location of the basement entrance. No concerns are raised as it is located to the south-eastern corner of the property from Lorne Avenue and the main pedestrian access is centrally located.
<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 C101, C103, C201, C203, C205, C301, C501 and B101 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.	NO  Units A201, A202, A205 and B204, B205, B206 and B208 are greater than 8 metres from a window.
	The width of cross-over or cross-through apartments over 15 metres	YES

	deep should be 4 metres or greater to avoid deep narrow apartment layouts.	The minimum width of the crossover apartments within the development is approximately 4.5m.
	<p>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)</p> <ul style="list-style-type: none"> <li>- 1 bedroom apartment 50m<sup>2</sup></li> <li>- 2 bedroom apartment 70m<sup>2</sup></li> <li>- 3 bedroom apartment 95m<sup>2</sup></li> </ul>	<p>YES</p> <p>The proposed apartments satisfy the minimum dimensional requirements. The proposal incorporates a number of 1 bedroom units with studies exceeding 50m<sup>2</sup>.</p>
<i>Apartment Mix</i>	Include a mixture of unit types for increased housing choice.	<p>YES</p> <p>The proposal includes: 6 x 1 bedroom, 31 x 1 bed + study, 57 x 2 bedroom and 5 x 3 bedroom units</p>
<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 minimum dimensions are measured from finished floor level (FFL) to finished ceiling level (FCL).</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 metres 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> </ul> </li> </ul>	<p>YES</p> <p>All habitable rooms have a floor to ceiling height greater than 2.7m.</p>
<i>Ground Floor Apartments</i>	Optimise the number of ground floor apartments with separate entries and	NO



	consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site.	Ground floor apartments within Building A are not provided with separate entries due to site slope and being adjacent to overland flow path. This is acceptable on merit.
	Provide ground floor apartments with access to private open space, preferably as a terrace or garden.	YES  All ground floor apartments have direct access to private open space areas which include balconies and courtyards.
<i>Internal Circulation</i>	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.	YES  Lift provides access to a maximum of 8 units.
<i>Storage</i>	In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:  <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>	YES  The plan demonstrates 421.7m <sup>3</sup> are provided within units and 949.8m <sup>3</sup> is provided within the car park and complies with the control requirements.
<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.	YES  Detailed solar access study has been submitted which demonstrates that at least 70% 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	YES

	(SW-SE) to a maximum of 10% of the total units proposed.	C204 is the only apartment with a single aspect with southern orientation in the development.
<i>Natural Ventilation</i>	Building depths, which support natural ventilation typically range from 10 to 18 metres.	NO  Building depths are generally 22.5 metres.
	Sixty percent (60%) of residential units should be naturally cross ventilated.	YES
<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
<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

## Safety

The provisions of the RFDC require a formal crime risk assessment to be undertaken for developments which propose more than 20 new dwellings. A formal crime risk assessment has not been provided. **Condition 17** requires the submission of a formal crime risk assessment prior to the issue of a construction certificate.

## 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 A is located within 8.2 metres of the adjoining dwelling at 40A Culworth Avenue and does not satisfy the required separation distance. The adjoining site is zoned Residential 2(d3) which permits multi-unit housing. The proposal complies with a 6 metre setback from the rear boundary which contains landscaping and given the likely development of adjoining properties, provides for adequate spatial separation.

### **Apartment layout**

The kitchens of apartments A201, A202, A205 and B204, B205, B206 and B208 are greater than 8 metres from a window and contrary to the rule of thumb. The objective of this requirement is to:

- ensure the spatial arrangement of apartments is functional and well organised
- ensure that apartment layouts provide high standards of residential amenity
- maximise the environmental performance of apartments
- accommodate a variety of household activities and occupants' needs

The proposed layout of the above apartments is considered to be functional and organised. The apartments are open plan and provide a direct view line from the kitchen through living rooms onto the private open space area. The proposed layouts are considered to achieve a high standard of residential amenity and will accommodate a variety of household activities. Given the open plan nature of the apartment layouts, the proposed kitchen locations are considered reasonable.

### **Ground floor apartments**

The ground floor apartments within Building A, apartments A008, A001, A004 and A005 are not provided with separate entries to the development. Building A is located at the rear of the property and does not have a direct presentation to the streetscape. Apartments A001 and A008 front the overland flow path and it is not considered desirable to have separate entrances in this location.

As a result of the topography of the site which slopes towards the rear of the property, the resultant change in level prevents direct access being achieved within Building A and similarly with apartments B103, B104, B101, B102, C103, C102 and C101. The proposal is considered to achieve the desired streetscape character and apartments orientated towards Lorne Avenue have been designed to achieve passive surveillance of the streetscape.

### **Building amenity**

The rule of thumb indicates building depths which support natural ventilation typically range from 10 to 18 metres. The proposed building depths are 22.5 metres and therefore contrary to the rule of thumb. The proposal, however, demonstrates the minimum percentage of apartments achieve the cross ventilation requirements and is therefore considered satisfactory in this regard.

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

Pursuant to Clause 101 in SEPP1 2007, the consent authority is required to consider the impact of development on traffic flows along classified roads. To satisfy the requirements of clause 101 (2)(a), vehicular access to/from the development has been provided from Lorne Avenue and not the Pacific Highway.

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

A valid BASIX certificate 275892M\_04 dated, 5 August 2010, has been submitted.

### **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**

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 site satisfy this definition and are permissible with consent. The development satisfies the zone aims and objectives under clause 25C and 25D of the KPSO.

<b>COMPLIANCE TABLE</b>		
<b>DEVELOPMENT STANDARD</b>	<b>PROPOSED</b>	<b>COMPLIES</b>
<b>Site area (min):</b> 1200m <sup>2</sup>	6219m <sup>2</sup>	<b>YES</b>
<b>Deep soil (min):</b> 50% (3109.5m <sup>2</sup> )	50.03%	<b>YES</b>
<b>Street frontage (min):</b> 30m	88m Boundary	<b>YES</b>
<b>Number of storeys (max):</b> 4 + top storey (maximum of 5 storeys)	Building B and C 6 storeys	<b>NO</b> <b>REFER TO SEPP 1</b>
<b>Site coverage (max):</b> 35%	35% (2176.7m <sup>2</sup> )	<b>YES</b>
<b>Top floor area (max):</b> 60% <b>of level below</b>	Building A = 328.5m <sup>2</sup> /608.5m <sup>2</sup> (54%) top storey  Building B = 304.9m <sup>2</sup> /304.9m <sup>2</sup> (100%) fifth storey  Building C =	<b>YES</b>  <b>NO</b> <b>REFER TO SEPP 1</b>  <b>NO</b>

Pathway

COMPLIANCE TABLE		
DEVELOPMENT STANDARD	PROPOSED	COMPLIES
	313.4m <sup>2</sup> /313.4m <sup>2</sup> (100%) fifth storey  Building B = 309.7m <sup>2</sup> /614.6m <sup>2</sup> (50.4%) sixth storey  Building C = 155.6m <sup>2</sup> /469m <sup>2</sup> (33.1%) sixth storey	REFER TO SEPP 1  YES  YES
<b>Storeys and ceiling height (max):</b> 5 storeys and 13.4m  <b>Car parking spaces (min):</b> <input type="checkbox"/> 25 (visitors) <input type="checkbox"/> 105 (residents) <input type="checkbox"/> 130 (total)	Building A = 5 & 13.2m Building B = 6 & 16.067m  Building C = 6 & 16m  27 136 163	YES NO REFER TO SEPP 1  NO REFER TO SEPP 1  YES YES YES
<b>Zone interface setback (min):</b> 9m	Adjoining 2(d3) sites	YES
<b>Manageable housing (min):</b> 10% or 11 units	11 units nominated (A004, A104, A201, A304 B204, B304, B404, B505 C201, C301, C404)	YES
<b>Lift access:</b> required if greater than three storeys	All lifts service all floors including basement levels.	YES

### Clause 25I(5) Maximum number of storeys

By operation of clause 25I(5) and 25I(8) of the KPSO, the maximum number of storeys permitted on the site is 5. Buildings B and C have 6 storeys.

