

<b>JRPP No</b>	<b>2010SYW096</b>
<b>DA Number</b>	<b>DA0951/10</b>
<b>Local Government Area</b>	<b>Ku-ring-gai Council</b>
<b>Proposed Development</b>	<b>Demolition of existing dwelling houses and construction of two (2) residential flat buildings (50 units), basement car parking (94 spaces) and landscaping</b>
<b>Street Address</b>	<b>1-21 Woniora Avenue, Wahroonga</b>
<b>Applicant</b>	<b>Becton Woniora Pty Ltd</b>
<b>Number of Submissions</b>	<b>Seven (7) submissions</b>
<b>Recommendation</b>	<b>Deferred commencement consent</b>
<b>Report by</b>	<b>Robyn Pearson, Executive Assessment Officer</b>

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## DEVELOPMENT APPLICATION

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### SUMMARY SHEET

<b>REPORT TITLE:</b>	1-21 WONIORA AVENUE, WAHROONGA - DEMOLITION OF EXISTING DWELLING HOUSES, CONSTRUCTION OF TWO RESIDENTIAL FLAT BUILDINGS (50 UNITS), BASEMENT CAR PARKING (94 SPACES), LANDSCAPING.
<b>WARD:</b>	Wahroonga
<b>DEVELOPMENT APPLICATION N<sup>O</sup>:</b>	0951/10
<b>SUBJECT LAND:</b>	1 - 21 Woniora Avenue, Wahroonga
<b>APPLICANT</b>	Becton Woniora Pty Ltd
<b>OWNERS</b>	Karinya Apartments Pty Ltd., Becton Woniora Pty Ltd, Woniora Everest Pty Ltd, SP47796
<b>DESIGNER:</b>	Gilsenan Associates Architects
<b>PRESENT USE:</b>	Residential
<b>ZONING:</b>	2(d)3
<b>HERITAGE:</b>	Nearby heritage items – No. 8 Woniora Avenue, No. 7 Burns Road
<b>PERMISSIBLE UNDER:</b>	Ku-ring-gai Planning Scheme Ordinance
<b>COUNCIL'S POLICIES APPLICABLE:</b>	KPSO, DCPs 31 - Access, 40 – Waste Management, 43 – Car Parking, 47 – Water Management, 55 – Multi Unit Housing, 56 – Notification, Riparian Policy, Ku-ring-gai Contributions Plan 2010
<b>COMPLIANCE WITH CODES/POLICIES:</b>	No
<b>GOVERNMENT POLICIES APPLICABLE:</b>	SEPP 1 – Development Standards, SEPP 55 – Remediation of Land, SEPP 65 – Design Quality of Residential Flat Development, BASIX 2004, SREP 20 – Hawkesbury Nepean River
<b>COMPLIANCE WITH GOVERNMENT POLICIES:</b>	No
<b>DATE LODGED:</b>	10 December, 2010
<b>40 DAY PERIOD EXPIRED:</b>	19 January, 2011

<b>PROPOSAL:</b>	Demolition of existing dwelling houses, construction of two (2) residential flat buildings (50 units), basement parking (94 spaces), landscaping.
<b>RECOMMENDATION:</b>	Deferred commencement consent

## PURPOSE FOR REPORT

To determine Development Application No.0951/10 for the demolition of existing dwelling houses and construction of two (2) residential flat buildings comprising 50 units, basement car parking, landscaping and associated works.

The application is required to be reported to the Joint Regional Planning Panel as the cost of works (CIV) of \$22.73 million exceeds \$10 million.

## EXECUTIVE SUMMARY

Issues	<ul style="list-style-type: none"><li>• height</li><li>• SEPP 1</li><li>• riparian corridor</li><li>• streetscape</li><li>• residential amenity</li><li>• heritage</li></ul>
Submissions	Yes
Land & Environment Court Appeal	No
Recommendation	Approval

## HISTORY

### Site history

#### 1- 9 Woniora Avenue, Wahroonga

DA1364/04	A multi unit development (3 residential flat buildings) with 58 dwellings was approved by Council on 14 June 2005, including basement parking, landscaping and strata subdivision.
DA0188/08	The Ku-ring-gai Planning Panel approved DA0188/08 on 10 July 2010 for the conversion of five ground floor units in Block C to a communal area including a lounge room, dining area, kitchen, cold store, bar, library and gymnasium. The proposed works reduced the number of units from 58 to 53 units.

**11 Woniara Avenue, Wahroonga**

- 93/00657      An application for demolition and construction of three (3) villas was approved by Council on 22 July 1993 under SEPP 28.
- DA0357/94      A development application involving the strata sub-division of the above development into three lots was approved under delegation on 15 August 1994.

**15-21 Woniara Avenue, Wahroonga**

- DA1157/04      The aforementioned application involving the demolition of existing structures and construction of a residential flat building (50 units), basement parking and landscaping was refused under officer delegation on 20 January 2006. The reasons for refusal being:
- insufficient landscaping
  - non-compliant setbacks for the courtyards within the front setback
  - inadequate solar access
  - non-compliance with the height limit
  - inadequate information
- DA1179/06      A development application for demolition of existing structures and construction of a residential flat building was refused under delegation on 8 March 2007. The applicant lodged an appeal with the Land and Environment Court which was subsequently withdrawn.
- DA364/07      This application involving the demolition of existing structures and construction of a residential flat building (45 units), basement parking, landscaping, and strata sub-division was refused under officer delegation on 6 July, 2007. The application was refused for the following reasons:
- NSW Office of Water failed to provide their general terms of approval due to undesirable impacts on the riparian zone
  - inadequate landscaping
  - non-compliance with the height limit
  - poor residential amenity
  - privacy loss for adjoining properties
  - inadequate solar access
  - site isolation of No. 11 Woniara Avenue
  - adverse impact upon the streetscape

REV0010/07 A review of Council's determination of DA364/07 was withdrawn because section 82A(1)(c) of the EP & A Act does not allow a review of determinations for Integrated Development.

### Current application history

10 December 2010	DA0951/10 was lodged with Council
21 December 2010	The application was referred to the Joint Regional Planning Panel.
21 December 2010	The application was referred to NSW Office of Water, being integrated development pursuant to section 91 in the EP & A Act and Energy Australia.
21 December 2010	The application was referred to Council's Landscape Assessment Officer, Heritage Advisor, Engineer, Urban Design Consultant, Ecologist, Environmental Officer and Building Surveyor.
7 January 2011	The application was notified to owners of adjoining properties.
1 February 2011	Council's Environmental Officer requested a vegetation management plan and amendments to the landscape plan to minimise impacts to the riparian zone.
9 February 2011	<p>Comments were received from Council's Development Engineer who raised the following concerns:</p> <ul style="list-style-type: none"><li>• insufficient car parking</li><li>• the non-compliance with the required driveway width</li></ul> <p>The following additional information was also requested:</p> <ul style="list-style-type: none"><li>• clarification of BASIX commitments</li><li>• information about the access points to the detention/retention tanks beneath Unit 401 to allow maintenance</li><li>• details of the water quality measures (eg. grassed swales) to be shown on plans</li><li>• a construction traffic management plan</li><li>• the landscape wall referred to in the flood study to be shown on the site works, landscape and architectural plans to allow further assessment</li></ul>

- 10 February 2011 Council's Heritage Advisor raised no objection to the application, subject to appropriate conditions of consent.
- 16 February 2011 The applicant was advised of the following concerns:
- non-compliance with the height limit
  - insufficient parking for the development
  - non-compliant front setback of the porte cochere and the front courtyards
  - insufficient setbacks between buildings C and D
  - the terraces and/or balconies failed to comply with the minimum area pursuant to part 4.5.5 in DCP 55
  - inadequate storage for each unit
  - matters raised by Council's Development Engineer
  - additional information required including a current survey and solar access diagrams
- 21 February 2011 Council received comments from Council's Consultant Urban Designer who raised concerns about:
- inadequate solar access
  - non-compliance with the height limit
  - inadequate front setback
  - non-compliance with the required setback between buildings
  - insufficient soft landscaping
  - unsatisfactory natural light and/or ventilation in corridors and/or lift lobbies
  - poor street address
  - insufficient details of courtyard and/or front fences
- 22 February 2011 NSW Office of Water issued their general terms of approval.
- 4 March 2011 Comments were received from Council's Landscape Assessment Officer who raised the following concerns:
- non-compliance with deep soil landscaping
  - unsatisfactory arborist assessment
  - the proposed porte-cochere within the front setback would dominate the landscape setting
  - poor access to the communal open space within the western side setback
  - the elevated rear private courtyards compromise their functionality as areas for outdoor recreation
  - insufficient plantings within the rear setback to minimise

impacts to the heritage item at No. 7 Burns Road

- unsatisfactory BASIX certificate
- insufficient information to allow the proper assessment of the landscape plan
- unsatisfactory landscape plan and environmental site management plan

9 March 2011

A meeting was held with the applicant and their consultants to discuss the concerns raised in Council's letter of 16 February 2011.

14 March 2011

Comments from Council's Ecologist were received raising the following concerns:

- insufficient information on ecological matters
- inadequate vegetation management plan and landscape plan

16 March 2011

The applicant was advised of Council's interpretation of clause 25I (8) and (9) concerned with the permitted height of residential flat buildings and the definition of "storey".

