

JRPP REF NO	2010SYW021
DEVELOPMENT APPLICATION NO	0178/10
PREMISES:	3, 5 & 7 PORTERS LANE
PROPOSAL:	ST IVES NSW 2075
APPLICANT:	DEMOLITION OF EXISTING DWELLINGS ,
OWNER:	ERECTION OF A 5 STOREY RESIDENTIAL
REPORT BY	FLAT BUILDING CONTAINING 57 UNITS,
	BASEMENT CARPARKING, ASSOCIATED
	DRAINAGE AND LANDSCAPING WORKS
	MACKENZIE ARCHITECTS
	PORTS LANE APARTMENTS PTY LTD
	KU-RING-GAI COUNCIL

SUMMARY SHEET

REPORT TITLE:	3, 5 & 7 Porters Lane St Ives NSW 2075
LOT & DP	3 Porters Lane - Lot B DP 385614 5 Porters Lane - Lot 1 DP441438 7 Porters Lane - Lot 2 DP441438
PROPOSAL (AS AMENDED):	Demolition of existing dwellings, erection of a 5 storey residential flat building containing 57 units, basement carparking, associated drainage and landscape works
DEVELOPMENT APPLICATION N^o:	0178/10
WARD:	ST IVES
APPLICANT:	Mackenzie Architects
OWNER:	Porters Lane Apartments Pty Limited
DATE LODGED:	25/03/2010
ESTIMATED COST OF DEVELOPMENT:	\$15,000,000 Application requires determination by JRPP as the development has a capital investment value (CIV) over \$10 million
ISSUES:	Original application Zone interface, building separation, external finishes, impacts to adjoining heritage item, plant and A/C units, waste management, basement design, BCA, deep soil, landscaping, design of communal open space, OSD, drawing inaccuracies/inadequacies.

PRE-DA MEETING:

SUBMISSIONS:

LAND & ENVIRONMENT COURT:

RECOMMENDATION:

ASSESSMENT OFFICER:

Amended application (current proposal)

Zone interface, building separation, privacy impacts, internal amenity

No

Yes

N/A

Approval

Rebecca Eveleigh

LEGISLATIVE REQUIREMENTS:

Zoning	2(d3) Residential under LEP194 – KPSO R4 – High Density Residential under Town Centres LEP
Permissible under Relevant legislation	KPSO SEPP 1 – Development standards SEPP 6 – No. of storeys in a building SEPP 55 – Remediation of land SEPP 65 – Design quality of residential flat development SEPP (Sydney Harbour Catchment) 2005 SEPP (BASIX) KPSO - LEP 194 DCP 31 – Access DCP 40 - Waste Management DCP 43 - Car Parking DCP 47 - Water Management DCP 55 - Multi-unit housing DCP 56 – Notification Town Centres LEP Town Centres DCP
Integrated development	No

HISTORY

Re-zoning history:

The site was previously zoned 'Residential 2(c)' under the KPSO.

On 28 May 2004, Local Environmental Plan 194 was gazetted, rezoning the site to Residential 2(d3) which permits five storey residential flat development.

On 25 March 2010, DA0178/10 was lodged.

On 25 May 2010, Ku-ring-gai Town Centres LEP was gazetted, rezoning the site to R4 – High Density Residential which also permits five storey residential flat development. The savings provisions under Clause 1.8A of the Town Centres LEP read as follows:

1.8A Savings provision relating to development applications

If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.

Development application history:

DA0231/07

17 August 2007 Council refused DA231/07 for demolition of 3 existing dwellings and erection of 2 x 5 storey residential flat buildings containing 36 units, 2 levels of basement carparking and site landscaping at 3 - 7 Porters Lane, St Ives.

Reasons of refusal included deep soil non-compliance, impact on existing trees, inadequate screen landscaping, non-compliance with top storey, height, zone interface & setback requirements, inadequate building separation, insufficient solar access information, impact on internal residential amenity, unsatisfactory basement services & facilities, unsatisfactory plans and information and incomplete owners consent.

DA0213/08

23 July 2008 On 23 July 2008, Ku-ring-gai Planning Panel approved DA0213/08 for demolition of 3 dwellings, erection of 2 x 5 storey residential flat buildings containing 36 units, basement car parking, associated landscaping and site works at 3 – 7 Porters Lane, St Ives.

DA0178/10 – Current DA

25 March 2010 DA0178/10 was lodged proposing demolition of existing dwellings, erection of a 5 storey residential flat building containing 61 units, basement carparking, associated drainage and landscape works.

30 March 2010 An application status letter was sent to the applicant. Information requested included complete owners consent, CD and additional hard copies of documentation, crime risk assessment, location detail of plant and air conditioning, solar access report, driveway long section detail and arborist report.

9 April 2010 DA is notified.

20 April 2010 The applicant submits additional information in response to Council's letter of 30 March 2010.

27 May 2010 JRPP Briefing takes place.

4 June 2010	<p>A preliminary assessment letter is sent to the applicant. Issues raised included zone interface, building separation, external finishes, impacts to adjoining heritage item, plant and A/C units, waste management, basement design, BCA, deep soil, landscaping, design of communal open space, OSD, drawing inaccuracies & inadequacies.</p> <p>Additional information/amended plans requested within 21 days.</p> <p>Prior to the lodgement of amended plans, Council officers recommend that the applicant arrange a meeting with Council staff during the redesign process. Council officers also request that draft conceptual amendments be emailed prior to any meeting to review any design changes and facilitate productive feedback.</p> <p>The applicant made no contact with Council officers during the preparation of amended plans.</p>
25 June 2010	Amended plans lodged.
30 June 2010	Amended plans notified.
1 July 2010	The applicant requested a meeting with Council officers after lodgment of amended plans, to explain changes proposed in amended plans. Meeting occurred on 1 July 2010.
7 July 2010	Additional information was lodged by applicant including a solar impact report and a SEPP65 design verification statement.
6 August 2010	<p>Council officers advise the applicant that the proposal still remained unsatisfactory in relation to:</p> <ul style="list-style-type: none"> - building length and building separation - aesthetics - design at the rear of the building including the SEPP1 - rear forecourt area - pedestrian access arrangements through the site - site landscaping - plan inaccuracies
12 August 2010	Meeting takes place with applicant to discuss issues raised in Council's letter dated 4 June 2010 and email of 6 August 2010.

13 August 2010	Conceptual amendments emailed to Council for comment.
16 August 2010	Council officers provided feedback on the conceptual amendments.
18 August 2010	Further conceptual amendments are submitted to Council for comment.
25 August 2010	The applicant submitted a sketch of proposed changes to the OSD design.
25 & 31 Aug 2010	Council officers emailed feedback to the applicant on the conceptual amendments and OSD changes submitted 18 August 2010 and 25 August 2010.
15 Sept 2010	<p>A further set of amended plans was lodged.</p> <p>The further amended proposal now included a reduction in the overall number of units from 61 to 57 units, reduction in FSR from 1.3:1 to 1.24:1, re-design of the built form including a 10m x 9m recess to the centre of the building combined with a two storey undercroft area to break up the overall building length. The re-design also included one central pedestrian pathway which provides access to the building and access from the front to the rear communal open spaces. The OSD was re-located to the basement and the landscape design was also amended.</p>
23 Sept 2010	Preliminary front view and schedule of finishes submitted by applicant.
24 Sept 2010	The further amended plans are notified.
29 Sept 2010	The southern aspect photomontage is submitted by applicant.
18 Oct 2010	Council officers advise the applicant of issues with regard to the site management plan not providing reasonable construction access to the site and potential tree impacts.
21 & 26 Oct 2010	An amended site management plan is submitted.

THE SITE AND SURROUNDING AREA

The site:

Zoning: Residential 2(d3) under LEP194 – KPSO

	R4 – High density residential under Town Centres LEP
Visual Character Study Category:	1945 - 68
Heritage Affected:	No
Within the vicinity of a heritage item:	Yes, 9 Porters Lane
Endangered Species:	Sydney Turpentine Ironbark Forest (STIF) - No impact
Urban Bushland:	No
Contaminated Land:	No

SITE DESCRIPTION

The site comprises three lots and is located on the southern side of Porters Lane, between Rosedale Road and Lynbara Avenue, St Ives. The site is irregular in shape, with a frontage of 79.57m to Porters Lane and a variable length of 64.99m (west boundary) to 48.77m (east boundary). The total site area is 4258sqm. The site has a cross fall of 1.18m from the front (north-west) corner to the rear (south-east) corner.

No.3 Porters Lane contains a two storey brick dwelling house, carport, swimming pool and tennis court. No.5 Porters Lane contains a single storey dwelling house, garage, and swimming pool. No.7 Porters Lane contains a single storey residence.

SURROUNDING DEVELOPMENT

Adjoining properties to the south and east of the site include detached dwelling houses zoned R2 – Low Density Residential under the Town Centres LEP. No.9 Porters Lane is a battle axe allotment to the rear of the site (south) and contains a two storey dwelling house. This property is listed as an item of local heritage significance under the Town Centres LEP. The access handle of No.9 Porters Lane is located adjacent to the eastern side boundary of the site. A row of significant lemon scented gums are within the access handle.

To the west of the site (165 – 173 Rosedale Road) includes detached dwelling houses zoned R4 – High Density Residential under the Town Centres LEP. On 17 June 2010, Council received DA0408/10 for a residential flat development (51 units) at 165 – 167 Rosedale Road, St Ives. DA0408/10 is currently under assessment.

Further to the south-west of the site is land also zoned R4 – High Density Residential under the Town Centres LEP. On 10 September 2010, Council received DA0656/10 for a residential flat development (36 units) at 161 – 163 Rosedale Road, St Ives (corner of Rosedale Road and Shinfield Avenue). DA0656/10 is currently under assessment.

To the northern side of Porters Lane (opposite the site) are two storey dwelling houses on land zoned R4 under the Town Centres LEP. To the north-east corner of Porters Lane and Rosedale Avenue is Council land zoned B2 Local centre under the Town Centres LEP and includes a public carpark and multi-use buildings.

THE PROPOSAL

The application (as amended) includes:

Demolition of existing dwelling and associated structures

Erection of a 5 storey residential flat building accommodating 57 units. The development comprises:

Basement	2 levels of basement carparking including: Lower basement: 49 residential spaces, lift and stair access, residential storage and service area Upper level basement: 15 visitor spaces (including 1 disabled), 21 residential spaces (including 6 disabled spaces), bicycle parking, residential storage, garbage storage, service vehicle/car wash bay, lift and stair egress access
Ground level (Level 1)	1 x 1 bedroom 1 x 1 bedroom + study 2 x 2 bedroom 5 x 2 bedroom + study 2 x 3 bedroom + study
First floor (Level 2)	2 x 1 bedroom 2 x 1 bedroom + study 2 x 2 bedroom 4 x 2 bedroom + study 2 x 3 bedroom + study
Second floor (Level 3)	2 x 1 bedroom 4 x 1 bedroom + study 6 x 2 bedroom 2 x 2 bedroom + study
Third floor (Level 4)	2 x 1 bedroom 6 x 1 bedroom + study 4 x 2 bedroom 2 x 2 bedroom + study
Fourth floor (Level 5)	6 x 3 bedroom

Vehicular access to the basement is via a dual carriageway driveway from Porters Lane to the north-west corner of the site.

Pedestrian access from Porters Lane to the building is via a central pathway to the centre of the site. The pedestrian access extends to a communal courtyard area between the two building wings.

The removal of 20 trees and shrubs on site and 1 street tree. The proposed tree replenishment includes 32 new trees.