A SEPP 1 objection has been submitted.

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

The requirement for a maximum number of storeys for land zoned Residential 2(d3) with an area greater than 2400m<sup>2</sup> pursuant to Clause 25I(5) is 5 storeys and is a development standard.

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

The objectives and purpose of cl25(l)5 are not expressly stated within that clause, however the KPSO provides real and tangible guidance in relation to the aims and objectives of the instrument in the following clauses:

KPSO CI 25D(2): Objectives for residential zones – provides the objectives for residential zones are as follows:

- to provide rear and side setbacks to enable effective landscaping between buildings
- to minimise impacts of carparking on landscape character
- to provide built upon area controls and deep soil landscaping to maintain and improve the tree canopy
- to ensure sunlight access to neighbours and occupants of new dwellings
- to encourage safety in the public domain by facing windows and building entries to the street

KPSO CI 25I(1): Heads of consideration for consent authority - provides a consent authority must take into account the following matters:

- deep soil landscaping
- overshadowing and loss of privacy
- building separation
- adequacy of landscaping

The express objectives and heads of consideration stipulated by the instrument provide guidance in relation to determining the underlying objects or purposes of the development standards. Whilst not stated within, the clause it is considered that the underlying objective and purpose of cl25(l)5 is to provide for an outcome whereby buildings maintain a high proportion of landscaping and do not have detrimental environmental impacts on the public domain, streetscape or neighbouring properties. Such detrimental impacts include:

1. overlooking of neighbouring properties
2. overshadowing of neighbouring properties
3. inappropriate bulk and scale inconsistent with the character of the streetscape.

It is considered that the purpose of the provision is to:

1. allow for development of multi storey residential flat buildings
2. provide for a high quality residential outcome within a high quality landscaped setting

3. minimise detrimental impacts on neighbouring properties

***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***

The applicant considers that *strict compliance with the development standard in this particular instance would prevent the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act because:*

- 1. The express aim of LEP 194 is to facilitate the development of multi unit housing in the Railway/Pacific Highway corridor.*
- 2. The proper management and co-ordination of orderly and economic use and development of land requires that dwelling densities are increased in close proximity to existing public transport infrastructure.*
- 3. Strict compliance with the standard would unnecessarily limit the number of dwellings achievable in the proposed development. This is inconsistent with co-ordinating increased dwelling density with existing public transport infrastructure.*
- 4. Strict compliance with the standard is not necessary to achieve the underlying objects and purposes of the standard. The underlying objects and purposes of the standard can be satisfied by the proposed development due to the manner in which the proposed design responds to the particular characteristics of the site including site slope.*
- 5. The proposal complies with the general objectives and heads of consideration outlined in cl 25D(2) and 25I(1) including floor space ratio, deep soil landscaping, building setbacks and site cover.*
- 6. The proposal does not result in any unreasonable environmental impacts on the public domain or neighbouring properties.*

It is considered compliance with the development standard is consistent with the aims of the policy and would not hinder the attainment of the objectives specified in the Act. However, in this circumstance the development demonstrates the underlying planning objective of the standard is achieved and the development does not result in any unreasonable impacts upon adjoining properties or the streetscape.

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

The applicant considers that it is unreasonable and unnecessary in the circumstance of the case to strictly comply with the development standard for the following reasons:

1. *The proposal does not provide any unreasonable environmental impacts.*
2. *The design is of a high quality and will not result in any unreasonable overshadowing or loss of privacy to neighbouring properties.*
3. *The site is a relatively large site which has a range of slopes over its depth. Portions of the site do have slopes greater than 15% which under the provisions of clause 25K would permit a 6th storey element.*
4. *Building A complies with the maximum permitted number of storeys and Buildings B & C which occupy portions of the site having a slope greater than 15% contain a 6th storey element.*
5. *Due to the steep slope of the site, Buildings B & C present to Lorne Avenue as a compliant 5 storey building (with the 5<sup>th</sup> storey set back) for the following reasons:*
  - a. *The site slope falls away from Lorne Avenue meaning the ground floor of Buildings B & C is below the existing level of Lorne Avenue. The resultant building height as perceived from Lorne Avenue is actually less than 5 storeys due to the steep slope of the site.*
  - b. *The steeply sloping topography of the site on which Buildings B & C sit results in the non-compliant 6<sup>th</sup> storey being only at the rear of the building and visible only at the oblique angles from Lorne Avenue. The building elevation presents as 5 storeys to Lorne Avenue.*
  - c. *The full height of the non-compliant 6<sup>th</sup> storey is only fully perceived from inside the proposed development.*
  - d. *The proposed 6<sup>th</sup> storey is well set back from the building edge resulting in further reduced building bulk when viewed from Lorne Avenue and adjoining properties.*
6. *The proposal provides a planning outcome which is consistent with the underlying objective of the standard. The proposal does not result in any unreasonable overshadowing or overlooking of neighbouring properties and the height of the building is appropriate and consistent with the streetscape of Lorne Avenue as anticipated by the 2d3 zoning.*
7. *Compliance with the standard it would be unreasonable because it would be contrary to achieving:*
  - a. *A design outcome for the site consistent with the design principles set out in SEPP No.65 and the Residential Flat Design Code, and*
  - b. *The relevant aims and objectives of the KPSO and the other applicable controls such as deep soil.*



It is considered unreasonable and unnecessary in this circumstance to comply with the development standard for the following reasons:

- The topography of the site steepens beneath Building B and C where there is a slope of 15%;
- The proposal has been designed in providing for an additional storey within Buildings B and C facing north within the site and limits the height of building A to 5 storeys which adjoins residential dwellings;
- The additional storey is visible only in the oblique angles from an eastern and western direction and does not unreasonably impact upon the streetscape;
- The proposal is considered to have an acceptable bulk and scale; and
- The breach of the control does not result in any unreasonable impacts upon adjoining properties and the residential amenity of future occupants. Building A, which will have the predominant view of the additional storey faces south, has a building separation of 18.4 metres and therefore maintains reasonable solar access and visual privacy.

***whether the objection is well founded***

The objection for the reasons indicated above is considered to be well founded.

**Clause 25I(7) Limit on floor area of top storey**

Clause 25I(7) of the KPSO controls the floor area of the top storey at locations 'where' the maximum number of storeys have been attained. The maximum number of storeys is attained at the 5<sup>th</sup> floor (pursuant to clause 25I(8)) and at the 6<sup>th</sup> floor (pursuant to clause 25K). The 6<sup>th</sup> storey and those parts of the 5<sup>th</sup> storey that are considered the "top storey" (that is those parts of the 5<sup>th</sup> storey that do not have another storey above them) are therefore subject to clause 25I(7).

Clause 25I(8) permits a maximum of 5 storeys. Clause 25K provides a concession to the control to permit 6 storeys. The clause permits a maximum 6<sup>th</sup> storey where the clause applies. Clause 25I(7) therefore applies to the 5<sup>th</sup> and 6<sup>th</sup> storeys in Buildings B and C, at those locations where they are the top storey. That is where those storeys do not have another storey above them.

Clause 25B of the KPSO defines gross floor area as:

*The sum of the areas of each floor of a building where the area of each floor is taken to be the area within the inner faces of the external enclosing walls, as measured at a height of 1,400 millimetres above each floor level, but excluding:*

- (a) *columns, fin walls, sun control devices, awnings and any other elements, projections or works outside the general lines of the outer face of the external walls, and*
- (b) *lift towers, cooling towers, machinery and plant rooms, and air conditioning and ventilation ducts, and*

- (c) *ancillary car parking and any associated internal designated vehicular and pedestrian access thereto, and*
- (d) *space for loading and unloading of goods, and*
- (e) *internal public areas, such as arcades, atria and thoroughfares, terraces and balconies with outer walls less than 1,400 millimetres high.*

The 5<sup>th</sup> storey element in Building A, to which clause 25I(7) applies, has an area of 328.5m<sup>2</sup>, which equates to 54% of the storey immediately below and complies. Building B and C comply with the control requirement at the 6<sup>th</sup> storey.