15 April 2011

A SEPP 1 objection to Council's height standard was submitted along with amended plans and revised reports. The following changes were included in the plans:

- some of the balconies were increased in size to comply with the Residential Flat Design Code (RFDC)
- an increase in the number of car spaces to comply with clause 25J(2) of the KPSO
- some of the kitchens were redesigned to reduce their depth to comply with the RFDC
- the driveway width was amended to comply with Council's requirements
- the proposed porte-cochere was deleted to provide more landscaping within the front setback
- the landscape plans were revised to provide more landscaping to comply with Clause 25I(2) in the KPSO.
- planter boxes have been provided on the north facing top floor terraces
- elevational shadow diagrams were provided to demonstrate compliance with the RFDC and DCP 55.
- improvements to the internal circulation

20 April 2011	The amended plans were referred to Council's Urban Design Consultant, Heritage Advisor, Development Engineer, Landscape Assessment Officer, Environment Officer, Ecology and NSW Office of Water.
28 April 2011	Council officers briefed the Joint Regional Planning Panel on the proposal.
2 May 2011	Council's Heritage Advisor raised no objection to the amended plans subject to conditions of consent requiring a photographic record of the existing dwelling houses and a revised schedule of materials, colours that are more recessive to minimise impacts to the heritage items.
3 May 2011	<p>Council's Landscape Assessment Officer raised the following concerns with the amended plans:</p> <ul style="list-style-type: none"><li>• deep soil non-compliance</li><li>• unsatisfactory impacts upon the trees along the northern boundary</li><li>• Inadequate access to the communal open space</li></ul>
12 May 2011	Council's Ecologist found the vegetation management plan to be unsatisfactory and required changes to the landscape plan and the sediment & erosion control plan.
13 May 2011	<p>Council's Development Engineer requested the following information and compliance with DCPs 43 and 55:</p> <ul style="list-style-type: none"><li>• details of the proposed grass swales</li><li>• the access points to the detention tanks to be shown on the site works plan</li><li>• non-compliant disabled car spaces</li><li>• a more detailed construction management plan as per the pre-DA guide</li><li>• the proposed battering and bund should be shown on the site works plan as well as the architectural and landscape plan</li></ul>
16 May 2011	Owners' consent was provided in the prescribed format.
18 May 2011	<p>The applicant was advised of the following concerns in relation to the amended plans:</p> <ul style="list-style-type: none"><li>• non-compliance with the deep soil requirements and the height limit</li><li>• a SEPP 1 is required to address the non-compliances</li></ul>



with number of storeys

- floor plans for the whole development are required to allow the assessment of site coverage and FSR
- insufficient disabled car spaces for the manageable units
- disabled parking fails to comply with AS2890.6:2004
- additional information is required to confirm compliance with the solar access requirements
- the elevated rear courtyards reduce the functionality of the private outdoor areas
- the visitable units have not been marked on the plans.
- some of the single aspect units have a depth greater than 10m
- a service vehicle/removalist space has not been provided in accordance with DCP 55
- no designated bicycle storage for residents and/or visitors
- a survey of the whole site (scale 1:100) is required to facilitate the proper assessment of the application
- the matters raised in the comments from the urban design consultant, Heritage Advisor, Team Leader in Engineering, Landscape Assessment Officer, the General Terms of Approval from NSW Office of Water and Council's Ecologist

8 August 2011

Comments were received from Council's Heritage Advisor on plans submitted to Council on 29 July 2011 raising no objection to the proposal, subject to conditions of consent concerned with photographic recording of the existing dwelling houses and submission of a revised schedule of materials and recessive colours to minimise impacts to the streetscape and the nearby heritage items.

12 August 2011

The amended plans received on 29 July, 2011 were notified to owners of adjoining properties.

16 August 2011

Council's Landscape Assessment Officer provided the following comments on the amended plans received on 29 July 2011:

- inadequate landscaping between buildings C and D
- insufficient canopy trees within the front setback
- the proposed solid courtyard fencing fail to meet the requirements of section 4.1 C-10 in DCP 55
- insufficient information
- a revised BASIX certificate is required showing the

	<p>BASIX commitments featured on the plans</p> <ul style="list-style-type: none"><li>• the environmental site management plan needs to be revised to facilitate a two stage construction plan</li></ul>
24 August 2011	Additional information was submitted to demonstrate compliance with Council's height controls and further information on the connection between Buildings D and E
31 August 2011	Council's Ecologist raised no objection to the amended proposal subject to conditions.
31 August 2011	A ground floor survey was provided to satisfy concerns raised about the height of the buildings.
1 September 2011	The NSW Office of Water provided their general terms of approval.
5 September 2011	Council's Development Engineer raised no objection to the amended proposal, subject to conditions of consent.
21 September 2011	A revised SEPP 1 objection was submitted in respect of the non-compliance with the permitted height of basements above ground level standard.
21 September 2011	<p>Council's Urban Design Consultant provided comments on the revised plans submitted to Council on 29 July 2011. Concerns were raised about the following matters:</p> <ul style="list-style-type: none"><li>• non-compliance with site coverage</li><li>• unsatisfactory depth of single aspect units (&gt;8m)</li><li>• lobbies and corridors have no natural light and/or ventilation</li><li>• BCA non-compliances</li></ul>
22 September 2011	Revised plans were received to address the concerns raised by Council's Landscape Assessment Officer.
23 September 2011	A revised BASIX certificate was submitted to Council.
26 September 2011	An updated site coverage diagram was submitted to Council that demonstrates compliance with the KPSO.
11 October 2011	Details of the front entry portico were provided to Council.

## THE SITE AND SURROUNDING AREA

### The site

Zoning:	2(d)3
Visual Character Study Category:	Between 1920 - 1945
Lot & DP Numbers:	Lot 1 DP1090221; lots 26, 92, 93, 94, 95 DP2666
Integrated Development:	Yes
Bush Fire Prone Land:	No
Endangered Species:	Sydney Turpentine Ironbark Forest
Urban Bushland:	Yes – 21 Woniora Avenue
Contaminated Land:	No

Three (3) five (5) storey residential flat buildings are located at Nos. 1-9 Woniora Avenue constructed of brick with painted render. Vehicular access for the units is via the driveway between Blocks A and B to the car park below. There is a pedestrian pathway off Woniora Avenue to the main entry of Block A on the eastern side of this building. There is another pedestrian pathway off Woniora Avenue to provide access to a central courtyard between Blocks B and C and the main entries to each building. The owners of Nos. 1-9 Woniora Avenue currently market the existing development to people over 55 years of age, offering residential units with communal facilities such as lounge rooms, snooker and craft rooms.



**Figure 1: Block C located at Nos. 1-9 Woniora Avenue**

Currently located at no. 11 Woniora Avenue are three dwellings (SP47796) approved under SEPP 28 now repealed. There is a driveway along the western side of the No. 11 Woniora Avenue to provide vehicular access to the dwellings at the rear of the site as shown in **Figure 2**

Single storey dwellings are located on Nos. 15, 17, 19 Woniora Avenue on land that has an approximate cross fall of 2 – 2.5 metres. A tributary of Spring Gully Creek runs through No. 17 Woniora Avenue which is piped from Woniora Avenue to the rear of this site where it becomes an open stream. No. 19 Woniora Avenue, located on the eastern bank of Spring Gully Creek, has a swimming pool in close proximity to Spring Gully Creek. No. 21 Woniora Avenue is vacant land which hosts a number of significant trees on the banks of Spring Gully Creek which flows through this site.



**Figure 2: The dwellings at No. 11 Woniora Avenue with the driveway on the western side of the site off Woniora Avenue**

### **Surrounding development**

To the west of the subject site is the F3 freeway to Newcastle. A multi unit development (No. 1 – 3 Burns Road) is located to the north of the subject site as well as other dwelling houses, including a heritage item located at No. 7 Burns Road. To the east of the subject site, there are other dwelling houses with a frontage to Coonanbarra Road.

Another heritage item is located to the south of the subject site (No. 8 Woniora Avenue) being the former home of artist, Sydney Nolan. (see **Figure 3**) A smaller multi unit development is also located at No. 4-6 Woniora Avenue.



**Figure 3: The heritage item located at No. 8 Woniara Avenue**

The subject site is located in close proximity to Wahroonga Park, Wahroonga Railway Station and the Wahroonga Shopping Village.

## THE PROPOSAL

The proposal involves the construction of two residential flat buildings [50 units (4 x 1 bedroom, 15 x 2 bedroom, 31 x 3 bedroom units)] on Nos. 11 – 21 Woniara Avenue (Lots 92 – 95 DP2666, Lot 26 DP706261). The plans also include the construction of two levels of basement car parking (94 car spaces). The application also includes the provision of an indoor swimming pool with ancillary facilities on the upper floor of the basement car park.

Blocks A, B, C have already been constructed at Nos. 1 – 9 Woniara Avenue (Lot 1 DP 1090221). The proposal includes a connection between the existing development (Nos. 1 – 9 Woniara Avenue) and the proposed development at Nos. 11 – 21 Woniara Avenue. At Basement Level 1 there will be a connection between Block C and D as well as connection between Blocks C and D at ground floor level.

On the ground level of Block D, the applicant has proposed community facilities for future residents, including a function room, lounge, theatre and a weather lobby. The plans also provide a pedestrian connection at ground level between Blocks C and D. The basement level with the proposed swimming pool is also connected to Block C. The proposal also includes changes to the communal facilities at ground floor level within Block C.