Communal landscaped open space is provided to the front setback and to the rear south-west corner of the site. A central communal landscaped area (over the basement carpark) features as part of the two storey undercroft area between the two building wings, which connects the communal open spaces to the front and rear of the site.

Proposed fencing consists of a 1.2m high steel palisade fence to the front boundary and a 1.8m lapped and capped timber fence to the side and rear boundaries.

External materials and finishes would be as follows:

Building component	Material/product/colour
Roof & feature panels (side elevations)	Colorbond Dune
Windows	Colourbond precious silver pearl Aluminium windows
Render & painted walls	Resene Pearl Resene Gray Olive Resene Masala
Painted feature render	Resene Dark Buff
Face brick	Boral Tinto Cream Boral Rio Blue
Balustrades	Glass
Front fence	Steel palisade
Timber	Soffit
Privacy screens	Colorbond precious silver Peal

COMMUNITY CONSULTATION

In accordance with Council's Notification DCP, owners of surrounding properties were given notice of the original proposal and amended plans.

9 April 2010 Notification of original application. In response 6 submissions of objection received.

30 June 2010 Notification of amended plans (June 2010). In response 7 submissions of objection received.

24 September 2010 Notification of further amended plans (September 2010).
In response 7 submissions of objection received.

Submissions to the original and amended plans were received from the following:

Submissions	Original DA	Amended plans June 2010	Amended plans Sept 2010
John and Elizabeth Currie, 171 Rosedale Road, St Ives	*	*	*
BP & Mrs MR Hefron, "Eden Brae", 18 Stanley Close, St Ives	*		
Julie & Maurice Sarjant, 7 Cresta Close, St Ives	*		
Jean Burrows, 9 Porters Lane, St Ives	*	*	
Monique M Llanes, 115 Collins Road, St Ives	*	*	*
Walter Simpson, Secretary, 'Eden Brae' 3 Stanley Close, St Ives Bev Dyke, 35 Grandview Street, Pymble, on behalf of Walter Simpson, Secretary, 'Eden Brae' 3 Stanley Close, St Ives	*	*	*
Leah & Leon Corn, 26/1-5 Lynbara Avenue, St Ives		*	*
BC Player, 17/1-5 Lynbara Avenue, St Ives		*	
Mrs Edith Holmes, 5 Cresta Close, St Ives		*	
Total	6	7	4

The submissions raised the following issues:

Traffic, access and carparking

Council's Development Engineer has raised no objection to the proposal in relation to traffic, access and safety. The development satisfies the minimum carparking requirements. The basement area and associated vehicular access have been designed in accordance with Australian Standard requirements.

Streetscape impacts
Excessive building bulk

The scale of the building (5 storeys) is permissible within the Residential 2(d3) zone under LEP194-KPSO and the Town Centres LEP. The development complies with site coverage, FSR and deep soil requirements. The zone interface non-compliance (south elevation) is supported in this circumstance given that the non-compliance occurs to a balcony over a podium level; the building proper complies with the 9m zone interface requirement.

Unsatisfactory setbacks

The proposal complies with the front, side and rear setback requirements. The zone interface non-compliance associated with the balconies at the 3rd level (rear south elevation) is supported for the reasons given in this report.

Impact on existing trees

Council's Landscape Officer is satisfied with the amended proposal, subject to conditions.

Heritage impacts

Council's Heritage Advisor states the amended proposal is satisfactory with regard to its relationship with the adjoining and nearby heritage items.

Loss of privacy, amenity impacts

The proposed setbacks are acceptable and provide for satisfactory boundary screen landscaping. To further mitigate privacy impacts to the adjoining heritage item at 9 Porters Lane, it is recommended obscure or translucent glazing be provided to all south facing balustrades to Units A9, B12, A16, A17, B18, B19, A23, A24, B25, B26, A29 and B30 (**Condition 23**).

Overshadowing impacts

Due to the northern orientation of the site, the development would maintain at least three hours of sunlight to adjoining properties between 9am and 3pm on June 21.

Façade materials

The amended finishes schedule has been assessed by Council's urban design consultant and is considered to be satisfactory.

Mix of apartments

The development includes 20 x 1 bedroom, 27 x 2 bedroom and 10 x 3 bedroom units and this is considered to be a satisfactory mix of apartments.

INTERNAL REFERRALS

Urban design

Council's urban design consultant commented on the original proposal as follows:

1. 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 location's current character, or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies.

Comment:

The proposed site is situated approximately 250m from the St Ives Commercial Centre and 150m from Mona Vale Road. The site has an area of 4258sqm, a street frontage of approximately 79m and a depth of approximately 49 - 65m.

The built form context is comprised of:

- *on the proposed site a three residential dwellings zoned R4*
- *to the north residential dwellings*
- *to the south a single storey residential dwelling, a heritage item*
- *to the west residential dwellings zoned R4*

The Residential R4 zoning of this site and the sites to the west, establishes the future scale of development on these sites as being 5 storeys maximum. This zoning establishes a future difference in height and bulk in relation to the existing one storey heritage item to the south.

The development does not comply with the Zone Interface controls on the southern boundary, at the interface with the heritage item, as Level 3 is only 6m from the boundary. The zone interface controls require that Level 3 is set back a minimum of 9m from the boundary. In addition, there are intrusions into the 9m setback area at Level 4.

It is recommended that the Level 3 setback is 9m and that the intrusions in to the 9m setback on Level 4 are deleted.

Principle 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 height complies with the R4 controls.

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.....

This site is at the eastern edge of the R4 zone, with a zoning transition to a lower density zone. The height and separation of the low density, 1 and 2 storey houses to the east of the site, is unlikely to change substantially in the future. Across the street is the single storey villa home development, Eden Brae. This will not change within the foreseeable future.

The proposed building is 63m long when viewed from the street. In Ku-ring-gai, the LEP and DCP objectives clearly state that a primary objective is to create buildings within a landscaped setting. The objective is to create object like or pavilion like buildings surrounded by landscaping. The intention is to avoid continuous, perimeter block built form, which would be out of character with the existing stand-alone houses and small scale apartment buildings that adjoin the town centres in Ku-ring-gai.

For these reasons, DCP 55 contains a control limiting the length of buildings to 36m. Where a building exceeds 36m, a substantial break in the overall built form is required. The substantial break should be visible from the public domain, so that the appearance of buildings placed within landscape settings is achieved when viewed from the public domain.

The proposed 63m long building does not have a substantial break along its street façade length. The 2.5m wide x 6m deep slot in the centre of the building has virtually no effect on the 63m length of building. There is no possibility of canopy tree planting in the slot. There is a 9.9m to 13m wide opening at the rear of the building, which provides substantial visual separation of the rear two building wings.

These rear wings are both approximately 26m long.

It is recommended that an opening or court is created along the street frontage, that is similar in size and proportion to that which is currently proposed at the rear of the building. There would be no need to reduce the building footprint area, however the apartments would need to be replanned internally. Particularly the two central apartments (Units A2 and B6 etc.) would need to be completely re-planned and the apartments adjoining them may need to be re-arranged to assist in creating a sufficiently large forecourt space. This newly created forecourt should be densely planted with canopy trees to visually separate the two wings of the building.

The zone interface control along the southern boundary requires a 6m setback at ground (level 1) and first floor (level 2) and a 9m setback at the second floor (level 3). The Level 3 is only 6m from the boundary. In addition there are intrusions into the 9m setback area at Level 4.

It is recommended that the Level 3 setback is 9m and that the intrusions in to the 9m setback on Level 4 are deleted.

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)

The site coverage is 34.8% of the site and is acceptable.

The fifth storey occupies less than 60% of the floor area of the lower storeys provisionally but Council should confirm the floor areas.

Principle 5: Resource, energy and water efficiency

SEPP 65: Sustainability is integral to the design process. Aspect includes layout and built form, passive solar design principles, soil zones for vegetation and re-use of water.

More than 70% of the units receive 3 or more hours of sunlight between 9am – 3pm in mid winter.

More than 25% of kitchens are located on external walls which satisfies the Residential Flat Design Code guidelines.

More than 60% of the apartments are naturally ventilated, which satisfies the Residential Flat Design Code guidelines.

The proposal complies with the minimum 50% deep soil area provisionally but Council should confirm deep soil areas.

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:

This development will not be in a setting where vegetation, especially in the form of tall trees, is the dominant impression. It cannot be said that the streetscape and landscape will be dominated by indigenous canopy trees. This is due to the excessive length of the building, which is 63m long. A central forecourt containing a number of canopy trees would

relief the excessively long and flat façade and would place the two building wings within a landscaped setting.

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.

The Residential Flat Design Code contains a rule of thumb for maximum building depth of 18m, to support natural ventilation and amenity to kitchens. This development has building depths of up to 28m, however the development also meets the standards for natural ventilation and kitchen design. In this case, the building depths are considered acceptable, as the building form creates a number of corners, allowing for reasonable solar access and ventilation. It is recommended that the overall form be, in principle, reversed so that two building wings with a wide and deep separation are created along the street side of the development. This would create a number of corners along the northern side of the building, for solar access and cross corner ventilation.

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.

There are no apparent issues of safety and security in this development.

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.

The mix of apartments is acceptable.

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 of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.

The context for this building is comprised of 1 and 2 storey detached houses to the east of the site and villa homes to the north of the site. The R4 zoned sites to the west of the site have yet to be developed and are currently 1 and 2 storey detached house. In the centre of that context will sit a 63m long building. One way in which the scale of such a building could be reduced would be to articulate the building with a range of materials and colours, visually breaking it into bays, accentuating corners, recessing centres and creating a base, a middle and a top.

This proposal does not reduce the scale or articulate the building in this way. The colours are in a mid-tonal range of grey, blue, silver and grey/white. The overwhelming impression will be grey. Whilst there are minor variations of texture and tone, there will be insufficient variation to distinguish bay from bay or bottom from middle or top. This is demonstrated in the Northern Aspect (PE01A) and Southern Aspect (PE02A) perspective renderings.

Another important contextual consideration is the landscape context. This is primarily comprised of indigenous and non-indigenous trees and bushes. The grey and blue roof, feature panels and brick of this proposal do not relate very well to the natural context. The materials of metal, render and brick are not naturally occurring materials (such as timber or stone). Whilst the greys and blues do not sharply contrast with natural setting, they do not reinforce it. They are neutral. The overall impression is of a massive, predominantly grey, neutral block.

The choice of materials and colours reinforces the massive scale of this building within its context of small detached houses. It is recommended that:

- *Vertical bays, corners and mid-blocks are differentiated one from the other with changes in material and colour, to visually reduce the length of the building and break down its mass (however this is in addition to providing a large forecourt in the centre of the building, as recommended above, not instead of that recommendation). Also, the building base, middle and top should be better defined than in the proposed scheme.*
- *The materials and colours are changed to include some warmer materials and tones (mid tone browns), contrasting with some warm whites or creams. Some natural materials such as timber or stone would relate better to the natural context.*

2. Recommendations

It is recommended that:

- a) *On the southern boundary Zone Interface, the Level 3 setback is 9m and that the intrusions in to the 9m setback on Level 4 are deleted.*
- b) *An opening or court is created along the street frontage, that is similar in size and proportion to that which is currently proposed at the rear of the building. This will require internal re-planning, particularly the two central apartments (Units A2 and B6 etc.) would need to be completely re-planned. The apartments adjoining them may need to be re-arranged to assist in creating a sufficiently large forecourt space.*

- c) *This newly created forecourt should be densely planted with canopy trees to visually separate the two wings of the building.*
- d) *Vertical bays, corners and mid-blocks are differentiated one from the other with changes in material and colour, to visually reduce the length of the building and break down its mass (however this is in addition to providing a large forecourt in the centre of the building, as recommended above, not instead of that recommendation). Also, the building base, middle and top should be better defined than in the proposed scheme.*
- e) *The materials and colours are changed to include some warmer materials and tones (mid tone browns), contrasting with some warm whites or creams. Some natural materials such as timber or stone would relate better to the natural context.*

Council's urban design consultant has reviewed the further amended plans (September 2010) against the provisions of SEPP 65 and has provided the following comments:

1. Design review of further amended plans

The current design proposal has been amended in response to previous SEPP 65 reviews, and also recommendations made in a meeting between Council planners, me and the applicant on 11th August 2010.