The 5<sup>th</sup> storey element in Building B, to which clause 25I(7) applies, has an area of 304.9m<sup>2</sup>, which is 100% of the storey immediately below and does not comply. Similarly, the 5<sup>th</sup> storey element in Building C, to which clause 25I(7) applies, has an area of 313.4m<sup>2</sup>, which is 100% of the storey immediately below and does not comply. The proposal therefore breaches the development standard. A SEPP 1 objection has been submitted seeking variation to the development standard.

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

The limit on floor area of top storey for land zoned Residential 2(d3) for multi unit housing is 60% prescribed under Clause 25I(7) of the KPSO and it is a development standard.

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

There is no specific underlying objective or purpose identified with respect of clause 25I(7). The applicant contends the underlying purpose of this provision is to provide for:

*“...an outcome whereby the proposed building has a reduced bulk on its upper level brought about by the steeping in of the upper level from the walls of the level below. To this end the standard requires that the top level is to have a building bulk which is effectively 60% of the bulk of the level below. It is considered that the underlying objective behind such a provision is to:*

- 1. Reduce building bulk,*
- 2. Provide for building articulation,*
- 3. Provide for a high quality residential outcome, and*
- 4. To minimise detrimental impacts.”*

It is accepted that the applicant’s identified underlying purpose is consistent with Council’s interpretation. In addition, there is the objective stated in clause 25C(2)(c) which is:

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

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 25C(2)(c), demonstrate that the objectives of the control in seeking to limit the floor area at upper levels is to minimise impacts resulting from the bulk and scale of the built form. Clause 25I(7) forms part of the suite of controls (including 25I(8), 25I(9) and 25K) contained within the KPSO to address bulk and scale of development.

***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***

The applicant considers that:

*Strict compliance with the development standard in this particular instance would prevent the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act because:*

1. *Strict compliance with the standard is not necessary to achieve the underlying planning objective.*
2. *Strict compliance with the standard would unnecessarily limit the floor area of the development, and*
3. *The proposal does not result in any unreasonable impacts.*

It is considered compliance with the development standard is consistent with the aims of the policy and would not hinder the attainment of the objectives specified in the Act. However, in this circumstance the development demonstrates that the underlying planning objective of the standard is achieved and the development does not result in any unreasonable impacts upon adjoining properties or the streetscape.

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

The applicant submits that strict compliance with the floor area of the top storey control is both unreasonable and unnecessary for the following reasons:

1. *The proposal does not provide for any unreasonable impacts noting that the design is of a high quality and will not result in any unreasonable overshadowing or loss of privacy.*

2. *The proposed building height as a result of the slope of the site away from the street presents to the street a 5 storey building having an upper level bulk significantly less than that which would ordinarily occur by virtue of the application of Clause 25K(a).*
3. *The proposed level 6 is well set back from the building edge resulting in further reduced building bulk when viewed from the street and adjoining properties.*
4. *The proposal provides for an outcome which is consistent with the underlying objective of the standard. The proposal provides for a top floor area on the upper level which is less than 60% of the level below.*
5. *The interpretation of the Council in this instance differs from that applied to DA 1307/06 and which remains in force upon the subject land.*

*And importantly it would be unreasonable because it would be contrary to achieving:*

6. *A design outcome for the site consistent with the design principles set out in SEPP No.65 and the Residential Flat Design Code, and*
7. *The relevant aims and objectives of the KPSO.*

It is considered unreasonable and unnecessary in this circumstance to comply with the development standard for the following reasons:

- The site slopes in a northern direction towards the centre of the site. Building B and C therefore present to Lorne Avenue as 4 storeys with a recessed 5<sup>th</sup> storey element.
- The full 6 storey presentation of Building B and C is to the centre of the site and therefore does not have an excessive bulk as viewed directly from the streetscape.
- The 6 storey element is recessed and complies with the 60% requirement.
- The 6 storey presentation will only be viewed in oblique angles from the neighbouring residential properties.
- By virtue of the site slope and building design, despite the 5 storey element not being 60% of the floor space below, the control outcome is achieved when viewed from Lorne Avenue.

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

For the reasons indicated above it is considered that the objection is well founded.

### **Clause 25I(8)(a) Maximum number of storeys and ceiling height**

The entire top floors of Building B and C constitute top storey elements. As the sixth storeys are stepped in from the perimeter, the elements of the fifth storey which do not have another storey above also become top storey elements.

However, the components of the fifth storey which are located directly beneath the sixth storey (top storey) result in a technical breach of the development standard.

The control states that:

*Subject to subclause (5) and clause 25(k), buildings on land to which this Part applies are not to have*

*(a) more storeys than the maximum number of storeys specified in Column 2 of the Table in this subclause.*

The number of storeys in a building (not including top storey with floor area reduced because of subclause (7)) is 4. The proposal contains 5 storeys in addition to a top storey.

The applicant has submitted a SEPP 1 objection seeking variation to the development standard.

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

The limit on the number of storeys in a building for land zoned Residential 2(d3) for multi unit housing is 4 plus a top storey having regard to subclause (5) and 25K of the KPSO and is a development standard.

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

The objectives and purpose of cl25I(8) are not expressly stated within that clause, however the KPSO provides guidance in relation to the aims and objectives of the instrument in the following clauses:

KPSO CI 25D(2): Objectives for residential zones – provides the objectives for residential zones are as follows:

- To provide rear and side setbacks to enable effective landscaping between buildings
- To minimise impacts of carparking on landscape character.
- To provide built upon area controls and deep soil landscaping to maintain and improve the tree canopy.
- To ensure sunlight access to neighbours and occupants of new dwellings.
- To encourage safety in the public domain by facing windows and building entries to the street.

KPSO CI 25I(1): Heads of consideration for consent authority - provides that a consent authority must take into account the following matters:

- deep soil landscaping

- overshadowing and loss of privacy
- building separation
- adequacy of landscaping

The express objectives and heads of consideration stipulated by the instrument provide guidance in relation to determining the underlying objects or purposes of the development standards. Whilst not stated within the clause it is considered that the underlying objective and purpose of cl251(8)(a) is to provide for an outcome whereby buildings maintain a high proportion of landscaping and do not have detrimental environmental impacts on the public domain, streetscape or neighbouring properties. Such detrimental impacts include:

1. overlooking of neighbouring properties
2. overshadowing of neighbouring properties
3. inappropriate bulk and scale inconsistent with the character of the streetscape.

It is considered that the purpose of the provision is to:

1. allow for development of multi storey residential flat buildings
2. provide for a high quality residential outcome within a high quality landscaped setting
3. minimise detrimental impacts on neighbouring properties

***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***

The applicant indicates that *strict compliance with the development standard in this particular instance would prevent the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act because:*

1. *The express aim of LEP 194 is to facilitate the development of multi unit housing in the Railway/Pacific Highway corridor.*
2. *The proper management and co-ordination of orderly and economic use and development of land requires that dwelling densities are increased in close proximity to existing public transport infrastructure.*
3. *Strict compliance with the standard would unnecessarily limit the number of dwellings achievable in the proposed development. This is inconsistent with co-ordinating increased dwelling density with existing public transport infrastructure.*

4. *Strict compliance with the standard is not necessary to achieve the underlying objects and purposes of the standard. The underlying objects and purposes of the standard can be satisfied by the proposed development due to the manner in which the proposed design responds to the particular characteristics of the site including site slope.*
5. *The proposal complies with the general objectives and heads of consideration outlined in cl 25D(2) and 25I(1) including floor space ratio, deep soil landscaping, building setbacks and site cover.*
6. *The proposal does not result in any unreasonable environmental impacts on the public domain or neighbouring properties.*

In this circumstance, the development demonstrates the underlying planning objective of the standard is achieved and that the development does not result in any unreasonable impacts upon adjoining properties or the streetscape.