The development would have the following components:

**BLOCK D (Total of 27 units)**

- |                         |  |
|-------------------------|--|
| Ground level - RL177.40 | <ul style="list-style-type: none"><li>• 3 units (1 x 1 bedroom, 1 x 2 bedrooms, 1 x 3 bedrooms)</li><li>• resident's function room, resident's lounge with access to another resident's lounge in building C, theatre, 3 meeting rooms and managers office</li></ul> |
| Level 1 - RL180.40      | <ul style="list-style-type: none"><li>• 7 units (1 x 1 bedroom, 3 x 2 bedrooms, 3 x 3 bedrooms units)</li></ul>  |
| Level 2 – RL 183.40     | <ul style="list-style-type: none"><li>• 7 units (1 x 1 bedroom, 3 x 2 bedrooms, 3 x 3 bedrooms)</li></ul>  |
| Level 3 – RL186.40      | <ul style="list-style-type: none"><li>• 7 units (1 x 1 bedroom, 3 x 2 bedrooms, 3 x 3 bedrooms)</li></ul>  |
| Level 4 – 189.40        | <ul style="list-style-type: none"><li>• 3 x 3 bedroom units</li></ul>  |

**BLOCK E (Total of 23 units)**

- |  |  |
|--|--|
| Ground floor –RL176.2 (north), RL176.70(south) | <ul style="list-style-type: none"><li>• 5 units (2 x 2 bedrooms, 3 x 3 bedrooms)</li></ul> |
| Level 1 – RL179.20 (north), RL179.70 (south)   | <ul style="list-style-type: none"><li>• 5 units (1 x 2 bedroom, 4 x 3 bedrooms)</li></ul>  |
| Level 2 – RL182.20 (north), RL182.70 (south)   | <ul style="list-style-type: none"><li>• 5 units (1 x 2 bedroom, 4 x 3 bedrooms)</li></ul>  |
| Level 3 – RL185.20 (north), RL185.70 (south)   | <ul style="list-style-type: none"><li>• 5 units (1 x 2 bedroom, 4 x 3 bedrooms)</li></ul>  |
| Level 4 – RL188.20 (north), RL188.70 (south)   | <ul style="list-style-type: none"><li>• 3 x 3 bedroom units</li></ul>                      |

A double driveway provides vehicular access to the basement car park between Blocks D and E off Woniara Avenue. The main pedestrian entry to the complex (1-21 Woniara Avenue) is via the pedestrian pathway from Woniara Avenue to the front entry lobby in Block D.

A lift has been provided in each block (D and E) allowing access to each level. In the basement, there are storage areas for residents, three (3) waste rooms, five (5) plant rooms as well as two (2) stormwater storage tanks.



## CONSULTATION - COMMUNITY

In accordance with Council's Notification DCP, owners of surrounding properties were given notice of the application. In response, six (6) submissions were received on the original plans from the following:-

- |    |                  |                                 |
|----|------------------|---------------------------------|
| 1. | R & L Johnson    | 5 Burns Road, Wahroonga         |
| 2. | T A Gait         | 208/9 Woniara Avenue, Wahroonga |
| 3. | T. Sutherland    | PO Box 34, Wahroonga            |
| 4. | W Y Cham         | 3 Benson Close, Wahroonga       |
| 5. | C Adamski        | 8 Woniara Avenue, Wahroonga     |
| 6. | N J & F L Rivett | 31 Exeter Road, Wahroonga       |

### Amended plans (29/7/11)

The applicant submitted amended plans to address the concerns raised by Council officers. The plans were notified to owners of surrounding properties and previous objectors. Council received submissions from the following property owners:

- |    |                  |                                 |
|----|------------------|---------------------------------|
| 1. | R Lloyd-Williams | 8/1-3 Burns Road, Wahroonga     |
| 2. | R & L Johnson    | 5 Burns Road, Wahroonga         |
| 3. | T A Gait         | 208/9 Woniara Avenue, Wahroonga |
| 4. | T Sutherland     | PO Box 34, Wahroonga            |

Further amended plans were lodged on 22 September 2011 to provide additional detail and/or correct minor drafting errors. It was considered unnecessary to notify the plans because the impacts would be the similar to the plans submitted to Council on 29 July, 2011. Comments on the matters raised in the submissions are provided below based on the plans submitted to Council on 22 September 2011.

### ***Loss of privacy for the dwellings to the north as a result of raised ground levels at 11 and 15 Woniara Ave.***

There would be no privacy loss for the dwellings to the north of the subject site because the development provides a compliant rear setback to the interface zone (9m min), as well as sliding privacy louvres on the rear balconies and planter boxes on the edges of the top floor balconies. There would also be significant landscaping within the rear setbacks, including canopy trees.

### ***The buildings breach the building height controls***

The proposal complies with the permitted overall height of 13.4m to the ceiling of the fourth floor. However, the car park is greater than 1.2m above ground level technically creating an additional level according to the definition of "storey" in clause 25I(9) of the KPSO.

A swimming pool is also located on Basement Level 1 that needs to be counted as a “storey” because this level is not used exclusively for storage and/or parking in accordance with the definition of “storey” in clause 25I(9) of the KPSO. A SEPP 1 objection was submitted to Council seeking a variation to the development standard contained in clauses 25I(8) and 25I(9) in the KPSO.

The main reason for the above non-compliance is the need to have a ground floor level for habitable rooms of 500mm above the 1:100 flood levels (RL176.2, RL176.7) as recommended in the flood study. The SEPP 1 objection is considered in a latter part of this report.

***The slope of the land increases the height of the buildings when viewed from Burns Road***

The proposed buildings comply with the maximum permitted overall height (13.4m to the ceiling of the fourth floor) pursuant to clause 25I(8) in the KPSO. The bulk and scale of the proposed buildings is considered to be satisfactory by Council’s Urban Design Consultant.

***Increased overshadowing of Nos 1 – 3 Burns Road***

The shadows cast by the development would be mostly over the front setback and the road reserve due the land’s north-south orientation. Consequently, there would be no increased overshadowing of No. 1 – 3 Burns Road.

***This type of development would destroy the character of Wahroonga***

The land has been zoned 2(d3) for multi unit development in LEP194. The proposal has a built form that is consistent with the desired future character for land zoned 2(d3). For the reasons stated throughout this report, the proposed residential flat buildings are likely to achieve the aims and objectives in clause 25C in the KPSO for development in the rail corridor.

***Noise emanating from the proposed swimming pool would cause a loss of amenity***

The proposed pool would be located mostly under ground in the basement car park on Level 1. Only a small proportion of the northern wall of the pool area would be above ground level. With the compliant rear setback (9m min) and proposed vegetation, there would be no unreasonable noise impacts.

***The proposed common/meeting room would cause a loss of amenity for No. 5 Burns Road***

Conditions of consent are recommended to minimise noise nuisance arising from the proposed community facilities. **(Conditions 99 - 105 )** Furthermore, Council has not



received any complaints about noise nuisance arising from the existing communal facilities located in Block C which were approved in 2008.

***Impact upon existing infrastructure***

The impact of multi development upon existing infrastructure should have been considered when the land was zoned 2(d3). Nevertheless, Council is empowered under section 94 of the EP & A Act to impose a levy to provide additional infrastructure for future population growth arising from the construction of the proposed residential flat buildings. **(Condition 45)**

***A request for compensation if there is any loss of tenants at 1-3 Burns Road due to construction noise***

Conditions of consent have been recommended to minimise noise nuisance during the construction phase. Any compensation claims would be a civil matter for the parties and is not a matter for Council.

***Any construction should not damage the trees on the rear boundary of No. 5 Burns Road***

There is a pedestrian path within three metres of the rear boundary, providing access to the riparian zone and other parts of the site. Council's Landscape Development Officer has indicated that this path is unlikely to have a detrimental impact on the health of the trees in the rear garden of No. 5 Burns Road.

***The trees at Nos. 13 and 15 Burns Road provide screening for No. 5 Burns Road and should be retained***

There will be some tree loss at the rear of No. 15 Woniora Avenue but these are not significant trees and are proposed to be replaced with new screen plantings along the northern boundary including canopy trees.

***Any increase in traffic arising from the development would cause a loss of amenity for surrounding properties***

Council's Development Engineer concurs with the traffic report submitted with the application that indicates that there would be no unreasonable impact upon local traffic networks. The proposal also provides the required parking for residents and visitors to the development so it is unlikely that there would be any loss of amenity for surrounding properties in this respect.

***Damage to the roads during construction***

Council's Development Engineer has recommended conditions of consent to address any damage to Council's roads. **(Condition 66, 97, 98)**

***Increased demand for on-street parking since Millewa Avenue has been limited to two hours***

As indicated above, the proposal complies with the required parking in accordance with clause 25J in the KPSO and DCPs 43 and 55 so it is anticipated that there would be no unreasonable demand for on street parking as a result of the proposed development.

***Inadequate visitor parking***

The proposal provides the required visitor parking pursuant to clause 25J in the KPSO as well as Development Control Plans 43 and 55 to the satisfaction of Council's Development Engineer.

***Increased number of drivers over 55 in the street will cause a safety hazard***

Drivers aged over 55 with a valid licence are unlikely to cause a greater increase in hazardous driving in Ku-ring-gai.

***Loss of amenity as a result of increased light spillage and noise nuisance***

The building would be used for residential purposes with compliant setbacks to the interface zone and significant landscaping to minimise noise emanating from the proposed residential flat building.

A condition of consent has also been recommended to limit light spillage arising from any outdoor lighting. **(Conditions 26, 107)**

***The development poses a security risk with increased crime in the area***

A crime risk assessment report has been submitted with the applicant, indicating that the proposal is unlikely to cause an increase in criminal activity in Wahroonga.

***No outside drying area to promote sustainable development***

A condition of consent has been recommended requiring an outdoor drying facility in a common area. **(Condition 27)** Nevertheless, the applicant has submitted a valid BASIX certificate demonstrating the development has achieved the required energy target of 30% to pass this section of the BASIX certificate.

***Indoor or sheltered clothes drying lines are mentioned in the BASIX certificate but not shown on the plans***

The BASIX certificate indicates that any indoor or sheltered clothes drying lines need only to be shown on the plans for a construction certificate.

***The proposed units are too similar to existing***

It is not unreasonable to expect Blocks D and E to be similar to the existing buildings at 1-9 Woniara Avenue because they would become one development as proposed in the consolidation plan submitted with the application. The proposal was also found to be acceptable by Council's Urban Design Consultant.