Previous reviews recommended:

- a) *The northern balconies of the two central bays of apartments should be setback and the space should be widened to create a space approximately 9m x 10m.*
- b) *Both sides of the set back central bay: Terra cotta coloured corners are proposed, with projecting L-shaped blades and Bedroom 2 walls (Units A7, A14, A21, B14 etc).. It is recommended that the L-shaped blades and the Bedroom 2 walls should not be painted the same colour. Either paint them different colours (to express the L-shaped blade) or delete the L-shaped blade (to express the brick walls)*
- c) *Northern balconies to Units A7, A14, A21, B14 etc. : The terra cotta balustrades of these units are visually linked to, and confused with, the Bedroom 2 walls. It is recommended that the balustrades are painted either olive or white, to differentiate the bays.*
- d) *Northern terraces Penthouse floor Units A30 and B29: These balustrades are brick and are visually linked to, and confused with, the brick walls in M/Bed 1 in Units A13, A20, A27 and Units B8, B15 and B22. The two terrace balustrades should be terra cotta or olive.*
- e) *Units A12 and B9 M/Bed 1: The brick walls of these rooms are interrupted by the white spandrel panel. The white spandrel panel under the windows would be better as brickwork.*

In the meeting at Council, planners and consultants recommended that the entries to the two buildings wings should be made from a central entry. Also, that the rear façade of the building be articulated by a central recess, in response to the heritage building garden to the rear. Following the Council meeting, it was recommended that the central entry should become a two storey arcade to reinforce the axis of the heritage item and garden, and to further reduce the visual impact of the 5 storey building on the garden and heritage item.

The applicant has responded to all of these recommendations.

The central entry point, with recessed spaces in the front and rear of the building, creates sufficient articulation of the building to reduce its apparent length to less than 36m, in accordance with the DCP.

The two storey arcaded entry responds to the axis of the garden and heritage item to the rear. The view through the arcaded entry to the landscape beyond enhances the space of the garden.

The Porters Lane façade materials and colours have been re-composed in response to earlier comments, to create visual articulation and a coherent pattern of materials and colours in tones that relate to the landscape setting.

The amended floor plans are acceptable in terms of amenity, privacy, solar access, cross ventilation and other SEPP 65 principles.

In terms of SEPP 65, approval is recommended for this Development Application.

Heritage

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

In my original report I made the following conclusions and recommendations:

In its current form the proposed new development is not supported. There is concern about the length of the building which presents as a continuous development and unnecessarily increases the visual dominance on the item and would also affect views from the item. There is potential for overshadowing on the garden of the heritage item and loss of views from the heritage item. Amendments to the application are sought including the following:

- amendment to the design to comply with the maximum street frontage width of 36m*
- amendments to the materials, finishes and colours to provide for increased visual articulation and less visual dominance, particularly the southern elevation which faces the heritage item, and*
- amend the front fence to an open palisade type no more than 1200mm high.*

Further amended plans

Modifications to the original design were made by the applicant but Council officers found the amended proposal unsatisfactory in several respects. Further amendments were made and further modifications were received on 15 September 2010.

Although the site is included in the Town Centres area, the application was lodged prior to gazettal of the LEP and adoption of the Town Centres DCP. This assessment is made against the provisions in the KPSO and DCP 55.

Design objectives in DCP 55 - Development within the vicinity of a heritage item

- O-1 *New development should respect adjoining or nearby items.*
- O-2 *Should not visually dominate item.*
- O-3 *Not reduce views to or from an item.*
- O-4 *Should not impact on the garden setting, particularly overshadowing the garden or causing impacts on important trees.*

Design controls

C-1. Setbacks

The proposed development exceeds the minimum heritage setback requirements of 10 & 15m. The minimum building separation is about 27m.

The DCP control was intended to provide controls where a heritage item has a street frontage and the development site shares a side setback with the item the objective is to retain and not diminish views of the item from the public realm and not cause physical or visual dominance. In this case the heritage item is a battle axe lot and the development site is directly in front of it. The house at No 9 Porters Lane has no street presence although the trees along the driveway are a feature in the streetscape.

C-2 Tree screening

There is substantial tree screening on the heritage item and along its access handle that would assist in providing a visual buffer. The revised landscaping plan provides adequate additional screening and is considered satisfactory.

C-3 Aesthetic character

The aesthetic character of this development is contemporary and is different to the 'Modern' or 'International Style' of the adjoining item. This is considered to be an acceptable response to the heritage significance of the site.

The further amendments have resulted in a high level of articulation and it would appear as two blocks connected by a recessed link. There is an open space relating to two floors in the centre and the top floor is also physically articulated.

When viewed from the heritage building, the proposed building would appear as a long but articulated form, largely screened by the existing trees. There are no special views from the heritage item other than the broken views of the skyline between the existing low scale houses and the trees. The amended scheme with large opening of 2 floors in height, the recessed form of the link and the differing roof heights provide a satisfactory outcome.

C-4 Colours and materials

The revised scheme proposes more face brick with medium tones, recessive painted wall surfaces and contrasting finishes. The use of the colours provides further articulation to the façade. The rear view of the proposed building from the heritage item is improved and now considered satisfactory.

C-5 Fences

The fences in the revised plans are now considered satisfactory.

C-6 Heritage statement

The application is supported by a heritage impact statement. The report concludes that

- “The impact of the proposed works on the closer heritage item at No 9 Porters Lane, St Ives will be minimal and will be mitigated by the trees*
- The impact of the proposed works on the more distant heritage item at the intersection of Porters Lane and Rosedale Road will be negligible*

Heritage Item – 9 Porters Lane

The adjoining heritage item at No 9 Porters Lane is a c 1960 ‘modern period’ or ‘international school’ house designed by the owner Mr Burrows who was a partner in a respected architectural firm - Bowes & Burrows. Alterations and additions were undertaken by Mr Burrows on several occasions to suit the needs of the family. The family still own and occupy the house. The garden was planned and is consistent with the architectural style of the house and is considered to be an integral component to the significance of the item. The item currently has little street presence, being a house set within a very private garden. Access to the item is via a long driveway featuring an avenue of lemon scented gums which are a strong element in the streetscape and to the cultural significance of the item.

The owners requested the heritage listing be removed about 10 years ago and Council employed a consultant to undertake a detailed heritage assessment of the property. The consultant report found that the item was of high heritage significance and recommended the listing be retained. The property was reviewed by heritage consultants for the Ku-ring-gai Planning Panel as part of the 2008 Town Centres LEP and recommended its heritage status be retained.

The owner of the heritage item has objected to the proposed development and requests Council protect its significance. In heritage terms the objection raises bulk, overshadowing and visual dominance as the main issues but also raise amenity and loss of financial value.

Comments

The heritage controls in DCP 55 were mainly written to relate to sites that directly adjoin a heritage item with a street frontages and it is difficult to apply the controls to a heritage item set in a battle axe location. Clearly, the control requiring a development to be set back from the street boundary so that it is “not closer than the heritage item” cannot be achieved for this site as it is located directly in front of it. The objectives to respect the item, not visually dominate it, not reduce views and not impact on its garden setting are thus the primary issues to consider.

Much of the significance of the heritage item is related to its architectural design, its relationship to its garden, its isolation within a large battleaxe lot and the surrounding low scale residential context. The item has little profile to the street. The heritage item does not have any significant views to the public realm, streetscape or nearby features such as mountains, landmarks or waterways. However, it does have limited views of the locality and gains some borrowed amenity from the adjoining residential properties. In particular the canopy of trees in the background and the broken pattern of the skyline are important to the setting of the item.

Council staff have actively sought amendments to the proposed development in response to the concerns of the owner of the adjoining heritage item. The revised scheme is a better outcome in terms of heritage impacts to the item and responds by increasing the opening at the centre of the building and revising the colour scheme to further articulate the length of the building. This would also assist in mitigating the visual domination of the development due to its length and impact on the skyline views from the item.

Much of the impact to the heritage item at 9 Porters Lane is related to the change in scale of the surrounding context due to rezoning. The location of the development site directly in front of the item is a site constraint but the amended scheme has responded to this constraint in a satisfactory way.

The finishes, materials and colours of the proposed development have been amended and are now considered acceptable.

The development relies upon mitigation from the existing trees on the item and future plantings on the development site to reduce the impacts of the new development. Tree screening is useful in softening buildings and is part of the garden setting that characterises Ku-ring-gai. With future maturing of the proposed plantings, the impacts on the heritage item will result in further mitigation to the heritage impacts.

Council's Landscape and Tree Assessment Officer finds that the development would have minor impacts on the garden of the item and negligible impacts on the trees along its access handle and supports the scheme.

The former Head Masters Cottage on the corner of Porters Lane and Rosedale Road is relatively close to the subject site, but the proposed development would have no adverse heritage impacts as it is primarily orientated to Rosedale Road not directly within its immediate visual curtilage.

Council's urban design consultant has reviewed the amended scheme and now finds the design is satisfactory in terms of complying with SEPP 65 principles and recommends approval.

Conclusions and recommendations

Demolition of the existing houses is acceptable, provided photographic recording is undertaken before any works commence.

The amended scheme is now considered to have satisfactory impacts on the adjoining and nearby heritage items when assessed against the provisions of the KPSO and DCP 55 and is supported.

Landscaping

Council's Landscape and Tree Assessment Officer commented on the amended proposal as follows:

Site characteristics

*The site is generally level. Three dwellings, two pools and a tennis court are proposed to be demolished. The street frontage has a significant avenue of *Pistacia chinensis* (*Pistacia*). The site adjoins on three boundaries to the east and south a heritage listed property which has its access handle along the eastern boundary. Mature existing trees within the heritage property overhang the site.*

Deep soil

The deep soil area calculation is 51.15%.

Tree & vegetation removal & impacts

An Arboricultural Assessment prepared by Urban Forestry Australia and dated April 2010 has been submitted with the application. Tree numbers refer to this report.

Trees to be retained

Grevillea robusta (Silky Oak) Tree 1/13H,5S, 320DBH –no impacts impact, tree protection required.

Corymbia citriodora (Lemon Scented Gum) Trees 2-6, adjoining the site – basement excavation within 9-14m of the tree. Shoring as part of basement excavation is recommended by the arborist (3.3.4). The proposed filling to approximately 400mm to south-eastern corner of the site within the canopy spread of Trees 2-3 is not supported (refer East Elevation and South Elevation, Mackenzie Architects, SKO8/A, 19/03/10) To be conditioned (**Condition 22, 74 - 82**).

Corymbia citriodora (Lemon Scented Gum) Tree 13/16H,14S, 300/420DBH – proposed encroachment of basement and front fence within the TPZ of this tree. The impacts are considered acceptable.

Eucalyptus sideroxylon (Red Ironbark) Tree 26/11H, 10S, 4000DBH – no impact, but tree protection is required.

Acmena smithii (Lilly Pilly) Tree 27 – no impact, but tree protection is required.

Liquidambar styraciflua (Liquidambar) Tree 35/15H,14S, 600DBH – no major impact, front fence is within the TPZ.