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

The applicant considers that it is unreasonable and unnecessary in the circumstance of the case to comply with the development standard for the following reasons:

1. *The proposal in my opinion does not provide any unreasonable environmental impacts.*
2. *The design is of a high quality and will not result in any unreasonable overshadowing or loss of privacy to neighbouring properties.*
3. *The site is a relatively large site which has a range of slopes over its depth. Portions of the site do have slopes greater than 15% which under the provisions of clause 25K would permit a 6th storey element.*
4. *Building A complies with the maximum permitted number of storeys and Buildings B & C which occupy portions of the site having a slope greater than 15% contain a 6th storey element.*
5. *Due to the steep slope of the site, Buildings B & C present to Lorne Avenue as a compliant 5 storey building (ie a 4 storey building with the additional 5<sup>th</sup> storey set back) for the following reasons:*
  - (a) *The site slope falls away from Lorne Avenue meaning the ground floor of Buildings B & C is below the existing level of Lorne Avenue. The resultant building height as perceived from Lorne Avenue is actually less than 5 storeys due to the steep slope of the site.*
  - (b) *The steeply sloping topography of the site on which Buildings B & C sit results in the non-compliant 6<sup>th</sup> storey being only at the rear of the building*

*and visible only at the oblique angles from Lorne Avenue. The building elevation presents as 5 storeys to Lorne Avenue.*

- (c) The full height of the non-compliant 6<sup>th</sup> storey is only fully perceived from inside the proposed development.*
  - (d) The proposed 6<sup>th</sup> storey is well set back from the building edge resulting in further reduced building bulk when viewed from Lorne Avenue and adjoining properties.*
- 6. The proposal complies with the maximum permitted perimeter ceiling height control in cl25l(8)(b).*
  - 7. The proposal provides a planning outcome which is consistent with the underlying objective of the standard. The proposal does not result in any unreasonable overshadowing or overlooking of neighbouring properties and the height of the building is appropriate and consistent with the streetscape of Lorne Avenue as anticipated by the 2d3 zoning.*
  - 8. Compliance with the standard it would be unreasonable because it would be contrary to achieving a design outcome for the site consistent with the design principles set out in SEPP No.65 and the Residential Flat Design Code.*
  - 9. The proposed development complies with the relevant aims and objectives of the KPSO and the other applicable controls such as deep soil landscaping, site cover and floor space ratio.*

It is considered unreasonable and unnecessary in this circumstance to comply with the development standard for the following reasons:

- The buildings present to the streetscape as 4 storeys with a recessed 5<sup>th</sup> storey element which achieves an acceptable relationship with the streetscape.
- The development complies with the required side setback and the orientation of the additional floor space is centrally located which has the greatest bulk impact within the site itself and not upon adjoining properties.
- The proposal complies with the solar access requirements for both adjoining properties and future occupants.
- The additional floor space does not lead to an unreasonable bulk and scale of the development.

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

For the reasons indicated above it is considered that the objection is well founded.

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

The subject site is located within vicinity of the North Shore Railway Line. The proposal is considered to result in an acceptable aesthetic appearance as viewed from the railway and is therefore considered satisfactory.



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

The site is in the vicinity of four heritage items (No. 8, 10, 14 and 21 Lorne Avenue). The application has been considered by Council's Heritage Adviser who has raised no concerns regarding the proposed development and impact upon these heritage items. The proposal is therefore considered satisfactory.

## POLICY PROVISIONS

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

COMPLIANCE TABLE		
Development control	Proposed	Complies
<b>Part 4.1 Landscape design:</b>		
<b>Deep soil landscaping (min)</b> 150m <sup>2</sup> per 1000m <sup>2</sup> of site area = 900m <sup>2</sup>	510m <sup>2</sup>	<b>NO</b>
<b>No. of tall trees required (min):</b> 17 trees <b>Private outdoor space differentiation</b> Up to 1.2m solid wall with at least 30% transparent component	>17 trees proposed	<b>YES</b>
<b>Part 4.2 Density:</b>		
<b>Building footprint (max):</b> 35% of total site area	35% (2176.7m <sup>2</sup> )	<b>YES</b>
<b>Floor space ratio (max):</b> 1.3:1	1.13:1	<b>YES</b>
<b>Part 4.3 Setbacks:</b>		
<b>Street boundary setback (min):</b> 13 - 15 metres	13m – 15m from Lorne Avenue	<b>YES</b>
<40% of the zone occupied by building footprint) (58.08m <sup>2</sup> )	<40%	<b>YES</b>
<b>Side and rear boundary setback (min):</b> 6m	6m from northern, eastern and western boundaries	<b>YES</b>
<b>Setback of ground floor courtyards to street boundary (min):</b> 11m	Building B and C 15m	<b>YES</b>

COMPLIANCE TABLE		
Development control	Proposed	Complies
% of total area of front setback occupied by private courtyards (max): 15% (21.78m <sup>2</sup> )	<15%	YES
<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 B – 35 metres	YES
	Building C – 25 metres	YES
Balcony projection < 1.2 metres	All > 1.2metres	NO
<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 principal common open space located to the north east of the development will receive 3+ hours of direct sunlight in the winter solstice	YES
<15% of the total units are single aspect with a western orientation	0.01% (one apartment) single aspect western orientation	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 12 metres b/w habitable rooms	<u>Ground Floor</u> Building A - minimum 8.2m to north Building B – minimum 12m to west	NO YES
5th Storey 18 metres b/w habitable rooms	Building C to east 10 m	NO
	Buildings A – <18m to north Building B – <18m to west	NO NO
	Building C- <18m to east	NO
<b>Internal amenity:</b> Habitable rooms have a minimum floor to ceiling height of 2.7 metres	>2.7m	YES

COMPLIANCE TABLE		
Development control	Proposed	Complies
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	8 units per floor 4 units at upper level  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
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> for 1 bedroom >12m <sup>2</sup> for 2 bedrooms and >15m <sup>2</sup> for 3 bedrooms  >2.4 metres	YES YES  YES YES
Common Open space ( 30% Of the site area)	>30%	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%	>70%	YES
<b>Housing mix:</b> Mix of sizes and types	6 x 1 bedroom, 31 x 1 bed + study, 57 x 2 bedroom and 5 x 3 bedroom units	YES
<b>Part 5 Parking and vehicular access:</b>		
<b>Car parking (min):</b> 105 resident spaces 25 visitor spaces 130 total spaces	136 spaces 27 spaces 163 spaces	YES YES YES

### Part 4.1 Landscape design

### *Deep soil landscaping*

The control requires deep soil landscaping at a rate of 150m<sup>2</sup> per 1000m<sup>2</sup> of the site area. The proposal provides for 510m<sup>2</sup> of deep soil landscape area and not the required 900m<sup>2</sup>. The proposal has been designed in consideration of the existing partially constructed basement which has established the locations of deep soil landscaping. Although the proposal does not comply with the DCP requirement, the proposal does satisfy the 50% development standard of the KPSO and is considered acceptable.

## **Part 4.4 Built form and articulation**

### *Built form*

The proposal incorporates balconies which project more than 1.2metres from the building façade. The purpose of this control is to ensure building's are designed to achieve high levels of residential amenity including the provision of solar access. The proposal does not result in any adverse amenity impacts as a result of the balconies projecting more than 1.2 metres and is considered acceptable.

## **Part 4.5.2 Residential amenity**

### *Visual privacy*

Building A is set back 8.2 metres from the northern boundary shared with 40A Culworth Avenue and does not comply with the required 12 metres separation. The upper level of Building A contains planter boxes which provide for increased separation and maintain privacy levels between properties. **Condition 20** requires the gravel areas along the western boundary not be accessible to maintain privacy to the adjoining property.