***The proposal would cause site isolation***

No. 23 Woniara Avenue has a site area of less than 1,200 square metres and a frontage of less than 23 metres. This property is unlikely to become an isolated site because it could be amalgamated with Nos. 30 and 32 Woniara Avenue to allow for further multi unit development to satisfy the requirements in part 6 in DCP 55.

***Adverse impacts for the heritage item located at No. 8 Woniara Avenue***

The development provides compliant front setbacks with significant landscaping and together with the road reserve there is sufficient distance to minimise any impact upon the heritage item. Council's Heritage Advisor is satisfied that the proposal would not have a detrimental impact upon the significance of this heritage item.

***Any further development in Woniara Avenue should be similar in scale to No. 11 Woniara Avenue.***

The development at No. 11 Woniara Avenue was approved under SEPP 28 now repealed. This site has since been zoned 2(d3) which permits higher density development to achieve the aims and objectives of LEP 194. The scale of the development was found to be acceptable by Council's Urban Design Consultant.

***The bulk and scale of the development should be screened with vegetation***

The landscape plan provides sufficient landscaping within the setbacks, including a number of canopy trees to screen the development from the streetscape and adjoining properties to the satisfaction of Council's Landscape Assessment Officer.

***Increased stormwater runoff will flow to Spring Gully Creek having a detrimental impact upon the Hawkesbury-Nepean Catchment***

The proposal has been assessed by the NSW Office of Water and found to be satisfactory in terms of its impact upon the Hawkesbury-Nepean Catchment.

***The development will have a detrimental impact upon fauna in riparian zone***

The NSW Office of Water and Council's Ecologist have taken into account the impact of the development upon fauna and flora in the riparian zone and found the proposal to be satisfactory.

***There are too many over 55 developments in Wahroonga***

Market forces would determine whether there are too many developments for the over 55 age group. This is not a matter of consideration under section 79C of the Environmental Planning & Assessment Act.

**CONSULTATION - WITHIN COUNCIL****Engineering**

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

***Stormwater management***

*General Terms of Approval have been provided by the NSW Office of Water.*

*The BASIX water commitments are for a 13 000 litre rainwater tank collecting runoff from 786 square metres of roof area, with re-use for toilet flushing, clothes washing, irrigation and car washing.*

*The ground floor levels will have adequate freeboard above the 100 year ARI flood level in Spring Gully Creek. Hughes Trueman Drawing DA0120 shows that ground levels in the front setback are to be graded at 1% towards Woniora Avenue. This is described in the amended Mott MacDonald Flood Study Assessment as "provision has been made with the site grading works to the Woniora Avenue frontage to prevent flood fringe waters from entering the basement during large storm events." This will be more aesthetically pleasing than the training wall which was previously proposed.*

*The access points to the detention and retention tanks are now located in a common area.*

*Council's consent is required for the relocation of the pipe and easement within the property. Consequently, a deferred commencement condition is recommended to allow this matter to be considered at a future Council meeting.*

***Traffic and parking***

*The site is further than 400 metres from Wahroonga Station, so 81 resident and 13 visitor parking spaces are required. Of these, 5 disabled resident and 1 disabled visitor space must be included. However, the drawings show 80 resident and 14 visitor spaces, so one visitor space must be reclassified as a resident space (**Condition 36**). In summary, the proposal provides the correct number of car spaces.*

*The dimensions of the basement car park comply with AS2890.1:2004. A mirror will be required at the bend in the ramp between the two basement levels. (Condition 99)*

### **Waste management**

*Internal waste collection is provided for in the development in accordance with Council requirements.*

### **Council infrastructure**

*The applicant will be required to construct half road pavement and kerb and gutter for the frontage of the development in accordance with Condition 39.*

*The proposed development also involves the relocation of a trunk stormwater drainage line shown on the Hughes Trueman drawings. Although the design of the works in the road appears to be satisfactory, a separate approval for those works under the Roads Act must be obtained prior to issue of the Construction Certificate. (Deferred commencement Condition 1)*

### **Geotechnical report**

*The site is underlain by soils over sandstone of moderate to high strength which is likely to cause some vibration during excavation. Approximately 6 metres of excavation will be required to achieve basement level. The report by Geotechnique contains some recommendations for excavation methods. (Conditions 55, 56)*

*The report by Geotechnique does not address previous correspondence regarding the dewatering of Spring Gully Creek and states "Dewatering should be carried out to lower groundwater level to at least 0.5m below design excavation level." This is unacceptable for environmental reasons and should be replaced with cut-off walls as suggested in the latter report by SCP Consulting dated 26 October 2010. (Conditions 20, 48, 86)*

### **Landscaping**

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

#### **Site characteristics**

*The site supports existing mature endemic vegetation that is representative of Sydney Turpentine Ironbark Forest community, in the form of a bushland corridor that runs along the western edge of the subject site. A Category 3 watercourse, Spring Gully Creek, is located at the western end of the site. A tributary heads north the through centre of site after exiting a concrete*

*headwall. The western boundary adjoins the Sydney Newcastle Freeway and a triangle of vacant land owned by the RTA.*

### **Deep soil calculation**

*The deep soil landscape area provided with the development is considered to be compliant and satisfactory.*

### **Tree removal and impacts**

*The tree numbers referred to in this report are consistent with the numbers used in the revised arboricultural assessment report prepared by Urban Tree Management, dated 13 July 2011.*

*The following abbreviations have also been used to describe the size of existing trees: height (H), canopy spread(S), diameter at breast height (DBH), tree protection zone (TPZ) and structural root zone (SRZ).*

### **Trees to be retained**

*Tree 37/ *Brachychiton acerifolius* (Flame Tree) 9H, 200DBH, TPZ 2.4m is located on the northern boundary of the site. The proposed excavation for the relocation of the channel on lot 93 DP 2666 is located 2.5m away from the tree and outside the tree protection zone.*

*Tree 38/*Archontophoenix cunninghamiana* (Bangalow Palm) TPZ 2m (a group of seven palms) is located on the northern boundary of the site. The proposed filling and construction of a retaining wall for the path along the northern boundary is located 2.5m away from the tree and outside the tree protection zone.*

*Tree 41/*Chamaecyparis obtusa* 'Crippsii' (Golden Cripps Cypress) 12H, 600DBH, TPZ 7.2m is located within the front setback of Building E. To ensure preservation of this tree, the proposed levels in vicinity of this tree must be retained at their current level and any proposed shrub planting within the canopy spread of this tree must be replaced with shade tolerant groundcovers. **(Condition 23)***

*Tree 43/*Magnolia x soulangiana* (Magnolia) 7H, 325DBH, TPZ 3.9m is located within the 5m riparian zone. This area is to be re-vegetated in accordance with the vegetation management plan. **(Condition 108)***

*Trees 59, 64 to 68 are Tree Ferns on the banks of the tributary must be retained to preserve the integrity of the riparian zone. **(Condition 71, 73, 74 and 76)***

*Tree 69/ Acmena smithii (Lilly Pilly) 13H, 410DBH, TPZ 4.9m is located on the northern boundary within the adjoining property. The proposed excavation for the relocated channel would be approximately 2.1m from the tree within its structural root zone. To preserve the health and condition of this tree, no excavation for the proposed channel is to be located within 2.4m of the tree.(Condition 71, 73, 74 and 76)*

*Tree 71/ Syncarpia glomulifera (Turpentine) is located to the north of the subject site within the adjoining property. The proposed bridge over the tributary is located 3.5m away from this tree and within the tree protection zone. The arborist report has provided recommendations for construction of the bridge to mitigate possible impacts. (Condition 71)*

*Tree 72/ Syncarpia glomulifera (Turpentine) is located to the north of the subject site within the adjoining property. The proposed bridge over the tributary is located 7.7m away from the tree and within the tree protection zone. The arborist report has provided recommendations for construction of the bridge to mitigate possible impacts. (Condition 71)*

### **Flora and fauna report**

*An area of locally occurring native trees is located within the proposed conservation area as mapped in Figure 1.3 of the Flora and Fauna Report, prepared by Cumberland Ecology and dated July 2011. The proposed bridge across Spring Gully Creek and the proposed gravel path from Block D are located within the tree protection zone of the trees within the conservation area. The bridge is to be constructed in accordance with the Office of Water's conditions and is considered to be satisfactory, subject to appropriate conditions of consent.*

### **Trees to be removed**

*It is proposed to remove the following trees on the subject site that is considered to be acceptable for the following reasons:*

<b>Tree No. and/or species</b>	<b>Reason</b>
<i>Tree 45</i>	<i>Environmental weed:</i>
<i>Trees 32, 33, 60-63</i>	<i>Exempt from Council's Tree Preservation Order</i>
<i>Tree 34 Pittosporum undulatum (Sweet Pittosprum)</i>	<i>Poor condition</i>
<i>Tree 16 Agonis flexosa (Weeping Myrtle):</i>	<i>Poor condition</i>
<i>Tree 34:Pittosporum undulatum (Sweet Pittosporum)</i>	<i>Poor condition</i>
<i>Tree 42 Jacaranda</i>	<i>Poor condition</i>

Tree 12: <i>Cupressus Sempervirens</i> "Stricta" (Slender Italian Cypress)	Within the proposed building footprint
Trees 13, 17, 18, 19, 20, 27, 28 35, 36, 40	Within the proposed building footprint

**Street trees to be removed**

*The applicant is not proposing to remove any significant street trees within the Woniora Avenue nature strip. However, it is proposed to remove six (6) trees on the nature strip that are in decline due to past pruning to clear overhead wires. Their removal is acceptable.*

**Front setback**

*The proposed planting of *Angophora costata* (Sydney Red Gum) on the nature strip is not supported because it is likely to conflict with overhead wiring. It is preferable to provide tall trees within the front setback of the development and smaller trees along the nature strip.*