Liquidambar styraciflua (Liquidambar) Tree 43/11H,12S, 400/400DBH – no impact, existing levels are to be retained to communal open space area, tree protection is required.

Nyssa sylvatica (Tupelo) Tree 44/11H,8S, 500DBH – no impact, existing levels are to be retained to communal open space area, tree protection is required.

Five trees (*Camellia sasanqua* (Chinese Camellia) 7H, identified as Tree 41 located along the western boundary provide neighbour amenity and should be retained. To be conditioned (**Condition 22, 74 - 82**).

Trees outside of proposed works to be retained – Tree 42, 43, 44, 46 and 51. Amendment to stormwater design has resulted in the retention of Tree 19 *Liquidambar styraciflua* (Liquidambar) assessed as in poor condition in arborist report.

Pruning of trees

The arborist report states that minor pruning of Trees 5 and 27 on the adjoining property, is required to clear the building line.

Corymbia citriodora (Lemon Scented Gum) Tree 5 –minor pruning is required to accommodate the scaffolding. Pruning is described as 'limited to small branches less than 80-100mm diameter and there would be some opportunity to carefully tie back or restrain smaller branches temporarily'.

Pistacia chinensis (*Pistacia*) Tree 51/street tree, second from east – the proposed stormwater line encroaches within the SRZ. The arborist recommends that works be done by hand and under the supervision of an arborist.

Trees to be removed

The proposed removal of the following 20 trees and shrubs, identified in the applicant's arboricultural assessment prepared by Urban Forestry Australia and dated April 2010, from the subject site and the Porters Lane nature strip for the proposed residential development is supported.

The trees to be removed are as follows:

- 3 environmental weeds: T17: *Acer negundo* (Box Elder), T33: *Cotoneaster* sp. (*Cotoneaster*), and T47: *Cotoneaster* sp. (*Cotoneaster*).
- 6 trees in poor condition: T28: dead tree, T31: *Cryptomeria japonica* 'Elegans' (Bronze Japanese Cedar), T32: *Ulmus parvifolia* (Chinese Elm) shown for retention within the lawn forward of Building A is in fair condition due to past damage.
- T37: *Eucalyptus nicholii* (Small Leaved Peppermint), T38: 4 x *Cupressus macrocarpa* 'Brunniana' (Golden Cypress), T39: *Ulmus procera* 'Van Houttei' (Golden Elm), and T48: *Pittosporum eugenioides* 'Variegata' (Variegated Tarata).
- 4 currently exempt trees: T4: *Cupressus sempervirens* (Italian Cypress), T15: *Liquidambar styraciflua* (Liquidambar) of 9 metres height, T24: *Archontophoenix cunninghamiana* (Bangalow Palm), T49: *Cupressus sempervirens* 'Swanes Golden' (Swanes Golden Cypress), and T50: *Cupressus sempervirens* (Italian Cypress).
- 4 trees in healthy condition: T14: *Corymbia citriodora* (Lemon Scented Gum) of 11 metres height, T16: *Nyssa sylvatica* (Tupelo) of 11 metres in height, T34: *Cupressus sempervirens* (Italian Cypress) and T45: *Thuja* sp. (*Arborvitae*) of 7.5 metres in height. T45 is located well outside the area of proposed works and could be retained although it is located directly to the north of T44: *Nyssa sylvatica* (Tupelo) and inhibits portion of its canopy. Removal of T45 will permit the canopy of T44 to close over time.
- 3 *Camellia sasanqua* (Chinese Camellia): T18, T40: (3 of 3), T41: (3 of 8). These shrubs are of fair to poor condition.

Street trees to be removed

T51: 1 of 12 *Pistacia chinensis* (*Pistacia*) located at the western end of the site's Porters Lane nature strip for construction of the new driveway crossing.

Landscape plan assessment

- *Front setback*

The front setback is planted with both exotic deciduous trees and locally occurring canopy trees. Several existing trees are proposed to be retained. This conflicts with the proposed

reduced levels (Section DD and EE, Sections Sheet 2, SK09.01(B)). No levels are shown on the Landscape Plan. To preserve the health and condition of existing trees to be retained, existing levels are proposed to be retained to the front setback (**Condition 22**).

- **Communal open space**

A principal area of communal open space is located to the north of the building along the street frontage linking to an area between Buildings A and B. This incorporates the building entry consisting of 2m wide crossing paths with planters on either side and seating. The central section of this space is covered overhead by a section of the building at Level 2 and 3, giving approximately 6m clearance to the path, 5m to the planter. The front northern section of this area between the buildings does receive winter sun in the middle of the day.

The path to the front northern section should be widened to the line of the 1 metre high planter (approximately 4.8mx5m) for a more generous seating area to optimise residential amenity to this principle area of open space. The two *Angophora costata* on either side of the building entry should be removed. The shadow diagrams indicate the southern half of this area is in perpetual shadow. This is not reflected in the plant selection (**Condition 22**).

A secondary area of communal open space is located at the rear south-west corner of the site. There is no disabled access to this area. It is recommended that the rear communal open space at the south-west corner of the site, have upgraded disabled access provided to replace the stepping stones (**Condition 22**).

- **Private open space**

To provide residential amenity and maintenance access, gates from private courtyards to communal open space should be provided (Clause C-10, Section 4.1, DCP55; Clause 25C, (2)(g) LEP194). There is some conflict between paving and planters to private courtyards with Landscape Plan and architectural plans eg Unit A4 and B4.

- **Screen planting**

Eastern boundary – *Dodonea viscosa* 'Purpurea' 2m, *Banksia spinulosa* 1m, *Elaeocarpus reticulatus* (Blueberry Ash) 5-8m.

Southern boundary - *Elaeocarpus reticulatus* (Blueberry Ash) 5-10m, *Syzigium* 'Hinterland Gold' 1.5m, *Viburnum odorotissimum* 2.5m

Western boundary – existing *Camellia sasanqua* 5m, *Banksia spinulosa* 1m, *Ceratopetalum gummiferum* (NSW Christmas Bush) 4-8m. Screen planting south of existing Camellias to be provided.

Tree replenishment

A minimum of 15 trees is required for the site, whereas 32 trees are proposed. Some of the proposed plantings are within the canopy spread of existing canopy trees and are not

viable. At least 50% of the proposed trees are to be locally occurring species selected from the Sydney Turpentine/Ironbark Forest - Endangered Ecological Community (STIF-EEC).

BASIX

The BASIX certificate nominates 200m² common area landscape that is to be indigenous/low water use species. This area of planting along the Porters Lane frontage has been nominated on the landscape plan.

Conclusion

The proposal is supported, subject to conditions.

Engineering

Council's Development Engineer has commented on the amended proposal as follows:

The applicant has submitted amended plans as a result of our meeting in August. The changes include the relocation of the on site detention storage into the basement to address landscaping concerns.

Water management

The BASIX water commitments are for a 20 000 litres rainwater tank, collecting runoff from 400 square metres of roof, with re-use for toilet flushing in all units.

The rainwater storage is provided in a tank beneath the basement driveway, additional detention storage above and a piped overflow to the detention tank within the basement.

Connection of the site water management system to the street drainage system requires the installation of 10 metres of 375mm diameter pipe beneath the kerb and construction of one new kerb inlet pit.

Drawing C2.01/C should not be stamped with the DA stamp as it does not show the site access arrangements approved by Landscape Services.

Vehicular access and parking

The number of units proposed is 57 (20x1br, 27x2br and 10x3br).

For the proposed unit breakdown, 67 resident and 15 visitor parking spaces are required. The plans show 69 resident and 15 visitor spaces, which is sufficient.

For the 6 manageable units, 6 disabled parking spaces are required. The disabled parking spaces comply with AS2890.6, which is desirable. Space 19 will be a disabled space as well although it has not been marked on the drawing.

Under Section 5.1 C-8 of DCP 55, 18 bicycle spaces are required and these are shown on Basement Level 1.

Waste management

The development requires 29 garbage, 15 paper and 15 mixed recycling containers. The waste storage area is located on the basement floor and is adequate for this number of containers. The driveway gradients are satisfactory and a suitable turning bay and service vehicle area is provided in Space 27.

*A longitudinal section was submitted to demonstrate that adequate headroom will be available for the small waste collection vehicle at the carpark entry, however it contains a typographical error in the gradient of the driveway (17.5% at the transition). This issue has been addressed by **Condition 35**.*

Ecology

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

No endangered ecological communities, threatened species or endangered populations listed under either the Threatened Species Conservation Act 1995 or under the Environmental Protection and Biodiversity Conservation Act 1995 were identified within the site during the inspection.

As such, no further consideration of ecological matters is warranted.

EXTERNAL REFERRALS

Energy Australia

The following comments have been provided by Energy Australia:

There is insufficient capacity available on the electrical network to sustain the load of this development and that EnergyAustralia will require a substation to be installed on the development site. This is written on the assumption of a reasonable maximum demand for the development and is subject to a detailed load assessment as part of a formal application for supply, as well as EnergyAustralia's Requirements for Electricity Supply to Developments as detailed in publication ES 10. EnergyAustralia's policy's and standards are available at www.energy.com.au.

This notice is valid for a period of 12 months from this date and our full requirements are subject to change following a formal application for supply.

Provision for an electrical substation has been made at the front, north-west, corner of the site. **Condition 42** requires the applicant to contact Energy Australia regarding power supply for the development.

To preserve streetscape amenity, the substation shall have sufficient setback (at least 1 metre) from the western boundary to allow for the continuation of shrub planting, that can attain 2 metres in height, along the western boundary and extending to the front north-western corner of the site (**Condition 22**).

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 and the Residential Flat Design Code (RFDC)

In accordance with Clause 50 of the EP&A Regulation 2000, a Design Verification Statement has been submitted by Dugald Mackenzie Architects (dated 15 September 2010) which submits that the application has been designed in accordance with the design quality principles under Part 2 of the SEPP.

Council's urban design consultant has reviewed the further amended proposal in relation to SEPP65 and the proposal is satisfactory (refer to comments elsewhere in this report).

In addition to comments provided by Council's urban design consultant, the following matters are raised in relation to Design Principle 7: Amenity:

Internal amenity

Multiple units include study rooms or study spaces. It is important that the study areas remain as such in the future. Studies function well as niches adjoining living areas.

The proposal includes the following units with study areas:

- Study rooms without windows: Units A1, A5, A7, A12, A14, A15, A19, A21, A22, A23, A26 B2, B7, B9, B14, B16, B20, B21, B23, B26, B27, B28
- Study spaces conducive to be converted to bedrooms (potential undersized bedrooms): Units A3, A9, B5, B12

It is acknowledged that the intended purpose of the rooms as identified on the plans is not for a private separate area but for a study which adjoins the living areas. However, study rooms without windows do not receive satisfactory daylight or natural ventilation. Further concern is raised over these study spaces being conducive for conversion to undersized bedrooms with poor amenity. The overall apartment sizes are inadequate to sustain additional bedrooms.

It is recommended that the study rooms be re-designed to make them more open to living areas, by deleting study room walls and doors which separate/detach these spaces from living areas, to improve the natural cross flow of air and daylight through each apartment (**Condition 24**).

With regards to study spaces associated with Units A3, A9, B5, B12, the design of these study spaces (including a window and ability for a door to be easily applied to the hall-way) are highly conducive to being converted to bedrooms. Accordingly, Section 94 contributions have been applied to the respective units as 4 bedroom units.

Privacy

A zone interface non-compliance occurs to the 3rd level south facing balconies (set back 7.25m, a 1.75m variation to the 9m requirement). The building separation between the balcony areas and the dwelling house at 9 Porters Lane (also a local heritage item) is >22 metres. Tree planting is also proposed to the south rear boundary.