Building B adjoins the access way to the dwelling located at 9 Lorne Avenue and as a result does not impact the habitable rooms within the site. The proposed separation is considered adequate to maintain privacy.

Building C is located approximately 10 metres from the adjoining property at 32 Culworth Avenue. Building C has been designed to orientate living and high use rooms to the northern communal open space and south towards the Lorne Avenue streetscape. The proposed fenestration which fronts the side boundary is associated with bedrooms and bathrooms. Given the use of these rooms, the proposal is not considered to result in any adverse amenity impacts upon the adjoining properties.

The proposal is considered satisfactory with respect to visual privacy.

## **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 \$1,566,770.53 which is required to be paid prior to the issue of the Construction Certificate (**Condition 44**).

#### **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 proposal is considered to be a reasonable development which does not result in any unreasonable 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.

#### **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 is deemed to be acceptable. Accordingly, the proposal is recommended for approval.

#### **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 proposal is considered to be generally consistent with the relevant Council statutory and policy controls. Where strict compliance has not been achieved, the proposal has been considered with respect of the control outcomes and supported on merit.

The proposal has been supported by three SEPP 1 objections, seeking variation to the maximum number of storeys and top storey floor space development standards. The assessment has considered these SEPP 1 objections to be well founded.

## RECOMMENDATION

THAT the 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 clauses 25I(5), 25I(7) and 25I(8)(a) of the Ku-ring-gai Planning Scheme Ordinance in respect of number of storeys and top storey floor area development standards are 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

THAT the Joint Regional Planning Panel, as the consent authority, being satisfied that the objections under SEPP No. 1 are well founded and also being of the opinion that the granting of consent to DA0778/09 is consistent with the aims of the Policy, grants development consent to DA0778/09 for construction of five residential flat buildings, comprising 99 units, landscaping and associated works. Reliance upon basement approved under DA1307/06 on land at 3 – 7 Lorne Avenue, Killara, 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
A-000 Title and Drawing List Revision E	PTW Architects	11/3/2010
A-001 Location Plan Revision B	PTW Architects	10/3/2010
A-002 Site Analysis Revision B	PTW Architects	11/3/2010
A-100 Floor Plans Level -2 Revision H	PTW Architects	11/3/2010
A-101 Floor Plans Level -1 Revision H	PTW Architects	11/3/2010
A-102 Floor Plans Level 0 Revision M	PTW Architects	29/7/2010
A-103 Floor Plans Level 1 Revision	PTW Architects	29/7/2010

M		
A-104 Floor Plans Level 2 Revision L	PTW Architects	9/7/2010
A-105 Floor Plans Level 3 Revision N	PTW Architects	24/5/2010
A-106 Floor Plans Level 4 Revision L	PTW Architects	24/5/2010
A-107 Floor Plans Level 5 Revision J	PTW Architects	11/3/2010
A-108 Floor Plans Level 6 Revision L	PTW Architects	24/5/2010
A-109 Floor Plans Roof Plan Revision I	PTW Architects	24/5/2010
A-200 Elevations 1 Revision M	PTW Architects	9/7/2010
A-201 Elevations 2 Revision L	PTW Architects	9/7/2010
A-300 Sections 1 Revision L	PTW Architects	9/7/2010
A-301 Sections 2 Revision H	PTW Architects	24/5/2010
A-400 50% Deep Soil Landscape Plan Revision G	PTW Architects	25/5/2010
A-401 35% Site Coverage Revision D	PTW Architects	11/3/2010
A-402 60% Top Floor Area L5 and L6	PTW Architects	24/5/2010
A-405 FSR & Storage Revision B	PTW Architects	11/3/2010
A-600 Adaptable Units Revision B	PTW Architects	11/3/2010
A-601 Environmental Site Management Revision B	PTW Architects	11/3/2010
STW - 01 STW Concept for DA Revision P1	PTW Architects	28/10/2009
000 Issue C Landscape Cover Sheet	Site Image	10/3/2010
101 Issue F Landscape Masterplan	Site Image	30/7/2010
151 Issue E Low Water Use Species Plan	Site Image	30/7/2010

152 Issue D Low Water Use Species Plan - Roof	Site Image	30/7/2010
301 Issue F Hardworks Plan Sheet 1 of 4	Site Image	30/7/2010
302 Issue F Hardworks Plan Sheet 2 of 4	Site Image	30/7/2010
303 Issue F Hardworks Plan Sheet 3 of 4	Site Image	30/7/2010
304 Issue F Hardworks Plan Sheet 4 of 4	Site Image	30/7/2010
401 Issue F Softworks Plan Sheet 1 of 4	Site Image	30/7/2010
402 Issue F Softworks Plan Sheet 2 of 4	Site Image	30/7/2010
403 Issue F Softworks Plan Sheet 3 of 4	Site Image	30/7/2010
404 Issue F Softworks Plan Sheet 4 of 4	Site Image	30/7/2010
411 Issue D Softworks Building A Roof	Site Image	30/7/2010
412 Issue C Softworks Building B Roof	Site Image	10/3/2010
413 Issue C Softworks Building C Roof	Site Image	10/3/2010
501 Issue D Landscape Typical Details Sheet 1 of 2	Site Image	30/7/2010
502 Issue D Landscape Typical Details Sheet 2 of 2	Site Image	30/7/2010
601 Issue C Landscape Sections	Site Image	7/7/2010

Document(s)	Dated
Statement of Environmental Effects prepared by Glendinning Minto & Associates Pty Ltd	November 2009
Arborist Report prepared by Urban Forestry	October 2009



Traffic and Parking Assessment Report prepared by Varga Traffic Planning Pty Ltd Ref. 09208	28 October 2009
BASIX, Thermal Comfort & BCA Section J Report prepared by Ecospecifier Pty Ltd	October 2009
Landscape Report prepared by Site Image Landscape Architects	30th October 2009
Geotechnical Advice prepared by Coffey Geotechnics Pty Ltd	22 November 2006
Structural Engineers Advice prepared by M + G Consulting	19 May 2008
Waste Management Plan prepared by the applicant submitted as Appendix M	21 October 2009
Access Report prepared by Accessibility Solutions Pty Ltd	30th October 2009
Heritage Impact Assessment prepared by Cracknell Lonegran Heritage Architects	October 2009
Environmental Site Management Plan prepared by unknown but identified as Appendix P	October 2009
Stormwater Management Report prepared by Ilias Design Group Pty Ltd	October 2009
Acoustic Report 10-5040-R1 Revision O prepared by Heggies Australia	28 October 2009
Building Code of Australia Assessment Report prepared by BCA Logic Pty Ltd	22 November 2006
	19 October 2009
Colours and finishes schedule prepared by PTW	26 October 2009
Perspectives A-Per 1 and A-Per 2 both Revision B prepared by PTW Architects	Undated

**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.

## Conditions to be satisfied prior to demolition, excavation or construction:

### **3. 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.

### **4. 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.

### **5. 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.

### **6. 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 which are the subject of this development consent.

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

The report is to contain commitments which must be followed by the builder, owner and subcontractors. The CTMP applies to all persons associated with 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:

- 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.

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.

## 7. Work zone

The applicant must make a written application to the Ku-ring-gai Local Traffic Committee to install the work zone. Work zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Work zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site.

If the work zone is approved by the Local Traffic Committee, the applicant must obtain a written copy of the related resolution from the Ku-ring-gai Local Traffic Committee and submit this to the Principal Certifying Authority prior to commencement of any works on site which are approved under this development consent.

Where approval of the work zone is resolved by the Committee, the necessary work zone signage shall be installed (at the cost of the applicant) and the adopted fee paid prior to commencement of any works on site. At the expiration of the work zone approval, the applicant is required to remove the work zone signs and reinstate any previous signs at their expense.