**Communal open space**

*The development has approximately 1500m<sup>2</sup> of common open space located on the western end of the site and incorporates the existing endemic canopy trees and the vegetation along the banks of Spring Gully Creek. The area is linked to the main development by a pedestrian loop with seating and a footbridge over Spring Gully Creek.*

*The communal open space will be planted with the species nominated in the vegetation management plan. The proposed design of the communal open space meets the objectives of part 4.1 in DCP 55.*

**Private open space**

*All of the private courtyards are provided in the form of elevated terraces. The proposed 1.8m high aluminium slat fences to the ground floor private courtyards are considered to be acceptable.*

**On-slab planting**

*The depth of the soil for the plantings on the roof of the linkage between Blocks C and D is insufficient to support the screen planting proposed to minimise overlooking between Blocks C and D. A condition of consent is recommended to increase the depth of the soil for the on-slab planting.  
**(Condition 23(f))***



**Riparian planting**

*The riparian zone is to be planted in accordance with the Vegetation Management Plan and conditions provided by the NSW Office of Water.*

**Screen planting**

*It is proposed to provide a Camellia sasanqua (Chinese Camellia) (4m in height) along the northern boundary in association with tall canopy trees to minimise privacy loss for the adjoining properties to the north which is considered to be satisfactory.*

**Tree replenishment**

*According to part 4.1 in DCP 55, a minimum of 35 trees is required for the subject site. The proposed canopy tree plantings, in addition to existing trees to be retained, are in excess of this requirement.*

**BASIX**

*The BASIX certificate nominates an area of 1146 square metres to be planted with indigenous/low water use species. This area has been shown on the low water use planting plan.*

**Heritage**

*The site is in the vicinity of a number of heritage items. However, the trees to be retained along the northern boundary being the Brachychiton acerifolius (Flame Tree) (Tree 37) and the three Archontophoenix cunninghamiana (Bangalow Palm) Trees (tree 38) along the rear boundary in association with the new plantings would minimise impacts to the heritage items.*

**Stormwater plan**

*The proposed stormwater plan is acceptable in terms of any likely impacts upon the proposed and existing landscape.*

**Environmental site management plan**

*The environmental site management plan, bulk excavation plan and siteworks plan reflect the two stage proposal and are considered to be acceptable.*

**Conclusion**

*The proposal is considered acceptable, subject to conditions.*

## Heritage

Council's Heritage Advisor commented on the amended plans as follows: `

*Nos. 1 - 9 Woniora Avenue has recently been developed for high density development comprising three residential flat buildings within a landscaped setting. This application proposes a continuation of the current scheme with a similar built form along the undeveloped part of the street from Nos. 11- 21 Woniora Avenue.*

*The proposed building would have a similar architectural form and style to the existing buildings and is physically connected to Building C already constructed on the development site. The proposed buildings would step down the site following the fall of the land towards Spring Gully Creek on the western side of No. 21 Woniora Avenue.*

*To respect the nearby heritage items, the external finishes, colours and materials should be complimentary. Recessive colours are preferred to reduce any perceived visual domination. This is important due to the size of the proposed development and its relationship with the existing buildings at Nos. 1 – 9 Woniora Avenue.*

*The facades are predominantly white painted render with very limited use of contrasting materials or colours. It is recommended that the rendered and painted finished should be more varied in tone, recessive in colour and the facades should be further articulated by other materials such as face brick, stone, timber or other cladding materials to provide a neutral impact on the streetscape and nearby heritage items.*

*The amended plans have removed the porte-cochere replacing it with additional landscaping. The proposed buildings would then be located within a landscaped setting consistent with the desired future character for multi unit development within Ku-ring-gai minimising impacts on the nearby heritage items.*

### **Conclusion and recommendations**

*The amended plans are supported, subject to conditions of consent requiring amendments to the schedule of materials and colours to respect the nearby heritage items and photographic recording of the existing dwellings on the site.*  
**(Conditions 7, 43)**

## Urban Design

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

**Principle 1: context**

*The site is located on the northern side of Woniora Avenue between Woonona Avenue North and Neringah Avenue North, Wahroonga. The site is bordered to the north by land zoned 2(c2) fronting Burns Road; to the immediate north-east by No. 7 Burns Road listed as a heritage item, and to the east is stage 1 of the proposed development on land zoned 2(d3).*

*To the south of the development site is No. 8 Woniora Avenue another heritage item and to the west by No. 23 Woniora Avenue zoned 2(d3) adjacent the Sydney-Newcastle freeway. A riparian corridor runs through the western part of the subject site.*

*The area has recently begun its transition from single detached housing and smaller multi unit developments to high density housing types. The site is located approximately 540m from the entrance to Wahroonga Station along Neringah Avenue North and Millewa Avenue. The site is considered to be a suitable location for a residential flat development.*

**Principle 2: scale**

*The proposal is adjacent to two heritage items including No. 7 Burns Road to the north-east and No. 8 Woniora Avenue to the south of the subject site. The building setback to the northern boundary (approximately nine 9 metres) is screened with vegetation. The proposed rear setback is similar to the rear setback provided by Stage 1 of the development (Nos 1 – 9 Woniora Avenue) with landscaping.*

*The heritage item to the south would be separated from the proposed development (Blocks C and D) by the width of Woniora Avenue (approximately 20m wide) and the ample front setbacks so as not to cause any undesirable impact upon the heritage item at No. 8 Woniora Avenue.*

*The overall heights of the buildings are acceptable from an urban design viewpoint.*

*No changes have been made to the building depths which are substantially in excess of the maximum 18m. This is of concern as deep buildings inherently have a negative impact on environmental amenity. This is discussed further under Principle 7 – Amenity.*

**Principle 3: built form**

*The site coverage diagram has been amended to accurately reflect the areas that should be counted as site coverage which appears to comply with this control.*

*No greater than 40% of the building footprint should occupy the front setback zone. The buildings fail to comply with this control above and below ground level. The front courtyard setbacks (10m) also fail to comply with the required setback (11m). A solid argument could be made that the above ground portion is designed to match Stage 1 which is approved and built.*

*However, the portion below ground is approximately 12% greater than this and should be amended. This appears to only involve the alteration of storage areas in the basement. The non-compliant setbacks between C and D have been resolved previously. The balustrades in these locations should be clearly noted as 'obscure' glass.*

#### **Assessment Officer's note**

The non-compliances with the front setbacks are considered to be acceptable because the development complies with the required deep soil landscaped area and the buildings are well articulated with varying materials (painted render and face brick) on the façade to Woniora Avenue. The below ground non-compliance caused by the storage areas at the rear of the car spaces is acceptable because it not would be seen from Woniora Avenue.

Rather than obscure glazing on the balustrades to minimise overlooking, it is recommended that privacy louvres be provided on the windows and balconies on the eastern side of Block D similar to those on the western side of Block C. **(Condition 21)**



**Figure 4: The existing movable privacy screens on the western side of Block C**

**Principle 4: density**

*Despite some minor errors in the diagram (building entries, corridor steps, basement lobbies, enclosing wall of ducts/lift shafts) the development appears to comply with the specified floor space ratio..*

*Whilst floor space appears to comply, the substantial imposition of the riparian corridor and the reduced developable area has created buildings that are too deep. This is discussed further under principle 7 – amenity.*

**Principle 5: resource, energy and water efficiency**

*Whilst compliant with the minimum standards for cross ventilation (70%) and solar access (76%), passive environmental principles could be employed to better effect with less density with thinner building footprints. This is discussed further under Principle 7: amenity.*

*Other concerns which remain are: the potential to capture water for reuse in gardens and the car wash bay; composting and worm farm facilities. A solution for clothes drying should be included. A door between the corridor and living room in every apartment would assist with zoning for heating and cooling.*

**Assessment Officer's note**

The BASIX water commitments include the provision of a 13,000 litres rainwater tank to collect water for reuse.

A condition of consent is recommended requiring the applicant to provide a clothes drying facility in the communal open space.

**(Condition 27).** Nevertheless, the proposal complies with the energy target of 30% as indicated the valid BASIX certificate submitted with the application.

There are no statutory requirements for the inclusion of composting and worm farm facilities. It is a matter for individual unit owners and/or the management of the complex to provide composting and worm farm facilities.

The BASIX report, prepared by Efficient Living, indicates that the proposal would achieve a 7.0 star average for thermal comfort so it is considered unnecessary to insist upon a door between corridors and living areas.

**Principle 6: landscape**

*Deep soil has now been correctly calculated and complies. The porte cochère has been deleted and replaced with landscaping that is likely to have a*

*positive impact upon the appearance on Block D when viewed from the public domain. The accessibility of the riparian corridor for residents as a recreation space has been improved with the amended plans providing greater amenity for future residents.*

### **Principle 7: amenity**

*In general, the internal layout, dimensions and the ability to furnish the units is of a high standard. The bedroom dimensions for apartments 409, 417 and 424 have been amended and now comply. The sizes of terraces and balconies are acceptable.*

*However, the circulation area and environmental performance of apartments are still of concern. All corridor areas, other than the entry level, of both Blocks D and E are non-compliant with DCP55 control 4.5.1 C-3 'Entry lobbies and common corridors should be naturally lit and ventilated.' These corridors require a window. This could be provided by making a gap between apartments, although the plans are tightly organised and some rearrangement would be required to make this work.*

*The top floor corridor could have light and air provided via the roof plane. 11 of 15 single orientation apartments are over 8m deep, the maximum recommended by the Residential Flat Design Code (p69).*

### **Assessment Officer's note**

Whilst it would be desirable for all the lobbies and/or corridors to benefit from natural light and ventilation, the internal layout of the units are of a high standard with relatively few single aspect units (30%) with a high proportion of double aspect units (70%) providing good solar access and satisfactory natural light and ventilation. The applicant has also provided a valid BASIX certificate indicating compliance with the required energy target (30%) and thermal comfort (40%).