To address potential privacy impacts (given the site slopes towards 9 Porters Lane and the elevated nature of units), it is recommended that south facing balcony balustrades include obscure glass. In this regard, obscure glazing is recommended to south facing balustrades of units A9, B12, A16, A17, B18, B19, A23, A24, B25, B26, A29 and B30 (**Condition 23**).

SEPP (Sydney Harbour Catchment) 2005

The site is located within the Sydney Harbour Catchment area (Clause 3(1) of the SREP). The proposal will not have a detrimental impact on the catchment. The planning principles of the SREP are generally satisfied and the site is not in close proximity to or within view of any waterway, wetland or riparian zone.

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

A valid BASIX certificate has been submitted (September 2010), Certificate No.296465M_03, dated 15 September 2010. The certificate demonstrates compliance with the provisions of the SEPP and adequately reflects all amendments to the application.

Ku-ring-gai Planning Scheme Ordinance (KPSO)

Development standard	Proposed	Complies
Site area (min): 2400m ²	4258m ²	YES
Deep landscaping (min): 50% (2129sqm)	51.15% 2180sqm	YES
Street frontage (min): 30m	79.57m	YES
Number of storeys (max):	5	YES

4 + top storey = 5		
Site coverage (max): 35%	34.3%	YES
Top floor area (max): 60% of level below	<60%	YES
Storeys and ceiling height (max): 4 and 13.4m	4 & <13.4m	YES
Car parking spaces (min): 14.25 (15) visitors 67 residents 82 total	15 visitor 70 residential 85 total	YES YES YES
Zone interface setback (min): 9m	7.25m to third storey balconies (south elevation) 9m to third storey building facade	NO (SEPP1) YES
Manageable housing (min): 10% (6 units)	6 units	YES
Lift access: required if greater than three storeys	Lift access proposed	YES

Zone interface:

No.9 Porters Lane is a battle axe lot zoned Residential 2(c) under the provisions of the KPSO (R2 under the Town Centres LEP) and is an item of local heritage significance. The south (rear) and east (side) boundaries site are subject to the zone interface controls under Clause 25L of LEP194.

The provisions of Clause 25L Zone interface states:

25L Zone interface

- (1) The objective of this clause is to provide a transition in the scale of buildings between certain zones.*
- (2) The 3rd and 4th storey of any building on land within Zone No.2(d3) must be set back at least 9m from any boundary of the site of the building with land (other than a road) that is not within Zone No.2(d3)*
- (3) Landscaping required to screen development from any adjoining property must be provided on the site and must not rely on landscaping on the adjoining property.*

This clause requires the third and fourth storey of the building to be set back 9m from any boundary of the site which adjoins No.9 Porters Lane.

The proposal does not comply with the zone interface requirements at the third storey of the rear southern elevation. The outer edge of balconies associated with units A16, A17, B18 and B19, have a 7.25m setback to the rear southern boundary (1.75m variation to the 9m zone interface requirement). The balconies extend over the roof top podium area of the second storey (where the built form steps in response to the zone interface controls). The external walls of the building at the third storey comply with the 9m setback requirement.

The applicant has lodged a SEPP1 objection to vary Clause 25L of the KPSO (**Attached**).

The following is an assessment of the SEPP 1 objection using criteria established in the Land & Environment Court:

whether the planning control in question is a development standard

The zone interface requirement under Clause 25L of the KPSO is a development standard.

Under Clause 25B Definitions of the KPSO, there is no specific definition for 'set back'. However, it is noted that the definition of building footprint reads:

Building footprint means the total maximum extent of the two dimensional area of the plan view of a building including all levels, but excluding any part of the building below ground and minor ancillary structures such as barbeques, letter boxes and pergolas.

Balconies are included in the building footprint.

Under Section 1.12 Definitions of DCP55, set back is defined as:

Setback means the distance between any given boundary of an allotment and the external plane of the building being erected or proposed to be erected, including the external plane of any balcony, carport or the like.

The definitions in the standard LEP instrument (issued by the Department of Planning) include the following definition for building line or setback

building line or setback means the horizontal distance between the property boundary or other stated boundary (measured at 90 degrees from the boundary) and:

- (a) a building wall, or*
- (b) the outside face of any balcony, deck or the like, or*
- (c) the supporting posts of a carport or verandah roof, whichever distance is the shortest.*

the underlying objective of purpose behind the standard

The underlying objective of this clause is to provide a physical transition in scale and visual bulk between multi-unit development (5 storeys) and low density dwelling houses when viewed from surrounding areas and the streetscape.

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

The variation sought to the rear 3rd storey setback, would not hinder the attainment of the relevant planning objectives stated in Section 5(a) of the Act or the objectives for the standard in the KPSO because:

- the balconies are set back 7.25m (a 1.75m variation). The balconies still provide an element of transition to the built form between the second storey (which includes a set back of 6m) and the fourth storey (set back at 9m)
- the non-compliance occurs to the balcony areas, the building proper complies with the 9m zone interface requirements
- the building separation between the balcony areas and the dwelling house at 9 Porters Lane is >22 metres. Tree planting is also proposed to the south rear boundary

As previously discussed in this report, it is recommended that south facing balconies include obscure glazing to ensure the privacy and amenity of the heritage item at 9 Porters Lane is maintained (**Condition 23**)

- the amended proposal overcomes previous built form and design issues including building length and separation, aesthetics, heritage impacts, central communal access and rear forecourt area and site landscaping

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

The applicant's SEPP1 Objection submits that compliance with the development standard is unreasonable and unnecessary for the following reasons:

- the rear elevation of the building has been designed with the upper levels set back a minimum of 9m measured to the building alignment (external walls) presenting as a stepped building form
- the area of non-compliance is the balconies at the 3rd storey. The balconies are setback from the level below ensuring the balconies do not contribute to additional building bulk and scale

- the balconies within the 9m setback do not contribute to additional overshadowing of the property to the rear of the site
- the balconies at the 3rd storey do not reduce the deep soil landscape area or impact on the landscape area at the rear of the building
- the balconies on the rear elevation of the building do not result in unreasonable privacy impacts to the adjoining property with the outer edge of the balcony setback 7.25m to the rear boundary and more than 20m separation to the adjoining building
- the rear elevation of the building, including the upper levels, provides suitable transition to the heritage building with a building separation greater than 20m

The amended proposal satisfies the built form and design issues previously raised. The variation is reasonable in this instance and does not result in an adverse and unreasonable amenity or environmental impact, subject to glazing of balustrades to the southern elevation.

The SEPP1 Objection is supported in this circumstance.

Residential zone objectives:

The development satisfies the objectives for residential zones as prescribed in clause 25D.

Clause 61E - Development in the vicinity of heritage items

The proposal is located adjacent to No.9 Porters Lane, which is listed as an item of local heritage significance under the KPSO. Satisfactory rear setbacks have been provided between the proposal and adjoining heritage item (compliant with the setback to heritage item requirements under DCP55).

The proposed landscaping scheme complements the development when viewed from the heritage item. Accordingly, the proposal is considered to be satisfactory with regard to impacts on adjoining heritage items and the provisions of Clause 61E in the KPSO. Council's Heritage Advisor has raised no objection to the proposed development.

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

Development control	Proposed	Complies
Part 3 Local context:		
Development adjacent to a heritage item:		
<input type="checkbox"/> 10m setback (1 st & 2 nd storeys)	>10m	YES
<input type="checkbox"/> 15m setback	>15m	YES

(3 rd & 4 th storeys)		
<input type="checkbox"/> No closer than heritage item from front boundary	NA (heritage item battleaxe allotment)	N/A
Part 4.1 Landscape design:		
Deep soil landscaping (min)		
150m ² per 1000m ² of site area = 638.7m ²	2180m ²	YES
No. of tall trees required (min): 15 trees	>15 trees	YES
Part 4.2 Density:		
Building footprint (max):		
35% of total site area	34.3%	YES
Floor space ratio (max):		
1.3:1	1.24:1	YES
Part 4.3 Setbacks:		
Street boundary setback (min):		
13-15 metres (<40% of the zone occupied by building footprint)	13 - 15m 38.68%	YES
Rear boundary setback (min):		
6m	6m	YES
Side boundary setback (min):		
6m	6m	YES
Setback of ground floor courtyards to street boundary (min):		
8m/11m	11m	YES
% of total area of front setback occupied by private courtyards (max):		
15%	<15%	YES
Part 4.4 Built form and articulation:		
Façade articulation:		
<input type="checkbox"/> Wall plane depth >600mm	>600mm	YES
<input type="checkbox"/> Wall plane area <81m ²	<81m ²	YES
Built form:		
<input type="checkbox"/> Building width < 36m	>36m	NO
<input type="checkbox"/> Balcony projection < 1.2m	<1.2m	YES
Part 4.5 Residential amenity		
Solar access:		
<input type="checkbox"/> >70% of units receive 3+ hours direct sunlight in winter solstice	70.5% (solar access to living areas and private open space)	YES
<input type="checkbox"/> >50% of the principle common open space of the development receives 3+ hours direct sunlight in the winter solstice	>50%	YES
<input type="checkbox"/> <15% of the total units are single aspect	<15%	YES

with a western orientation		
Visual privacy:		
Separation b/w windows and balconies of a building and any neighbouring building on site or adjoining site:		
Storeys 1 to 4 <input type="checkbox"/> 12m b/w habitable rooms	10m	NO
5th Storey <input type="checkbox"/> 18m b/w habitable rooms <input type="checkbox"/> 13m b/w habitable and non-habitable rooms <input type="checkbox"/> 9m b/w non-habitable rooms	7.23 – 12m	NO
Internal amenity:		
<input type="checkbox"/> Habitable rooms have a minimum floor to ceiling height of 2.7m	2.7m	YES
<input type="checkbox"/> 1-2 bedroom units have a minimum plan dimension of 3m in all bedroom	3m	YES
<input type="checkbox"/> 3+ bedroom units have a minimum plan dimension of 3m in at least two bedrooms	3m	YES
<input type="checkbox"/> Single corridors: - serve a maximum of 8 units - >1.5m wide - >1.8m wide at lift lobbies	7 units >1.5m >1.8m	YES YES YES
Outdoor living:		
<input type="checkbox"/> ground floor apartments have a terrace or private courtyard greater than 25m ² in area	>25m ²	YES
<input type="checkbox"/> Balcony sizes: - 10m ² – 1 bedroom unit - 12m ² – 2 bedroom unit - 15m ² – 3 bedroom unit NB. At least one space >10m ²	10m ² 12m ² 15m ²	YES YES YES
<input type="checkbox"/> primary outdoor space has a minimum dimension of 2.4m	2.4m	YES
Part 4.7 Social dimensions:		
Visitable units (min):		
70%	100%	YES
Housing mix:		
Mix of sizes and types	7 x 1 bedroom 13 x 1 bed + study 14 x 2 bedroom 13 x 2 bed + study 6 x 3 bedroom 4 x 3 bed + study	YES
Part 4.8 Resource, energy and water efficiency:		
Energy efficiency:		

<input type="checkbox"/> >65% of units are to have natural cross ventilation	>65%	YES
<input type="checkbox"/> single aspect units are to have a maximum depth of 10m	No single aspect units	YES
<input type="checkbox"/> 25% of kitchens are to have an external wall for natural ventilation and light	>25%	YES
Part 5 Parking and vehicular access:		
Car parking (min):		
14.25 (15) visitors	15 visitor	YES
67 residents	70 residential	YES
82 total	85 total	YES
1 disabled space per adaptable unit (5.7), 6	6 residential disabled spaces (upper basement level)	YES
1 adaptable/disabled visitor space	1 disabled visitor space	YES
1 service/removalist vehicle/carwash bay	1 garbage truck/wash bay	YES
1 bicycle parking space per 5 residential units (11.4 spaces)	13 residential bicycle bays	YES
1 bicycle parking space per 10 visitor spaces 5.7 (6) spaces	6 visitor bicycle bays	YES

Part 2 Elements of good design

• Air conditioning

The proposal includes 60 air conditioning (a/c) units to the roof of the building. There are two centrally located enclosures over each wing of the building. The roof top a/c units are proposed to be screened by parapet walls and are integrated with the skillion roof form.