In the event the work zone is required for a period beyond that initially approved by the Traffic Committee, the applicant shall make a payment to Council for the extended period in accordance with Council's schedule of fees and charges for work zones prior to the extended period commencing.

**Reason:** To ensure that appropriate measures have been made for the operation of the site during the construction phase.

## 8. 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.

## 9. 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 from trunk
<i>Cedrus deodara</i> (Himalayan Cedar) Tree 15A	9.6m
<i>Castanospermum australe</i> (Moreton Bay Chestnut) Tree 16	6.6m
<i>Brachychiton acerifolius</i> (Flame Tree) Tree 17	6m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 18	3m
<i>Ulmus glabra</i> 'Lutescens' (Golden Wych Elm) Tree 19	11.4m
<i>Cupressus macrocarpa</i> (Monterey Cypress) Tree 20	9m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 40	6m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 42	5m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 44	6m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 45	6m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 47	6m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 48	4m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 49	5m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 51	5m

The tree protection fencing shall be constructed of galvanised pipe at 2.4 metres spacings 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

## 10. Tree protection fencing excluding structure

To preserve the following tree/s, no work shall commence until the area beneath their canopy excluding that area of the approved building shall be fenced off for the specified radius from the trunk 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
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 18	4.8m
<i>Ulmus glabra</i> 'Lutescens' (Golden Wych Elm) Tree 19	11m

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

## **11. 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.

## **12. 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.

## **13. 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.

## **14. 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:**

### **15. Consolidation of lots**

Prior to issue of any 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. Note that Kuring-gai Council does **not** necessarily need to approve or endorse lot consolidation plans.

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

### **16. 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 to and from and between the public domain, residential units and all common open space areas 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.

### **17. Crime risk assessment**

Prior to the issue of a construction certificate, a crime risk assessment prepared in accordance with the provisions of the residential flat design code must be submitted to Council.

**Reason:** To ensure the development is consistent with the safety requirements of SEPP 65.

### **18. Acoustic assessment**

An acoustic assessment is to be submitted to Council prior to the issue of a construction certificate demonstrating that the proposed development is consistent with the Department of Planning's document titled 'Development Near Rail Corridors and Busy Roads- Interim Guidelines'.

**Reason:** To ensure the acoustic amenity of occupants.

### **19. Electrolysis risk report**

Prior to the issue of a Construction Certificate the applicant is to engage an electrolysis expert to prepare a report on the electrolysis risk to the development from stray currents. The applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.

**Reason:** To ensure the amenity of future occupants is protected.

## **20. Privacy measures**

- a. The gravel area associated with unit B602 29 along the western elevation of Building B is to be made non-trafficable as noted in red on the drawing A-108 Revision L.
- b. The planter box at the north-western corner of unit B602 is to be extended in a southerly direction to connect with the gravel area which is non-trafficable as prescribed in point a. The planter box is to have a depth of 600mm with landscape screening to a height of 1.8 metres as noted in red on the drawing A-108 Revision L.

**Reason:** To maintain privacy between properties.

## **21. Amendments to internal layout**

Prior to the issue of a Construction Certificate, amended plans and specifications are required to be submitted to the Certifying Authority which demonstrates the following:

- The Studies and media rooms in apartments A103, A108, B101, C101, C103, A203, A208, B201, B205, C201, C205, A303, A308, B301, B305, C301, C305, B401, B405, C401, B501, B505, C501, are re-designed to make them more open to living areas, by deleting the short, freestanding blade walls that separate them from the living areas.

**Reason:** To maintain residential amenity for future occupants.

## **22. Materials and finishes**

Prior to the issue of a Construction Certificate, an amended schedule of finishes is to be submitted to the Certifying Authority which demonstrates the following:

- (a) The pre cast paint finished identified on the schedule of finishes referenced in condition 1 is to be replaced with a colour similar to Dulux slate, sage green, pale grey or warm grey.
- (b) The pedestrian bridge is constructed of structural steel framing with steel balustrade and timber decking.

**Reason:** To achieve an acceptable relationship with the streetscape.

## **23. Amendments to approved landscape plan**

Prior to the issue of a Construction Certificate, the 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.	Title	Drawn by	Dated
101/F	Masterplan	Site Image	30/07/10
151/E	Low Water Use Species Plan	Site Image	30/07/10
152/D	Low Water Use Species Plan - Roof	Site Image	30/07/10
301/F	Hardworks Plan Sheet 1	Site Image	30/07/10
302/F	Hardworks Plan Sheet 2	Site Image	30/07/10
303/F	Hardworks Plan Sheet 3	Site Image	30/07/10
304/F	Hardworks Plan Sheet 4	Site Image	30/07/10
401/F	Softworks Plan Sheet 1	Site Image	30/07/10
402/F	Softworks Plan Sheet 2	Site Image	30/07/10
403/F	Softworks Plan Sheet 3	Site Image	30/07/10
404/F	Softworks Plan Sheet 4	Site Image	30/07/10
411/D	Softworks Plan Building A Roof	Site Image	30/07/10
412/C	Softworks Plan Building B Roof	Site Image	10/3/2010
413/C	Softworks Plan Building C Roof	Site Image	10/3/2010
501/D	Landscape Typical Details	Site Image	30/07/10
502/D	Landscape Typical Details	Site Image	30/07/10
601/C	Landscape Sections	Site Image	9/07/10

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

- The existing sandstone paving within nature strip opposite entrance to No.5 Lorne Avenue is to be retained and protected.
- Section BB is to be amended to show top of retaining wall at TOW107.7 and associated levels in accordance with Landscape Hardworks plan, dwg 302/E.
- Proposed planting of *Banksia ericifolia*, *Persoonia levis* to be substituted with shrub/groundcover planting representative of Blue Gum High Forest community such as *Alphitonia excelsa*, *Clerodendron tomentosum*, *Persoonia linearis*.
- Proposed indigenous screen planting of *Persoonia* sp to the western site boundary of Building B in the vicinity of the heritage property, is to be substituted with *Viburnum tinus*, *Elaeagnus pungens* or similar.
- To provide sufficient area for effective landscaping to the setbacks of the development, all proposed access paths are to be set back a minimum of 3 metres from the site boundary. The path to the northern site boundary shall be located over the relocated drainage easement. Screen planting to the boundaries is to be layered to include in addition to tall trees, medium trees, small trees and shrubs (Clause 4.1, C-8(ii), DCP 55).
- The height of the front walls to Lorne Avenue and to the driveway entry is to be a maximum of 1.2m.
- Planting of semi mature *Magnolia grandiflora* 'Exmouth' is to be substituted with *Magnolia grandiflora*.
- Proposed planting of *Eucalyptus paniculata* (Grey Ironbark) to front setback to south east of the car park exhaust is to be substituted with *Eucalyptus saligna* (Sydney



- Blue Gum).
- Proposed one (1) *Eucalyptus saligna* (Sydney Blue Gum) and one (1) *Eucalyptus pilularis* (Blackbutt) along main entry path closest to buildings shall be deleted.
- Proposed planting of canopy trees to be minimum 5m from buildings and driveway structures.
- Two (2) additional *Magnolia x soulangiana* (Magnolia) are to be planted within the central communal open space.
- To provide residential amenity and maintenance access for mowing of lawn areas, gates from private courtyards with lawn to communal open space shall be provided.
- Existing levels shall be retained within the TPZ of existing trees.

**Note:** An amended landscape plan, prepared by a landscape architect or qualified landscape designer shall be submitted to the Certifying Authority.

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

#### **24. 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.

#### **25. 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.

#### **26. 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.

## **27. 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, A004, A104, A204, A304, B204, B304, B404, B505, C201, C301 and C404 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.

## **28. 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)
- **access points to detention and retention tanks must be in common areas, not in private courtyards**
- Confirmation that the system will drain freely into the Council system during times of high or prolonged flow, as required in DCP 47 Appendix 5.