*Whilst all kitchens in the development are able to comply with the 8m distance rule, only 5 of 96 bathrooms (5%) units are located on the external wall. Deep apartments, internalised service rooms and fully enclosed common corridors, require significant energy to light and ventilate them, which also imposes a cost to the user. Thinner buildings enable shallower apartments and more service rooms to gain access to a window on the perimeter wall. The RFDC 18m figure is a dimension which allows for this to occur, generally without the compromises made here ie all service rooms on deep floors internalised and internalised circulation.*

**Assessment Officer's note**

It is considered unreasonable to refuse the subject application for the above reason alone. The proposed units are large with good internal layouts albeit with some non-compliances noted above. It is not unreasonable to rely on mechanical lighting in service rooms, corridors and lobbies given their limited usage. Furthermore, the development has satisfied the requirement of the SEPP - BASIX 2004.

*With regard to the BCA non-compliance with deemed-to-satisfy solutions for exit distances, no solution for compliance has been put forward other than to say that the issues are confirmed and recognised from a BCA perspective and that they are capable of compliance from a fire perspective. It would be preferable to understand what the alternative solutions are, particularly if they affect the arrangement of the building. The resolution of the fire stair egress and lobbies at the ground level remain an issue for the reasons previously described.*

**Assessment Officer's note**

Compliance with the BCA would be determined under a construction certificate by either Council or a private certifier. If any non-compliances with the BCA necessitate the re-arrangement of internal spaces they could be addressed in a s.96 application to Council.

*The solar access graph reveals that these units are subject to afternoon sun load. A measure of sun screening appears to have been provided to the balconies, however some additional treatment might be warranted for the windows. It is unclear if, and how, the proposed 'glass screens' provide sun shading. The solar access information provided is adequate to demonstrate that 38 of 50 (76%) apartments receive adequate sunlight.*

**Assessment Officer's note**

It is considered unreasonable to require the applicant to provide additional sun shading at this stage of the development given that the proposal complies with the required solar access. Should additional sun shading be required after occupation, this can be provided by future owners based upon need.

**Principle 8: safety and security**

*The ramp leading directly from Woniora Avenue to the 'covered walkway' has not been addressed in the documentation or the access report. It is also still not clear whether the walkway is indeed covered or not. This inconsistency should be resolved. An architecturally defined entry at the gateway to the garden area then might instead be appropriate.*

**Assessment Officer's note**

There is a covered entrance portico (2.6m x 3.8m) at street level to provide cover when residents are collecting mail and/or waiting for transport. Details have been provided on plan no. 300 prepared by Gilsenan Associates to Council's satisfaction. The architect has confirmed that there is no covered walkway to the main front entry.

**Principle 9: social dimensions and housing affordability**

*The quantity of accessible apartments is still questioned given the target market. However, it is noted that the quantity provided complies with the requirement.*

**Principle 10: aesthetics**

*The proposal is aesthetically proficient. Additional trees appear to have been provided in the front setback. The architectural drawings still lack details regarding the courtyard walls, gateways and mail boxes, however, the perspective indicates an acceptable design.*

**Conclusion/recommendation**

*The building depth, particularly Block D, is greater than the 18m recommended by SEPP65. This has caused two major issues with the proposal. The first is the depth of single orientation apartments and the second is the internalisation of circulation areas.*

*With regard to the first issue, because the RFDC controls on apartment depth are relatively loose, the depth of the single orientation apartments is overcome by locating all of the service rooms to the rear. This is compliant with, but is not the intention, of the RFDC controls.*

*In this instance, the apartment plans are of good quality, and apart from the internalisation of their service rooms, they are well designed. It is considered that, because of their merit otherwise, it is not reasonable here to require the apartment plans to be changed for this reason.*

*The second issue is the internalised lobbies and corridors which is a clear non-compliance with the DCP and should be addressed. It can probably be done so without loss of apartment number, however, in the reorganisation required, apartments might get slightly smaller. They are of generous size and can afford this slight reduction proposed.*

*The BCA fire egress issue is really only of concern if it changes the layout of the building (and may have an impact on accessibility for instance). If it can be confirmed that it will not, then Council can be satisfied to deal with it at*



*construction certificate. The ground floor lobbies and position of fire doors should be revisited for the functional reasons stated previously.*

#### **Assessment Officer's note**

On balance, the proposed development would achieve a high standard of residential amenity. The number of western single aspect units (8) complies with DCP 55. The applicant has also submitted a valid BASIX certificate indicating compliance with the SEPP. The proposal is considered to be worthy of support having regard to the level of compliance with the key controls in LEP 194 and DCP 55 despite the minor non-compliances raised in the comments from Council's Urban Design Consultant.

#### **Ecology**

Council's Ecological Assessment Officer made the following comments on the amended proposal:

##### ***Vegetation management plan***

*The amended Vegetation Management Plan, prepared by Cumberland Ecology dated July 2011, has addressed comments previously raised and is now considered to be satisfactory.*

##### ***Landscape plans***

*The amended landscape plans are also considered to be satisfactory and have also addressed comments raised previously.*

*In conclusion, the subject application is supported with conditions*

#### **CONSULTATION – EXTERNAL**

##### **NSW Office of Water**

The application was referred to the NSW Department of Natural Resources given that the proposed development would be within 40 metres of a watercourse. The NSW Office of Water raised no objection to the proposal and provided general terms of approval. **(Condition 109)**

#### **PROVISIONS OF RELEVANT LEGISLATION**

##### **State Environmental Planning Policy No. 1 – Development standards**

**Clause 25I(8) & 25I(9) - Maximum number of storeys and ceiling height**

Clause 25I(8) of the KPSO permits five storeys including the top floor. The KPSO also provides the following definition of “storey” in clause 25I(9):

*Any storey as a level of the building that is used exclusively for car parking, storage or plan, or a combination of them in accordance with the requirements of this ordinance and no part of which (including any wall or ceiling which encloses or defines the storey) is more than 1.2m above ground level, is not to be counted as a storey for the purposes of the table to sub-clause (8).*

An indoor swimming pool and its ancillary facilities are located on Basement Level 1. Because this area is not designated solely for use as either “storage” or “car parking”, it becomes a storey by definition. This makes the development six (6) storeys in height causing a non-compliance with clauses 25I(8) & 25I(9) in the KPSO.

In accordance with the definition of “storey” in clause 25I(9), the ceiling of any basement car park must be no greater than 1.2m above ground level otherwise it becomes a storey. In part, the basement below Blocks D and E is greater than 1.2m causing a non-compliance with this standard.

Clauses 25I(8) and 25I(9) are development standards which can only be varied by way of a SEPP 1 objection. A SEPP 1 objection was subsequently provided to Council and attached to this report. The SEPP objection 1 is assessed below.

**whether the planning control to be varied is a development standard**

Clauses 25I(8) and 25I(9) are concerned with the permitted number of storeys for a residential flat building in Ku-ring-gai. This clause is considered to be a development standard as defined in section 4 of the Environmental Planning and Assessment Act 1979.

**the underlying objective or purpose of the standard**

The KPSO does not provide specific planning objectives or purpose for the development standard. However, clauses 25C (1) and 25C (2) provide the following aims and objectives for development permitted under Part 3A of the KPSO as follows:

- (1) (a) *to encourage the protection and enhancement of the environmental and heritage qualities of Ku-ring-gai,*
  - (1) (b) *to encourage orderly development of land and resources in Ku-ring-gai,*
  - (1) (c) *to encourage environmental, economic, social and physical well-being so that Ku-ring-gai continues to be an enjoyable place to live in harmony with the environment.*
- (2) (a) *to provide increased housing choice,*

- (2)(b) to encourage the protection of the natural environment of Ku-ring-gai, including biodiversity, the general tree canopy, natural watercourses, natural soil profiles, groundwater and topography and to reduce and mitigate adverse impacts of development on natural areas,*
- (2) (c ) to achieve high quality urban design and architectural design,*
- (2) (d) to achieve development of Ku-ring-gai with regard to the principles of ecological sustainable development.*
- (2) (e) to ensure that development for the purpose of residential flat buildings on land within zone 2(d3) has regard to its impact on any heritage items in the vicinity of that development,*
- (2) (f) to encourage use of public transport, walking, and cycling,*
- (2) (g) to achieve a high level of residential amenity in building design for the occupants of buildings, through sun access, acoustic control, privacy protection, natural ventilation, passive security design, outdoor living, landscape design, indoor amenity and storage provision.*

**whether compliance with the standard is consistent with the aims of the policy and whether compliance hinders the attainment of the objectives specified in Section 5(a)(i) and (ii) of the Environment Planning and Assessment Act, 1979**

The aim of SEPP 1 is to:

*Provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards, would in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objectives specified in Section 5(a)(i) and (ii) of the Act.*

In this regard, the objects of section 5 (a) (i) and (ii) of the Act are:

- (a) To encourage*
  - (i) The proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment;*
  - (ii) The promotion and co-ordination of the orderly and economic use and development of land.*

The non-compliance with the development standard in this instance would not hinder the attainment of the above planning objectives.