It is recommended that all mechanical ventilation be installed in accordance with the BCA and Australian Standard requirements and shall not emit a noise level of greater than 5dbA above the background when measured at the nearest adjoining property.

Part 4.4 Built form and articulation:

The controls under C-3 and C-4 of Part 4.4 of DCP55, read as follows:

C-3 The width of a single building on any elevation facing the street should not exceed 36m.

C-4 On sites where a building length greater than 36m has been justified by an applicant, that portion of a building in excess of 36m shall be sufficiently recessed and/or articulated so as to present to the street as a separate building.

The overall building length is 64.5m. The amended proposal includes a substantial recess to the centre of the building, 10m wide x 9.2m deep, which breaks the building into two distinct built forms. The amended building design also includes a two storey undercroft area incorporated with the central recess. The recess is further emphasised by a central pedestrian corridor which provides access to each building wing and provides connectivity from the front to the rear communal open spaces on the site.

The amended proposal satisfies the built form controls above.

Part 4.5 Residential amenity:

- Visual privacy/building separation

The building recess to the centre of the building is 10m in width between habitable rooms (non-compliant with the 12m building separation control). The proposal includes highlight windows and privacy screens to address visual privacy issues between each building wing.

The building separation to the top storey (5th level) also does not comply with the 18m building separation control. Similar to Levels 1-4, the 5th level includes highlight windows and privacy screens to address privacy and amenity issues between respective units.

The building separation non-compliance is driving the need for privacy screens and highlight windows, which is not a desirable design outcome, particularly where the proposal is for the redevelopment of the site. However, in this instance, the separation non-compliance is supported having regard that the amended proposal and re-design of the building overcomes significant built form issues raised with the original proposal. On balance, the separation non-compliance does not warrant refusal of the application in this circumstance and the visual privacy issues have been addressed as discussed above.

The proposal does not result in any unreasonable amenity/visual privacy impacts to adjoining properties, subject to obscure glazing applied to south facing balustrades (**Condition 23**) to mitigate private impacts to the south facing heritage item at 9 Porters lane, St Ives.

- Residential storage

The basement levels provide adequate residential storage areas for 57 units.

Part 4.8 Resource, energy and water efficiency:

- Waste management

The development generates the following number of bins:

1 x 240L garbage bin per 2 units = 28.5 (29) bins

1 x 240L paper bin per 4 units = 14.25 (15) bins

1 x 240L recycling bin 4 units = 14.25 (15) bins

Total bins: 59

The proposal includes a functional and accessible garbage storage area within Basement Level 1 which accommodates 61 x 240L bins. Satisfactory access and temporary parking for a waste collection truck has been provided adjacent to the garbage storage area.

Development Control Plan 31 - Access

Matters for assessment under DCP 31 have been taken into account in the assessment of this application against the LEP194-KPSO and DCP 55 and the proposal is satisfactory in this regard.

Development Control Plan 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 the LEP194-KPSP and DCP 55 and the proposal is satisfactory in this regard.

Development Control Plan 47 - Water Management

Matters for assessment 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.

Ku-ring-gai Local Environmental Plan (Town Centres) 2010

On 25 May 2010, the KLEP Town Centres was gazetted, re-zoning the site to R4 High Density Residential.

The provisions of Clause 1.8 and 1.8a under the Town Centres LEP, read as follows:

1.8 Repeal of other local planning instruments applying to land

- (1) All local environmental plans and deemed environmental planning instruments applying only to the land to which this Plan applies are repealed.*

- (2) *All local environmental plans and deemed environmental planning instruments applying to the land to which this Plan applies and to other land cease to apply to the land to which this Plan applies.*

1.8A Savings provision relating to development applications

If a development has been made before the commencement of this Plan, in relation to land to which this Plan applies and the applicant has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.

Therefore, the assessment of the application against the provisions of the KLEP2010 is based on giving the plan the weight of an imminent and certain draft local environmental plan only.

Part 2: Permissibility

The site is zoned R4 High density residential. Under Clause 1.4 (definitions) of the KLEP Town Centres, a residential flat building is defined as ‘a building containing three or more dwellings, but does not include an attached dwelling or multi dwelling housing’. The proposal satisfies this definition and is permissible with consent pursuant to Part 2 of the LEP.

Part 4: Principal Development standards

Development standard	DA0178/10	Complies
Minimum subdivision lot size 1200sqm	4258sqm	YES
Height of buildings 17.5m (max)	<17.5m	YES
Floor space ratio (FSR) 1.3:1 (max) 4803.5sqm	1.24:1	YES

Part 5.10: Heritage conservation

Clause 5.10 under KLEP Town Centres requires consideration of the impact of any development upon the significance of a heritage item in the vicinity of the site. The site adjoins a local heritage item, 9 Porters Lane, St Ives. Council's Heritage Advisor has assessed the development in context with the item and considers the impacts acceptable.

Ku-ring-gai Development Control Plan (Town Centres) 2010

The KDCP Town Centres was adopted 8 June 2010 (effective 11 June 2010).

The savings provisions of KLEP2010 acts to make the KPSO the principle instrument for the assessment of this application, with the KLEP2010 being considered as an imminent and certain draft LEP only.

The Section 79C matters for consideration under the EPA Act, include consideration of any draft planning instrument (eg KLEP2010), however not a draft DCP (eg KDCP2010) and as KDCP Town Centres cannot operate without its “higher order” instrument, it cannot repeal the provisions of DCP55, which remains the relevant DCP for consideration in the assessment of this application.

Notwithstanding the above, a merit assessment of the proposal in relation to KDCP Town centres has been undertaken. The development does not frustrate or conflict with the principle controls or objectives specified under Part 3 Residential Flat Development of the KDCP Town Centres.

Section 94 Plan

- **Ku-ring-gai Section 94 Contributions Plan 2004-2009 Residential Development (Amendment 2)**

This contributions plan enables Ku-ring-gai Council to levy development contributions where anticipated new development and growth of the resident population will increase the demand for these services and facilities over and above those already available in the Local Government Area.

Facilities for which contributions are collected for include:

- Community facilities.
- Recreation facilities and open space.
- Traffic, pedestrian and cycleway facilities and public domain improvements.
- Plan Administration.

The development attracts a section 94 contribution of \$909,644.03, which is required to be paid by **Condition No.48**.

- **Ku-ring-gai Town Centres Development Contributions Plan 2008**

This Plan commenced operation on 30 July 2008 and applies to applications for development in the six Town Centres (see maps in the Contributions Plan) lodged on or after that date.

This Contributions Plan enables Ku-ring-gai Council to levy development contributions where anticipated new development and population growth will increase the demand for these services and facilities over and above those already available in the Local Government Area. It applies in addition to Section 94 Contributions Plan 2004-2009 -

Residential Development - Amendment No.2.

Facilities for which contributions are collected for include:

- Additional traffic, pedestrian and cycleway facilities and public domain (streetscape) improvements arising from development in the Town Centres.
- Additional community facilities.

The development attracts a Town Centres Section 94 contribution of \$683,074 which is required to be paid by **Condition No.48**.

LIKELY IMPACTS

The proposal does not result in any unreasonable amenity or environmental impacts to surrounding development.

SUITABILITY OF THE SITE

The site is suitable for the proposed development.

ANY SUBMISSIONS

All submissions received have been considered in the assessment of this application.

PUBLIC INTEREST

The approval of the application is considered to be in the public interest.

OTHER RELEVANT CONSIDERATIONS

There are no other matters for consideration.

CONCLUSION

Having regard to the provisions of section 79C of the Environmental Planning and Assessment Act 1979, the proposed development is considered to be satisfactory. Therefore, it is recommended that the application be approved.

RECOMMENDATION

PURSUANT TO SECTION 80(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

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 clause 25L of the Ku-ring-gai Planning Scheme Ordinance in respect of zone interface

development standard is well founded. The Joint Regional Planning Panel is also of the opinion that strict compliance with the development standards is unreasonable and unnecessary in the circumstances of this case.

AND

THAT the Joint Regional Planning Panel, as the consent authority, being satisfied that the objection under SEPP No. 1 is well founded and also being of the opinion that the granting of consent to DA0178/10 is consistent with the aims of the Policy, grants development consent to DA0178/10 for demolition of existing dwellings, erection of a 5 storey residential flat building containing 57 units, basement carparking, associated drainage and landscape works, on land at 3 – 7 Porters Lane, St Ives, 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
SK00 D	Mackenzie Architects	15.09.10
SK01 C	Mackenzie Architects	15.09.10
SK02 C	Mackenzie Architects	15.09.10
SK03C	Mackenzie Architects	15.09.10
SK04C	Mackenzie Architects	15.09.10
SK05C	Mackenzie Architects	15.09.10
SK06C	Mackenzie Architects	15.09.10
SK07C	Mackenzie Architects	15.09.10
SK08C	Mackenzie Architects	15.09.10
Sk09C	Mackenzie Architects	15.09.10
SK09.01B	Mackenzie Architects	15.09.10
SK12D	Mackenzie Architects	25.10.10
SK12.1B	Mackenzie Architects	15.09.10
SK13 – 18C	Mackenzie Architects	15.09.10
SD01C	Mackenzie Architects	15.09.10
SD02C	Mackenzie Architects	15.09.10
SD03C	Mackenzie Architects	15.09.10
SD04C	Mackenzie Architects	15.09.10
SD04.1B	Mackenzie Architects	15.09.10
SD05C	Mackenzie Architects	15.09.10
SD06	Mackenzie Architects	15.09.10

LPDA10-235/1E	Conzept Landscape Architects	Sept 2010
LPDA10-235/2C	Conzept Landscape Architects	Sept 2010
LPDA10-235/3E	Conzept Landscape Architects	Sept 2010
DA1.01B	Northrop Consulting Engineers	14.09.10
DA1.02B	Northrop Consulting Engineers	14.09.10
C2.01C	Northrop Consulting Engineers	14.09.10
DA3.01C	Northrop Consulting Engineers	14.09.10
DA3.02C	Northrop Consulting Engineers	14.09.10
DA3.03C	Northrop Consulting Engineers	14.09.10
DA4.01B	Northrop Consulting Engineers	14.09.10

Document(s)	Dated
Colours and finishes schedule Revision C, by Mackenzie Architects	23.09.2010
BASIX Certificate No.296465M_03	15 September 2010
Access report, by Mark Relf	14 September 2010
Solar Impact Report, prepared by PSN Matter Reference: 4181_Solar_Report_100913	13 September 2010
Air conditioning Plan Space Requirements, by Northrop Consulting Engineers	22 April 2010
Photomontages	

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

2. Inconsistency between documents

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

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

3. Approved landscape plans

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

Plan No.	Drawn By	Dated
LPDA10-235/1E	Conzept Landscape Architects	Sept 2010
LPDA10-235/2C	Conzept Landscape Architects	Sept 2010
LPDA10-235/3E	Conzept Landscape Architects	Sept 2010

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

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

4. Road opening permit

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

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

5. Construction stage parking restrictions

- a) The applicant is to install 'No Parking' signs along the northern side of Porters Lane which would be effective for the approved hours of construction. The signs are to be considered by the Ku-ring-gai Traffic Committee and approved by Council (subject to resident concurrence), and installed prior to the commencement of any work on the site. The extent of the restriction shall be determined by the Traffic Committee. The applicant shall pay for the consideration of the matter by the Ku-ring-gai Traffic Committee, as well as for the installation, maintenance, and removal of the signs following completion of the work and the occupation certificate being issued. If construction activities overlap with another medium density development nearby, the maintenance and subsequent removal of any signs would be carried over to the other developer.