- 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 Stormwater Concept Plan by Ilias Design Group submitted with the development application, which are to be advanced as necessary for construction certificate issue purposes.

**Reason:** To protect the environment.

## **29. Sydney Water Section 73 Compliance Certificate (Part 1)**

Prior to the issue of a Construction Certificate, a Compliance Certificate under Section 73 of the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Co-ordinator. For details see the Sydney Water web site [www.sydneywater.com.au](http://www.sydneywater.com.au), or telephone 13 20 92.

Following application, a notice of requirements will be forwarded, detailing water and sewer extensions to be built and charges to be paid. Early contact with the coordinator is advisable since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design. Details of any requirements of Sydney Water are to be provided with the Construction Certificate documentation.

**Reason:** Statutory requirement.

## **30. 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.

### **31. Excavation for services**

Prior to the issue of the Construction Certificate, the Principal Certifying Authority shall be satisfied that no proposed underground services (ie: water, sewerage, drainage, gas or other service) unless previously approved by conditions of consent, are located beneath the canopy of any tree protected under Council's Tree Preservation Order, located on the subject allotment and adjoining allotments.

**Note:** A plan detailing the routes of these services and trees protected under the Tree Preservation Order shall be submitted to the Principal Certifying Authority.

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

### **32. 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.

### **33. 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.

#### **34. 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.

#### **35. 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.

#### **36. 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.

### **37. Driveway grades – basement carparks**

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.

### **38. 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 carpark 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.

### 39. Vehicular access and garaging

Driveways and vehicular access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard 2890.1 – 2004 “Off-Street car parking”. Details are to be provided to and approved by the Certifying Authority prior to the issue of the Construction Certificate.

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

### 40. Car parking allocation

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

Resident car spaces	136
Visitor spaces	27
Total spaces	163

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.

### 41. Number of bicycle spaces

The basement car park shall be adapted to provide # 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.

### 42. Design of works in public road (Roads Act approval)

Prior to issue of the Construction Certificate, the Certifying Authority shall be satisfied that engineering plans and specifications prepared by a qualified consulting engineer have been approved by Council's Development Engineer. The plans to be assessed must be to a detail suitable for construction issue purposes and must detail the following infrastructure works:

- The Applicant must replace the dilapidated trunk drainage pipe within the property.

Development consent does not give approval to these works on Council's asset. The applicant must obtain a separate approval under sections 138 and 139 of The Roads Act 1993 for the works required as part of the development. The Construction Certificate must not be issued, and these works must not proceed until Council has issued a formal written approval under the Roads Act 1993.

The required plans and specifications are to be designed in accordance with the General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council, dated November 2004. The drawings must detail existing utility services and trees affected by the works, erosion control requirements and traffic management requirements during the course of works. Survey must be undertaken as required. Traffic management is to be certified on the drawings as being in accordance with the documents SAA HB81.1 – 1996 – Field Guide for Traffic Control at Works on Roads – Part 1 and RTA Traffic Control at Work Sites (1998). Construction of the works must proceed only in accordance with any conditions attached to the Roads Act approval issued by Council.

A minimum of three (3) weeks will be required for Council to assess the Roads Act application. Early submission of the Roads Act application is recommended to avoid delays in obtaining a Construction Certificate. An engineering assessment and inspection fee (set out in Council's adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees. Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.

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

#### **43. 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.



#### **44. 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.

**Conditions to be satisfied prior to the issue of the construction certificate or prior to demolition, excavation or construction (whichever comes first):**

#### **45. 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.

#### **46. Section 94 Contribution – Residential Development (New Construction)**

A contribution pursuant to section 94 of the Environmental Planning and Assessment Act as specified in Ku-ring-gai Section 94 Contributions Plan 2004-2009 (Amendment 2) for the services detailed in column A and for the amount detailed in Column B is required.

<b>Column A</b>	<b>Column B</b>
Community facilities (district)	\$69,014.39
Park acquisition and embellishment works	\$1,007,266.73
Park embellishment works	\$132,952.61
Sportsgrounds works	\$236,151.82
Aquatic / leisure centres	\$13,988.13
Traffic and transport	\$19,723.62
Section 94 Plan administration	\$17,681.22
<b>Total contribution is:</b>	<b>\$1,566,770.53</b>

The contribution shall be paid to Council prior to the commencement of any development (including demolition) or prior to the issue of a Construction Certificate (whichever comes first). The contributions may vary at the time of payment in accordance with the Contributions Plan to reflect changes in the consumer price index and the housing price index. Prior to payment, you are advised to verify the contribution amount required with Council. Copies of Council's Contributions Plans can viewed at the Council Chambers at 818 Pacific Hwy Gordon or on Council's website at [www.kmc.nsw.gov.au](http://www.kmc.nsw.gov.au)

**Reason:** To ensure the provision, extension or augmentation of community facilities, recreation facilities, open space, traffic and transport, and administration that will, or are likely to be, required as a consequence of the development.

#### **Conditions to be satisfied during the demolition, excavation and construction phases:**

#### **47. 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.

#### **48. 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.

#### **49. 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.

#### **50. 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.

### **51. 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.

### **52. 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.

### **53. 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.

### **54. 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.

#### **55. 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.

#### **56. 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.

## **57. 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.

## **58. Recycling of building material (general)**

During demolition and construction, the Principal Certifying Authority shall be satisfied that building materials suitable for recycling have been forwarded to an appropriate registered business dealing in recycling of materials. Materials to be recycled must be kept in good order.

**Reason:** To facilitate recycling of materials.

## **59. 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.

## **60. 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.

## **61. 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.

## **62. 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.

## **63. 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.

## **64. 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.

#### **65. Temporary disposal of stormwater runoff**

During construction, stormwater runoff must be disposed of in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to manage and control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifying Authority.

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

#### **66. Drainage to drainage easement**

Stormwater runoff from all new impervious areas and subsoil drainage systems shall be piped and connected to the piped Council drainage system within the site. Drainage line connections to the system shall conform and comply with the relevant detail in Council's Plan No82/024 ("Connections of Drainage Lines to Kerb and R.C. Pipe") and in Ku-ring-gai Water Management Development Control Plan No. 47.

**Reason:** To protect the environment.

#### **67. 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.

#### **68. Arborist's report**

The trees 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 an AQF 5 arborist to the Principal Certifying Authority are required at the following times or phases of work:

##### **Schedule**

##### **Tree/location**

*Cupressus sempervirens* (Italian Cypress) Tree 15

##### **Time of inspection**

Site Establishment,  
Demolition, Excavation  
for basement and



<i>Cedrus deodara</i> (Himalayan Cedar) Tree 15A	stormwater pipes
<i>Castanospermum australe</i> (Moreton Bay Chestnut) Tree 16	Same as for Tree 15
<i>Brachychiton acerifolius</i> (Flame Tree) Tree 17	Same as for Tree 15
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 18	Same as for Tree 15
<i>Ulmus glabra</i> 'Lutescens' (Golden Wych Elm) Tree 19	Same as for Tree 15
<i>Cupressus macrocarpa</i> (Monterey Cypress) Tree 20	Same as for Tree 15
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 40	Site Establishment, regular intervals during construction
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 42	Site Establishment, regular intervals during construction
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 44	Site Establishment, regular intervals during construction
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 45	Site Establishment, regular intervals during construction
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 47	Site Establishment, regular intervals during construction
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 48	Site Establishment, regular intervals during construction
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 49	Site Establishment, regular intervals during construction
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 51	Site Establishment, regular intervals during construction

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

## 69. 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

*Jacaranda mimosifolia* (Jacaranda) Tree 46

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

## 70. 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**

<b>Tree/location</b>	<b>Radius from trunk</b>
<i>Cupressus sempervirens</i> (Italian Cypress) Tree 15	3m
<i>Cedrus deodara</i> (Himalayan Cedar) Tree 15A	9.6m
<i>Castanospermum australe</i> (Moreton Bay Chestnut) Tree 16	6.6m
<i>Brachychiton acerifolius</i> (Flame Tree) Tree 17	6m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 18	4.8m
<i>Ulmus glabra</i> 'Lutescens' (Golden Wych Elm) Tree 19	11.4m
<i>Cupressus macrocarpa</i> (Monterey Cypress) Tree 20	9m