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

The following is a summary of the arguments provided by the applicant within the submitted SEPP 1 objection seeking support for the variation of the development standard:

- **Compliance with objectives of development standard** – the proposed variation will not undermine the compliance of the proposal with the underlying objectives for the maximum number of storeys within a building as outlined below:
  - **Compliance with maximum perimeter ceiling height** – despite the perceived variation to the maximum number of storeys within the building, the proposal complies with the maximum perimeter ceiling height control of 13.4 metres (excluding the top storey).
  - **No visual impact on the streetscape** - the swimming pool is not visible from Woniora Avenue and will have no impact on the streetscape. It only protrudes above the ground level on the northern elevation, facing the rear communal open space. This part of the site is screened from public view and as such, it is considered that the proposed swimming pool will not result in any visual impacts. Similarly, the perceived areas of non-compliance with regard to the basement (being more than 1.2 metres above ground level) are located on the western and northern parts of the building, away from public view. Again, it is considered that the perceived variations will not result in any visual impacts on the streetscape.
  - **Minimal impact on the overall height of the residential buildings** – the proposed swimming pool is wholly located between the residents lounge which comprises only a single storey. The swimming pool contributes to the height of this single storey component, however, it does not directly contribute to the overall height of the residential flat buildings. The perceived variations to the height of the basement above ground level are minor and do not result in any significant impact on the overall height of the building.
- **No purpose would be served by strict compliance** – each of the proposed variations is considered to be minor and it can be demonstrated that no purpose would be served by the amendment of the development plans to enable strict compliance:
  - **Swimming pool** - the perceived variation with respect of the swimming pool is considered to be a technical non-compliance arising from a strict interpretation of the provisions of Clause 251(8). If the swimming pool was deleted from the proposal, the development would comply with the provisions of the KPSO, as the car park below Blocks D and E would be excluded from the number of storeys. This would not result in any change to the overall height of the buildings and no discernible difference to the proposed

*development, noting that the swimming pool is visible only from the rear communal open space.*

- **Basement** - *the minimum habitable floor levels have been derived from the Flood Study Assessment which provided for 176.20 (north) and 176.70 (south) for Block E. No purpose would be served by lowering the basement of Block E, taking into account the need to achieve these levels.*
- **Merits of the proposal** – *while the swimming pool could be deleted from the plans or relocated an alternate location to enable strict compliance with the KPSO, it is considered that the current proposal provides for the most appropriate location. The location of the swimming pool in the basement offers a number of benefits, including:*
  - *Minimising potential amenity impacts* – *the internal location of the proposed swimming pool within the basement means that it is less likely to impact on adjoining residents with regard to noise or the like. It is noted that one of the resident submissions received during the public notification of the development application requested that the swimming pool should be an indoor pool.*
  - *No loss in deep soil landscaping* - *the swimming pool is located below the residents lounge area, meaning that there is no loss in deep soil landscaping or tree planting as a result of the inclusion of the pool within the ancillary communal facilities.*

The arguments put forward by the applicant are considered to be valid. The indoor swimming pool would be mostly located in Basement 1 under the linkage between Blocks C and D so there would be no loss of amenity for adjoining properties in terms of noise nuisance, overshadowing, privacy and/or view loss because most of the swimming pool would be located below ground level.

The proposed swimming pool would promote improved well being for the future residents of the development to satisfy the planning objective 25C(1)(c) by providing an enjoyable facility within the proposed development.

Non-compliance with the permitted number of storeys on its own is unlikely to discourage the orderly development of the land and/or the misuse of resources in Ku-ring-gai as required by planning objective 25C(1)(b). The proposal also provides housing choice in Ku-ring-gai as required by planning objective 25C(2)(a).

The proposed swimming pool is located well away from the environmentally sensitive land on the banks of Spring Gully Creek so there would be no impact upon the environmental qualities of Ku-ring-gai. Because the pool is located mostly below ground level, it is also unlikely to have an impact on nearby heritage items (No. 8 Woniora Avenue and No. 7 Burns Road).

Council's Urban Design Consultant has indicated that the design of the building is acceptable and, despite the non-compliance with the permitted number of storeys, the proposal is likely to achieve planning objective 25C(2)(c). The applicant has also submitted a valid BASIX certificate so the proposal provides a good response to the principles of ecologically sustainable development as required by planning objective 25C(d).

The non-compliance with the permitted height above natural ground level is also related to the need to maintain a floor level of 500mm above the 1:100 flood levels to maintain the safety and amenity of future residents.

Despite the non-compliance with the permitted number of storeys caused by the below ground swimming pool and the height of the basement above ground level, the proposal is likely to achieve the aforementioned planning objectives in clause 25(C)(1) and 25(C)(2).

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

The SEPP 1 objection, including the arguments raised by the applicant, is considered to be well founded because the development would achieve the underlying objectives of the standard and objects 5(a) (i) and (ii) of the Environmental Planning and Assessment Act. It would be unreasonable to insist upon strict compliance with Clause 25(1)(8) and 25(1)(9) as there would be no adverse impacts arising from the non-compliance with the permitted number of storeys for a residential flat building.

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

SEPP 55 requires consideration of the likelihood that a site is contaminated prior to determination of any development applications. The site has a history of residential use and as such it is unlikely that it contains any contamination. Given the low risk of any contamination on the site no further investigation in this respect is considered necessary. The site is, therefore considered to be suitable for residential use.

#### **Sydney Regional Environmental Plan No. 20 – Hawkesbury - Nepean River**

SREP 20 applies to land within the catchment of the Hawkesbury-Nepean River. The general aim of the plan is to ensure that development and future land uses within the catchment are considered in a regional context. The Plan includes strategies for the assessment of development in relation to water quality and quantity, scenic quality, aquaculture, recreation and tourism.

The proposed development is considered to achieve the relevant aims under this policy on the basis that the NSW Office of Water has reviewed the amended plans and supporting documentation and found the application to be satisfactory because there would be no unreasonable impact upon the Hawkesbury-Nepean River Catchment.

**State Environmental Planning Policy – Building Sustainability Index (BASIX)**

A valid BASIX certificate has been submitted. The certificate demonstrates compliance with the provisions of the SEPP and adequately reflects all amendments to the application.

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

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

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

The SEPP requires the assessment of any development application for residential flat development against 10 principles contained in Clauses 9-18 and Council is required to consider the matters contained in the publication "Residential Flat Design Code".

As such, the following consideration has been given to the requirements of the SEPP and Design Code.

**Residential Flat Design Code Compliance Table**

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

	<b><i>Guideline</i></b>	<b><i>Consistency with Guideline</i></b>
<b>PART 02 SITE DESIGN</b>		
<b>Site Configuration</b>		
<i>Deep Soil Zones</i>	A minimum of 25 percent of the open space area of a site should be a deep soil zone; more is desirable. Exceptions may be made in urban areas where sites are built out and there is no capacity for water infiltration. In these instances, stormwater treatment measures must be integrated with the design of the residential flat	<b>YES</b>

	building.	
<i>Open Space</i>	The area of communal open space required should generally be at least between 25 and 30 percent of the site area. Larger sites and brown field sites may have potential for more than 30 percent.	<b>YES</b>
	The minimum recommended area of private open space for each apartment at ground level or similar space on a structure, such as on a podium or car park, is 25m <sup>2</sup> .	<b>NO</b> <b>Refer to following discussion</b>
<i>Planting on Structures</i>	In terms of soil provision there is no minimum standard that can be applied to all situations as the requirements vary with the size of plants and trees at maturity. The following are recommended as minimum standards for a range of plant sizes:  Medium trees (8 metres canopy diameter at maturity) <ul style="list-style-type: none"> <li>• minimum soil volume 35 cubic metres</li> <li>• minimum soil depth 1 metre</li> <li>• approximate soil area 6 metres x 6 metres or equivalent</li> </ul>	<b>NO</b> <b>Refer to following discussion</b>
<i>Safety</i>	Carry out a formal crime risk assessment for all residential developments of more than 20 new dwellings.	<b>YES</b>
<i>Visual Privacy</i>	Refer to Building Separation minimum standards <ul style="list-style-type: none"> <li>• up to four storeys/12 metres</li> <li>• 12 metres between habitable rooms/balconies</li> <li>• 9 metres between habitable/balconies and non-habitable rooms</li> <li>• 6 metres between non-habitable rooms</li> </ul> <ul style="list-style-type: none"> <li>• five to eight storeys/up to 25 metres</li> <li>• 18 metres between habitable rooms and balconies</li> <li>• 13 metres between habitable rooms/balconies and non-habitable rooms</li> </ul>	<b>NO</b> <b>Refer to following discussion</b>  <b>NO</b> <b>Refer to following discussion</b>



	<ul style="list-style-type: none"> <li>- 9 metres between non-habitable rooms</li> </ul>	
<i>Pedestrian Access</i>	Identify the access requirements from the street or car parking area to the apartment entrance.	<b>YES</b>
	Follow the accessibility standard set out in Australian Standard AS 1428 (parts 1 and 2), as a minimum.	<b>YES</b>
	Provide barrier free access to at least 20 percent of dwellings in the development.	<b>YES</b>
<i>Vehicle Access</i>	Generally limit the width of driveways to a maximum of six metres.	<b>YES</b>
	Locate vehicle entries away from main pedestrian entries and on secondary frontages.	<b>YES</b>
<b>PART 03 BUILDING DESIGN</b>		
<b>Building Configuration</b>		
<i>Apartment layout</i>	Single-aspect apartments should be limited in depth to 8 metres from a window.	<b>NO Refer to following discussion</b>
	The back of a kitchen should be no more than 8 metres from a window.	<b>YES</b>
	The width of cross-over or cross-through apartments over 15 metres deep should be 4 metres or greater to avoid deep narrow apartment layouts.	<b>N/A</b>
	<p>If Council chooses to standardise apartment sizes, a range of sizes that do not exclude affordable housing should be used. As a guide, the Affordable Housing Service suggest the following minimum apartment sizes, which can contribute to housing affordability: (apartment size is only one factor influencing affordability)</p> <ul style="list-style-type: none"> <li>- 1 bedroom apartment 50m<sup>2</sup></li> <li>- 2 bedroom apartment 70m<sup>2</sup></li> <li>- 3 bedroom apartment 95m<sup>2</sup></li> </ul>	<b>YES</b>