Reason: To maintain vehicular access in Porters Lane.

6. 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.

7. 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.

8. Dilapidation survey and report (public infrastructure)

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

Public infrastructure

- Full road pavement width, including kerb and gutter, of Porters Lane over the site frontage.
- All driveway crossings and laybacks opposite the subject site.

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

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

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

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

9. Archival recording of buildings

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

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

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

Note: A written acknowledgment from Council must be obtained (attesting to this

condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works.

Reason: To ensure a record is made of existing buildings on the site to be demolished.

10. Dilapidation survey and report (private property)

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

Address

- 169, 171 and 173 Rosedale Road
- 11 Porters Lane

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

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

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

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

11. Construction and traffic management plan

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

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

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

persons associated with demolition, excavation and construction of the development.

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

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

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

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

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

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

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

12. Work zone

The applicant must make a written application to the Ku-ring-gai Local Traffic Committee to install a 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.

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.

13. Sediment controls

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

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

Reason: To preserve and enhance the natural environment.

14. Erosion and drainage management

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

Reason: To preserve and enhance the natural environment.

15. Tree protection fencing

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

Schedule	
Tree/location	Radius from trunk
<i>Grevillea robusta</i> (Silky Oak) Tree 1	Tree protection fencing to be setback 6m along entire length of eastern

	side boundary
<i>Corymbia citriodora</i> (Lemon Scented Gum) Trees 2	Same as for Tree 1
<i>Corymbia citriodora</i> (Lemon Scented Gum) Trees 3	Same as for Tree 1
<i>Corymbia citriodora</i> (Lemon Scented Gum) Trees 4	Same as for Tree 1
<i>Corymbia citriodora</i> (Lemon Scented Gum) Trees 5	Same as for Tree 1
<i>Corymbia citriodora</i> (Lemon Scented Gum) Trees 6	Same as for Tree 1
<i>Corymbia citriodora</i> (Lemon Scented Gum) Trees 10	Same as for Tree 1
<i>Corymbia citriodora</i> (Lemon Scented Gum) Tree 13	7m
<i>Eucalyptus sideroxylon</i> (Red Ironbark) Tree 26	4m
<i>Acmena smithii</i> (Lilly Pilly) Tree 27	4m
<i>Liquidambar styraciflua</i> (Liquidambar) Tree 35	7m to east and west, 4m to south
<i>Camellia sasanqua</i> (Chinese Camellia) Tree 41 (5 trees)	3m
<i>Liquidambar styraciflua</i> (Liquidambar) Tree 43	10m
<i>Nyssa sylvatica</i> (Tupelo) Tree 44	6m

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.

16. 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.

17. 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.

18. Tree protection – avoiding soil compaction

To preserve the following tree/s and avoid soil compaction, no work shall commence until temporary measures to avoid soil compaction (eg rumble boards) beneath the canopy of the following tree/s is/are installed:

Schedule

Tree/Location

Liquidambar styraciflua (Liquidambar) Tree 35

Reason: To protect existing trees during the construction phase.

19. Tree fencing inspection

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

Reason: To protect existing trees during the construction phase.

20. Construction waste management plan

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

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

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

Reason: To ensure appropriate management of construction waste.

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

21. 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.

22. Amendments to approved landscape plan

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

Plan no.	Drawn by	Dated
LPDA10-235/1E, LPDA 10-235/2C, LPDA 10-235/4B	Conzept Landscape Architects	September 2010

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

- a. Proposed planting of two (2) *Angophora costata* (Sydney Red Gum) on either side of entry path to north of main building entry shall be substituted with two (2) *Nyssa sylvatica*. Proposed planting of three (3) *Nyssa sylvatica* in the front setback shall be deleted.
- b. The path to the front northern section shall be widened to the line of the 1 metre high planter (approx 4.8m x 5m) to provide a more generous seating area to optimise residential amenity to this principle area of open space.
- c. Proposed tree planting of two (2) *Acer negundo* under the building is not viable and is to be deleted. Planting to south of east/west building entry paths to be shade tolerant species.
- d. Proposed planting of one (1) *Eucalyptus paniculata* (Grey Ironbark) within the canopy spread of Tree 35 on the western side of the entry structure is to be deleted.
- e. To optimise residential amenity and provide disabled access to the rear communal open space, the proposed stepping stones shall be replaced with unit paving and shall continue to the south-western corner of Block A.
- f. To preserve the amenity of the adjoining heritage property, the proposed planting of three (3) *Angophora costata* (Sydney Red Gum) along the southern boundary is to be substituted with three (3) *Syncarpia glomulifera* (Turpentine). The proposed planting of three (3) *Platanus x hybrida* (Plane Tree) shall be substituted with medium canopy trees such as *Lagerstroemia indica* (Crepe Myrtle) or *Pyrus sp.* (Pear Tree). The central *Syncarpia glomulifera* (Turpentine) on the eastern side of the rear communal open space shall be substituted with a deciduous canopy tree. The proposed planting of three (3) *Nyssa sylvatica* to the

communal open space is to be reduced to 1.

- g. To preserve neighbour amenity, the proposed planting of ten (10) *Banksia spinulosa* along the western side boundary to the building shall be substituted with eight (8) *Syzigium australe* 'Resilience'.
- h. To preserve streetscape amenity, the substation shall have sufficient setback (at least 1 metre) from the western boundary to allow for the continuation of shrub planting, that can attain 2 metres in height, along the western boundary and extending to the front north-western corner of the site.
- i. The landscape plan is to be amended to indicate tree removal for site access including Trees 19, 20, 21 and 22 and street tree *Pistacia chinensis* (*Pistacia*) Tree 51 (4th from the eastern site boundary) in accordance with the approved Environmental Site Management Plan, dwg SK12/D, Mackenzie Architects, 25/10/10.

Note: An amended landscape plan is to be prepared by a landscape architect or qualified landscape designer addressing landscape design issues contained in this Condition and must be submitted to the satisfaction of the Certifying Authority.

Reason: To improve landscape amenity.

23. Privacy

To reduce privacy impacts to the adjoining property at the rear (9 Porters Lane, St Ives) the following measure(s) shall be implemented:

- Obscure or translucent glazing is to be provided to all south facing balustrades of all balconies to Units A9, B12, A16, A17, B18, B19, A23, A24, B25, B26, A29 and B30

Reason: To maintain neighbour amenity.

24. 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:

Study rooms without windows in units A1, A5, A7, A12, A14, A15, A19, A21, A22, A23, A26 B2, B7, B9, B14, B16, B20, B21, B23, B26, B27, B28

are re-designed to make them more open to living areas and study rooms by deleting walls and doors which separate/detach these spaces from living areas (as shown amended in red on approved plans, SK03C, 04C, 05C and 06C, prepared by Mackenzie Architects dated 15 September 2010), to improve the natural cross flow of air and daylight through each apartment

Reason: To ensure internal amenity.

25. Amendments to approved excavation plan

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

Plan no	Drawn by	Dated
SK12.1(B)	Mackenzie Architects	15/09/10

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

- To preserve the health and condition of the existing trees on the site and on the adjoining sites and to maintain natural soil profiles to building surrounds, the excavation method such as shoring or similar shall be detailed on the plan to ensure that no excavation occurs outside of the line shown on the excavation plan. Battering or other methods which would result in excavation beyond the line shown on the excavation plan are not permitted under this application.

Prior to the issue of the Construction Certificate, the Principal Certifying Authority shall be satisfied that the excavation plan has been amended as required by this condition.

The Excavation works must be carried out in accordance with the amended excavation plan.

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

26. 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.

27. 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.

28. Outdoor lighting

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

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

Reason: To provide high quality external lighting for security without adverse affects on public amenity from excessive illumination levels.

29. 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.

30. 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, (A1, B7, A7, B14, A14 & B21), 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.

31. 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
- **water quality measures as required under Section 8.3.1 of DCP 47**
- Layout of the property drainage system components, including but not limited to (as required) gutters, downpipes, spreaders, pits, swales, kerbs, cut-off and intercepting drainage structures, subsoil drainage, flushing facilities and all ancillary stormwater plumbing - all designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence)
- location(s), dimensions and specifications for the required rainwater storage and reuse tanks and systems and where proprietary products are to be used, manufacturer specifications or equivalent shall be provided
- specifications for reticulated pumping facilities (including pump type and manufacturer specifications) and ancillary plumbing to fully utilise rainwater in accordance with Ku-ring-gai Council Development Control Plan 47 and/or BASIX commitments
- details of the required on-site detention tanks required by Ku-ring-gai Water Management DCP 47, including dimensions, materials, locations, orifice and discharge control pit details as required (refer Chapter 6 and Appendices 2, 3 and 5 of DCP 47 for volume, PSD and design requirements)
- **the required basement stormwater pump-out system is to cater for driveway runoff and subsoil drainage (refer appendix 7.1.1 of Development Control Plan 47 for design) - the wet well volume is to comply with Council's DCP 47**

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 Plans by Northrop submitted with the development application, which are to be advanced as necessary for construction certificate issue purposes.

Reason: To protect the environment.

32. 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.

33. 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.

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. 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.

36. Driveway grades – basement carpark

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

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

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

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

37. 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.

38. Drainage of paved areas

All new exposed impervious areas graded towards adjacent property and/or habitable areas are to be drained via the main drainage system. This may require the installation of suitable inlets pits, cut-off structures (e.g. kerb), and/or barriers that direct such runoff to the formal drainage system. Details of such measures shall be shown on the Construction Certificate drawings, to the satisfaction of the Certifying Authority.

Reason: To control surface run off and protect the environment.

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 as shown on approved basement plans SK01C and SK02C, prepared by Mackenzie Architects, dated 15.09.10, in the following way:

Resident car spaces	70 Residential
Visitor spaces	15 visitor
Total spaces	85 total

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 18 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 required in Porters Lane:

- new kerb inlet pit and 375mm diameter pipe to connect site discharge to street drainage system

Development consent does not give approval to these works in the road reserve. The applicant must obtain a separate approval under sections 138 and 139 of The Roads Act

1993 for the works in the road reserve 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.

45. Underground services

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

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

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

46. 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.

47. Public liability insurance – works on public land

Any person or contractor undertaking works on public land must take out public risk insurance with a minimum cover of \$10 million in relation to the occupation of, and approved works within Council’s road reserve or public land, as approved in this consent.

The policy is to note and provide protection for Ku-ring-gai Council as an interested party and a copy of the policy must be submitted to Council prior to the commencement of any development (including demolition) or prior to the issue of the Construction Certificate (whichever comes first). The policy must be valid for the entire period that the works are being undertaken on public land.

Note: Applications for hoarding permits, vehicular crossings etc will require evidence of insurance upon lodgement of the application.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land

48. Section 94 Contributions

(a) 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.