**Reason:** To protect existing trees.

#### **71. Hand excavation**

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

#### **Schedule**

<b>Tree/location</b>	<b>Radius from trunk</b>
<i>Cupressus sempervirens</i> (Italian Cypress) Tree 15	3m
<i>Cedrus deodara</i> (Himalayan Cedar) Tree 15A	9.6m
<i>Castanospermum australe</i> (Moreton Bay Chestnut) Tree 16	6.6m
<i>Brachychiton acerifolius</i> (Flame Tree) Tree 17	6m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 18	4.8m
<i>Ulmus glabra</i> 'Lutescens' (Golden Wych Elm) Tree 19	11.4m
<i>Cupressus macrocarpa</i> (Monterey Cypress) Tree 20	9m

**Reason:** To protect existing trees.

#### **72. 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.

#### **73. 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**

<b>Tree/ species</b>	<b>Quantity</b>	<b>Location</b>
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*Jacaranda mimosifolia (Jacaranda)*

2

Nature strip as shown on Landscape Plans

**Reason:** To provide appropriate landscaping within the streetscape.

#### **74. Tree removal on nature strip**

Following removal of the (enter tree species) 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.

#### **75. 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.

#### **76. 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.

#### **77. Removal of noxious plants & weeds**

All noxious and/or environmental weed species shall be removed from the property prior to completion of building works.

**Reason:** To protect the environment.

#### **78. Survey and inspection of waste collection clearance and path of travel**

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.
- This certification is to be provided to Council's Development Engineer prior to any concrete being poured for the ground floor slab.
- No work is to proceed until Council has undertaken an inspection to determine clearance and path of travel.

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 may not be carried out by a private certifier because waste management is not a matter listed in Clause 161 of the Environmental Planning and Assessment Regulation 2000.

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

#### **79. 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.

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

**Reason:** To protect the environment.

#### **Conditions to be satisfied prior to the issue of an Occupation Certificate:**

#### **80. Evidence of easement registration**

Prior to issue of the Occupation Certificate, the applicant is to submit documentary evidence that the relocated easement has been registered on the title of the property. A Council resolution may be necessary for this easement to be registered. A registered surveyor is to certify that the pipe is wholly contained within the easement.

**Reason:** To protect public infrastructure.

#### **81. 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. 275892M\_04 dated 5 August 2010 have been complied with.

**Reason:** Statutory requirement.

#### **82. 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.

### **83. 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.

### **84. 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.

### **85. 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.

## **86. Retention and re-use positive covenant**

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 property with the requirement to maintain the site stormwater retention and re-use facilities on the property.

The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instruments for protection of retention and re-use facilities" and to the satisfaction of Council (refer to appendices of Ku-ring-gai Water Management Development Control Plan No. 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 reuse and retention 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 to and approved by the Principal Certifying Authority prior to issue of an Occupation Certificate.

**Reason:** To protect the environment.

## **87. 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.

## **88. 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.

#### **89. 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.

#### **90. 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.

#### **91. 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.

#### **92. 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.

### **93. 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" and the Seniors Living State Environment Planning Policy 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",
  - The Seniors Living SEPP (as last amended) for accessible parking spaces,
  - **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 carpark.

**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.

### **94. 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 with a non-friable turf of native variety to match existing

All 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.

#### **95. Construction of works in public road – approved plans**

Prior to issue of the Occupation Certificate, the Principal Certifying Authority must be satisfied that all approved works have been completed on the trunk drainage pipe in accordance with the Council Roads Act approval and accompanying drawings, conditions and specifications.

The works must be supervised by the applicant's designing engineer and completed and approved to the satisfaction of Ku-ring-gai Council.

The supervising consulting engineer is to provide certification upon completion that the works were constructed in accordance with the Council approved stamped drawings. The works must be subject to inspections by Council at the hold points noted on the Roads Act approval. All conditions attached to the approved drawings for these works must be met prior to the Occupation Certificate being issued.

**Reason:** To ensure that works undertaken on Council's asset are to the satisfaction of Council.

#### **96. Mechanical ventilation**

Prior to the issue of the Occupation Certificate, the Principal Certifying Authority shall be satisfied that all mechanical ventilation systems are installed in accordance with Part F4.5 of the Building Code of Australia and comply with Australian Standards AS1668.2 and AS3666 Microbial Control of Air Handling and Water Systems of Building.

**Reason:** To ensure adequate levels of health and amenity to the occupants of the building.

#### **97. Fire safety certificate**

Prior to the issue of the Occupation Certificate, the Principal Certifying Authority shall be satisfied that a Fire Safety Certificate for all the essential fire or other safety measures forming part of this consent has been completed and provided to Council.

**Note:** A copy of the Fire Safety Certificate must be submitted to Council.

**Reason:** To ensure suitable fire safety measures are in place.

## **Conditions to be satisfied prior to the issue of a Subdivision certificate:**

### **98. Strata subdivision**

Approval for strata subdivision does not form part of this development consent. A separate development application is to be lodged for strata subdivision.

**Reason:** To ensure strata subdivision is not granted based on inaccurate information.

### **99. OSD positive covenant**

Prior to the issue of an Occupation Certificate, the applicant shall create a positive covenant and restriction on the use of land under Section 88B or 88E of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention facilities on site. The terms of the instruments are to be generally in accordance with the Council's "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 Water Management Development Control Plan No. 47). The location of the on-site detention facilities for all dwellings is to be noted on the final plan.

**Reason:** To ensure maintenance of on site stormwater detention facilities.

### **100. Retention and re-use positive covenant**

Prior to the issue of an Occupation Certificate, the applicant shall create a positive covenant and restriction on the use of land under Section 88B or 88E of the Conveyancing Act 1919, burdening the property with the requirement to maintain the site retention and re-use facilities. The terms of the instruments are to be generally in accordance with the Council's "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 Water Management Development Control Plan No. 47). The location of the on-site detention facilities for all dwellings is to be noted on the final plan of subdivision.

**Reason:** To ensure maintenance of site retention and re-use facilities.

### **101. Easement for waste collection**

Prior to issue of an 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.

## **Conditions to be satisfied at all times:**

## **102. Outdoor lighting**

At all times for the life of the approved development, all outdoor lighting shall not detrimentally impact upon the amenity of other premises and adjacent dwellings and shall comply with, where relevant, AS/NZ1158.3: 1999 Pedestrian Area (Category P) Lighting and AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting.

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

## **103. 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.

## **104. 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.

## **105. Car parking**

At all times, the visitor car parking spaces are to be clearly identified and are to be for the exclusive use of visitors to the site. On site permanent car parking spaces are not to be used by those other than an occupant or tenant of the subject building. Any occupant, tenant, lessee or registered proprietor of the development site or part thereof shall not enter into an agreement to lease, license or transfer ownership of any car parking spaces to those other than an occupant, tenant or lessee of the building. These requirements are to be enforced through the following:

- restrictive covenant placed on title pursuant to Section 88B of the Conveyancing Act, 1919
- restriction on use under Section 68 of the Strata Schemes (Leasehold Development) Act, 1986 to all lots comprising in part or whole car parking spaces

**Reason:** To ensure adequate provision of visitor parking spaces.

K Munn  
**Executive Assessment  
Officer– South**

C Swanepoel  
**Manager  
Development Assessment  
Services**

M Miocic  
**Director  
Development & Regulation**

**Attachments:**    Locality Map  
                         Zoning Extract  
                         Site analysis  
                         Basement plans  
                         Floor plans  
                         Elevations  
                         Sections  
                         Landscape Masterplan