Column A	Column B
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Community facilities (district)	\$37,938.13
Park acquisition and embellishment works	\$621,893.88
Park embellishment works	\$91,749.22
Sportsgrounds works	\$129,815.80
Aquatic / leisure centres	\$7,685.06
Traffic and transport	\$10,842.34
Section 94 Plan administration	\$9,719.60
Sub total contribution is (1):	\$909,644.03

(b) Section 94 Contribution – Town Centres Development

A contribution pursuant to section 94 of the Environmental Planning and Assessment Act as specified in Ku-ring-gai town Centres Development Contributions Plan for the services detailed in column A and for the amount detailed in Column B is required:

Column A	Column B
Access and transport facilities	\$ 39,143
Community facilities (local)	\$ 49,772
Streetscape and public domain facilities	\$ 592,992
Other (supporting studies)	\$ 1,167
Sub total contribution is (2):	\$ 683,074

Total contribution (1) + (2)	\$1,592,718
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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 Contribution Plans can be viewed at Council Chambers, 818 Pacific Hwy Gordon or on Council's website at www.kmc.nsw.gov.au.

Reason: To ensure the provision, extension or augmentation of community facilities, access and transport, streetscape and the public domain, and administration that will, or are likely to be, required as a consequence of the development.

49. Safety and security - Lighting plan

A lighting plan is to be submitted to the PCA prior to the issue of a Construction Certificate showing the location of security lighting in accordance with relevant Australian Standard requirements.

Reason: To ensure future occupants are provided with a safe and secure environment.

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

50. 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.

51. 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.

52. 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.

53. 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.

54. 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.

55. 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.

56. 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.

57. 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.

58. Further geotechnical input

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

- further geotechnical investigations and testing recommended in the above report(s) and as determined necessary
- further monitoring and inspection at the hold points recommended in the above report(s) and as determined necessary

- written report(s) including certification(s) of the geotechnical inspection, testing and monitoring programs

Reason: To ensure the safety and protection of property.

59. Compliance with submitted geotechnical report

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

Geotechnical aspects of the development work, namely:

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

must be undertaken in accordance with the recommendations of the geotechnical report prepared by Jeffery and Katauskas. Approval must be obtained from all affected property owners, including Ku-ring-gai Council, where rock anchors (both temporary and permanent) are proposed below adjoining property(ies).

Reason: To ensure the safety and protection of property.

60. 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.

61. 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.

62. Protection of public places

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

be erected between the work site and the public place.

If necessary, a hoarding is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

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

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

Reason: To protect public places.

63. 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.

64. 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 2.5m²
- are removed within 14 days of the completion of all construction works

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

65. 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.

66. 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.

67. 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.

68. 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.

69. 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.

70. 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.

71. Erosion control

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

Reason: To protect the environment from erosion and sedimentation.

72. Drainage to street

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

Reason: To protect the environment.

73. 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 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.

74. 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	Time of inspection
<i>Corymbia citriodora</i> (Lemon Scented Gum) Trees 2-6, adjoining site	Site Establishment, Demolition, Excavation for basement
<i>Corymbia citriodora</i> (Lemon Scented Gum) Tree 13	Site Establishment, Demolition, Excavation for basement, stormwater trenching
<i>Eucalyptus sideroxylon</i> (Red Ironbark) Tree 26	Site Establishment, Demolition, Excavation for basement
<i>Acmena smithii</i> (Lilly Pilly) Tree 27	Site Establishment, Demolition, Excavation for basement
<i>Liquidambar styraciflua</i> (Liquidambar) Tree 35	Site Establishment, Demolition, Excavation for basement, front fencing

Reason: To ensure protection of existing trees.

75. Trees on nature strip

Removal/pruning of the following tree/s from Council's nature strip to permit vehicular access 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

T51: 1 and 9 of 12 *Pistacia chinensis* (Pistacia) located at the western end of the site's Porters Lane nature strip for construction of the new driveway crossing and 4th from eastern site boundary for construction access

Reason: To ensure protection of existing trees.

76. Canopy/root pruning

Canopy and/or root pruning of the following tree/s which is necessary to accommodate the approved building works shall be undertaken by an experienced Arborist/Horticulturist, with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate. All pruning works shall be undertaken as specified in Australian Standard 4373-2007 – Pruning of Amenity Trees.

Schedule	
Tree/Location	Tree works
<i>Corymbia citriodora</i> (Lemon Scented Gum) Tree 5	Minor pruning for building clearance
<i>Pistacia chinensis</i> (Pistacia) Tree 51	Minor root pruning for stormwater line

Reason: To protect the environment.

77. Treatment of tree roots

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

Reason: To protect existing trees.

78. Cutting of tree roots

No tree roots of 30mm or greater in diameter located within the specified radius of the trunk/s of the following tree/s shall be severed or injured in the process of any works during the construction period. All pruning works shall be undertaken as specified in Australian Standard 4373-2007 – Pruning of Amenity Trees:

Schedule	
Tree/location	Radius from trunk
<i>Grevillea robusta</i> (Silky Oak) Tree 1	4.8m
<i>Corymbia citriodora</i> (Lemon Scented Gum) Trees 2	7.8m
<i>Corymbia citriodora</i> (Lemon Scented Gum) Trees 3	9m
<i>Corymbia citriodora</i> (Lemon Scented Gum) Trees 4	4.2m
<i>Corymbia citriodora</i> (Lemon Scented Gum) Trees 5	7.8m
<i>Corymbia citriodora</i> (Lemon Scented Gum) Trees 6	7.2m
<i>Corymbia citriodora</i> (Lemon Scented Gum) Trees 10	5.1m
<i>Corymbia citriodora</i> (Lemon Scented Gum) Tree 13	10.2m

<i>Eucalyptus sideroxylon</i> (Red Ironbark) Tree 26	5.4m
<i>Acmena smithii</i> (Lilly Pilly) Tree 27	7.8m
<i>Liquidambar styraciflua</i> (Liquidambar) Tree 35	7.6m
<i>Camellia sasanqua</i> (Chinese Camellia) Tree 41 (5 trees)	3.6m
<i>Liquidambar styraciflua</i> (Liquidambar) Tree 43	10.2m
<i>Nyssa sylvatica</i> (Tupelo) Tree 44	6m

Reason: To protect existing trees.

79. Approved tree works

Approval is given for the following works to be undertaken to trees on the site. An Arboricultural Assessment prepared by Urban Forestry Australia and dated April 2010 has been submitted with the application. Tree numbers refer to this report.

Schedule	
Tree location	Approved tree works
Trees as shown to be removed on Landscape plan prepared by Conzept Landscape Architects, dwg no. LPDA10-235/1E, dated September 2010 <u>except</u> for 5 trees (<i>Camellia sasanqua</i> (Chinese Camellia) 7H, in good condition, identified as Tree 41 located along the western boundary that provide neighbour amenity that are to be retained.	Removal
Trees as shown to be removed on Environmental Site Management Plan for site access including Trees 19, 20, 21 and 22 and street tree <i>Pistacia chinensis</i> (<i>Pistacia</i>) Tree 51 (4 th from eastern site boundary)	Removal

Removal or pruning of any other tree on the site is not approved.

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

80. Hand excavation

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

Schedule	
Tree/location	Radius from trunk
<i>Grevillea robusta</i> (Silky Oak) Tree 1	4.8m
<i>Corymbia citriodora</i> (Lemon Scented Gum) Trees 2	7.8m
<i>Corymbia citriodora</i> (Lemon Scented Gum) Trees 3	9m
<i>Corymbia citriodora</i> (Lemon Scented Gum) Trees 4	4.2m

<i>Corymbia citriodora</i> (Lemon Scented Gum) Trees 5	7.8m
<i>Corymbia citriodora</i> (Lemon Scented Gum) Trees 6	7.2m
<i>Corymbia citriodora</i> (Lemon Scented Gum) Trees 10	5.1m
<i>Corymbia citriodora</i> (Lemon Scented Gum) Tree 13	10.2m
<i>Eucalyptus sideroxylon</i> (Red Ironbark) Tree 26	5.4m
<i>Acmena smithii</i> (Lilly Pilly) Tree 27	7.8m
<i>Liquidambar styraciflua</i> (Liquidambar) Tree 35	7.6m
<i>Camellia sasanqua</i> (Chinese Camellia) Tree 41 (5 trees)	3.6m
<i>Liquidambar styraciflua</i> (Liquidambar) Tree 43	10.2m
<i>Nyssa sylvatica</i> (Tupelo) Tree 44	6m

Reason: To protect existing trees.

81. 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.

82. 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 Porters Lane. The tree/s used shall be a minimum 25 litres container size specimen/s:

Schedule		
Tree/Species	Quantity	Location
<i>Pistacia chinensis</i> (Pistacia)	1	Replacement planting for removal of tree located 4 th from eastern site boundary for construction access

Reason: To provide appropriate landscaping within the streetscape.

83. Tree removal on nature strip

Following removal of Tree 51: 1 and 9 of 12 *Pistacia chinensis* (Pistacia) 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.

84. 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.

85. 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.

86. 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.

87. 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.

88. 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:

89. 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.296465M_03, dated 15 September 2010, have been complied with.

Reason: Statutory requirement.

90. 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.

91. 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.

92. 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.

93. 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.

94. 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.

95. Certification of drainage works

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.

96. 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.

97. 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.

98. 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.

99. Sydney Water Section 73 Compliance Certificate

Prior to issue of an Occupation Certificate the Section 73 Sydney water Compliance Certificate must be obtained and submitted to the Principal Certifying Authority

Reason: Statutory requirement.

100. Certification of as-constructed driveway/carpark – RFB

Prior to issue of an Occupation Certificate, the Principal Certifying Authority is to be satisfied that:

- the as-constructed car park complies with the approved Construction Certificate plans
- the completed vehicle access and accommodation arrangements comply with Australian Standard 2890.1 – 2004 "Off-Street car parking" in terms of minimum parking space dimensions
- finished driveway gradients and transitions will not result in the scraping of the underside of cars
- no doors, gates, grilles or other structures have been provided in the access driveways to the basement carpark, which would prevent unrestricted access for internal garbage collection from the basement garbage storage and collection area
- the vehicular headroom requirements of:
 - Australian Standard 2890.1 – "Off-street car parking",

- **2.6 metres** height clearance for waste collection trucks (refer DCP 40) are met from the public street into and within the applicable areas of the basement 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.

101. Reinstatement of redundant crossings and completion of infrastructure works

Prior to issue of the Occupation Certificate, the Principal Certifying Authority must be satisfied that the following works in the road reserve have been completed:

- new concrete driveway crossing in accordance with levels and specifications issued by Council
- removal of all redundant driveway crossings and kerb laybacks (or sections thereof) and reinstatement of these areas to footpath, turfed verge and upright kerb and gutter (reinstatement works to match surrounding adjacent infrastructure with respect to integration of levels and materials)
- full repair and resealing of any road surface damaged during construction
- full replacement of damaged sections of grass verge to match existing

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.

102. 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 road, footpath and/or drainage works have been completed in the road reserve 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 in the road reserve are to the satisfaction of Council.

103. 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.

104. 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 AT ALL TIMES:

105. 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. Outdoor lighting to be in accordance with the approved lighting plan under **Condition 49** of this consent.

Reason: To protect the amenity of surrounding properties.

106. 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.

107. 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.

108. 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.

109. Unobstructed driveways and parking areas

At all times, all driveways and parking areas shall be unobstructed. Driveways and car spaces shall not be used for the manufacture, storage or display of goods, materials or any other equipment and shall be used solely for vehicular access and for the parking of vehicles associated with the use of the premises.

Reason: To ensure safe traffic movement.

R Eveleigh
Executive Assessment Officer

R Kinninmont
Team Leader Development Assessment

C Swanepoel
Manager Development Assessment

M Miocic
Director Development and Regulation

Attachments: **Location Sketch and zoning extracts**
 Amended architectural plans (September 2010)
 Amended landscape plan (September 2010)
 SEPP 1 Objection