<i>Apartment Mix</i>	Include a mixture of unit types for increased housing choice.	<b>YES</b>
<i>Balconies</i>	Provide primary balconies for all apartments with a minimum depth of 2 metres. Developments which seek to vary from the minimum standards must demonstrate that negative impacts from the context-noise, wind – can be satisfactorily mitigated with design solutions.	<b>NO</b>  <b>Refer to following discussion</b>
<i>Ceiling Heights</i>	The following recommended minimum dimensions are measured from finished floor level (FFL) to finished ceiling level (FCL). <ul style="list-style-type: none"> <li>- in residential flat buildings or other residential floors in mixed use buildings: <ul style="list-style-type: none"> <li>- in general, 2.7 metres minimum for all habitable rooms on all floors, 2.4 metres is the preferred minimum for all non-habitable rooms, however 2.25m is permitted.</li> </ul> </li> </ul>	<b>YES</b>
<i>Ground Floor Apartments</i>	Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site.	<b>NO</b>  <b>Refer to following discussion</b>
	Provide ground floor apartments with access to private open space, preferably as a terrace or garden.	<b>NO</b>  <b>Refer to following discussion</b>
<i>Internal Circulation</i>	In general, where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to eight.	<b>YES</b>
<i>Storage</i>	In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: <ul style="list-style-type: none"> <li>- studio apartments 6m<sup>3</sup></li> <li>- one-bedroom apartments 6m<sup>3</sup></li> <li>- two-bedroom apartments 8m<sup>3</sup></li> <li>- three plus bedroom apartments 10m<sup>3</sup></li> </ul>	<b>YES</b>

<i>Acoustic Privacy</i>	Ensure a high level of amenity by protecting the privacy of residents within residential flat buildings both within the apartments and in private open spaces.	<b>YES</b>
<b>Building Amenity</b>		
<i>Daylight Access</i>	Living rooms and private open spaces for at least 70 percent of apartments in a development should receive a minimum of three hours direct sunlight between 9 am and 3 pm in mid winter.	<b>YES</b>
	Limit the number of single-aspect apartments with a southerly aspect (SW-SE) to a maximum of 10% of the total units proposed.	<b>YES</b>
<i>Natural Ventilation</i>	Building depths, which support natural ventilation typically range from 10 to 18 metres.	<b>NO See following discussion</b>
	Sixty percent (60%) of residential units should be naturally cross ventilated.	<b>YES</b>
<b>Building Performance</b>		
<i>Waste Management</i>	Supply waste management plans as part of the development application submission as per the NSW Waste Board.	<b>YES</b>
<i>Water Conservation</i>	Rainwater is not to be collected from roofs coated with lead- or bitumen-based paints, or from asbestos- cement roofs. Normal guttering is sufficient for water collections provided that it is kept clear of leaves and debris.	<b>YES</b>

## Part 02 – Site design

### Private open space

Unit 504 on the western side of Block E provides a balcony (14.7m<sup>2</sup>) rather than a private courtyard of 25m<sup>2</sup>. This non-compliance is considered to be satisfactory because a smaller balcony rather than a larger private courtyard would minimise impacts to the riparian zone to the west of this unit.

It is also difficult to provide a level courtyard on that side of the Block E due to its proximity to the watercourse and the likelihood of flooding. Nevertheless, the proposed balcony satisfies the objectives of this control by providing a functional area for outdoor recreation with pleasant views of the watercourse and the vegetation on the banks of Spring Gully Creek.

## Planting on structures

Council's Landscape Assessment Officer has indicated that there is insufficient soil depth in on-slab planters in particular above the linkage between Blocks C and D to support plantings to minimise overlooking between the buildings. A condition of consent has been recommended to overcome this concern. **(Condition 23(f)(g))**

## Visual privacy

There is also a non-compliance with the distance between blocks C and D (9 metres not 12 metres) as required by the RFDC. To minimise privacy loss arising from the windows and balconies on the eastern side of Block D, privacy screens must be provided on the eastern side of Block D to minimise overlooking between buildings. **(Condition 21(a))**

There is a minor non-compliance (11 metres not 12 metres) between the secondary balconies on levels 1, 2 and 3 between Blocks D and E. The balconies on the western side of Block D have movable privacy louvres to minimise overlooking between the buildings. This treatment should also be provided on the eastern side of Block E. **(Condition 21 (a) (b))**

The terraces on the fifth floor between Blocks C and D, and D and E fail to provide an 18 metres setback between buildings. Overlooking between the balconies could be minimised with the provision of planter boxes similar to those provided on the northern edge of the fifth floor terraces on Blocks D and E. **(Condition 21 (c))**

## Apartment layout

In part, some of the single aspect units (401, 405, 412, 420, 504, 509, 515, 520) have a depth of 11 metres rather than eight metres as required by the RFDC. Whilst this non-compliance is not desirable, the non-compliant rooms are bathrooms and/or laundries with limited usage so mechanical light and ventilation is acceptable in that situation. The applicant has also submitted a valid BASIX certificate demonstrating that the building performs well environmentally.

## Balconies

In part, some of the balconies fail to meet the minimum dimensions (2 metres). Each unit, however, has the required amount of private open space where the balconies are considered to be functional with good solar access to meet the aims and objectives of this requirement.

## Ground floor units with separate entries

This control is more applicable for inner city living where it is desirable for units to have their own access to the road reserve to maintain streetscape character.

However, most of the proposed ground floor units have two entries either from their private courtyards or from the main lobby area with the exception of unit 504 on the western side of Block E. In the site context this non-compliance is considered to be acceptable.

### Building depth

Blocks D and E are greater than 18 metres, however, the proposal complies with the required level of natural light and ventilation with good solar access. The units are much larger than the recommended apartment sizes in the RFDC with varying layouts to accommodate a broad range of housing needs. In summary, this non-compliance is considered to be satisfactory because the units would provide good residential amenity.

### Ku-ring-gai Planning Scheme Ordinance (KPSO)

#### Clause 23 – Development control table

#### Permissibility

The development would have the appearance of a group of residential flat buildings when viewed from the streetscape. However, the inclusion of additional facilities at ground level raises questions about permissibility given that they provide additional services commonly associated with hotels and/or serviced apartments.

Council sought legal advice about the permissibility of such developments in 2008 during the assessment of DA0188/08 for the inclusion of communal facilities at ground floor level in Building C. The legal advice concluded that the proposed residential flat buildings with the additional facilities are permissible because the facilities are considered to be ancillary services for the residents of the buildings.

Nevertheless, conditions of consent have been recommended to maintain residential amenity for adjoining properties and to ensure that use of the communal facilities is limited to residents and their guests. **(Conditions 100 - 106)**

COMPLIANCE TABLE		
Development standard	Proposed	Complies
Site area (min): 1200m <sup>2</sup>	10,548m <sup>2</sup>	YES
Deep landscaping (min) No. 1 – 21 Woniara Ave: 50%/5274m <sup>2</sup>	50%	YES
Street frontage (min): 30m	>30m	YES
Number of storeys (max): 5	6 (swimming pool in basement) Basement >1.2m above ground level	NO NO
Site coverage (max): 35%	35%	YES
Top floor area (max): 60% of level below	59%	YES

<b>Storeys and ceiling height (max):</b> 5 and 13.4 m	6 storeys/13.4m	<b>NO</b>
<b>Car parking spaces (min) :</b> <b>15-21 Woniora Avenue.</b> 13 (visitor spaces) 81 (residential spaces) 94 (total)	13 visitor (incl. 1 disabled spaces) 81 residents (incl.9 disabled spaces) 94 (total)	<b>YES</b> <b>YES</b>
<b>Zone interface setback (min):</b> 9m	9m	<b>YES</b>
<b>Manageable housing (min):</b> 5	8	<b>YES</b>
<b>Lift access:</b> required if greater than three storeys	One lift in each building	<b>YES</b>

### **Clause 25I (8) and (9) – Maximum number of storeys and ceiling height**

The development is six (6) storeys in height according to the definition of “storey” as stated in clause 25I (9) provided below instead of five storeys as permitted under clause 25I(8):

*Any storey as a level of the building that is used exclusively for car parking, storage or plan, or a combination of them in accordance with the requirements of this ordinance and no part of which (including any wall or ceiling which encloses or defines the storey) is more than 1.2m above ground level, is not to be counted as a storey for the purposes of the table to sub-clause (8).*

This non-compliance is technical in nature, being due to the location of the swimming pool in the basement level that is not used exclusively for parking and/or storage. The ceiling of the basement is also higher than 1.2 metres above existing ground level making Blocks D and E six (6) storeys in height. The SEPP 1 objection submitted to Council has been assessed and is considered to be well founded.

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

No. 8 Woniora Avenue and No. 7 Burns Road are heritage items in close proximity to the subject site. There is a substantial front setback together with the road reserve to provide sufficient separation between the development and No. 8 Woniora Avenue so as not to cause a detrimental impact upon the significance of this heritage item.

The compliant setback to No. 7 Burns Road and the significant vegetation within rear setback of the development site would minimise impacts to No. 7 Burns Road. Council's Heritage Advisor and Council's Urban Design Consultant have raised no objection to the proposal in this respect.

**Development Control Plan No. 55 – Railway/Pacific Highway Corridor and St Ives Centre**

Development control	Proposed	Complies
<b>Part 3 Local context:</b>		
<b>Development adjacent to a heritage item:</b>		
<ul style="list-style-type: none"> <li>10m setback</li> <li>(1<sup>st</sup> &amp; 2<sup>nd</sup> storeys)</li> </ul>	>10 m No. 7 Burns Road and No. 8 Woniora Avenue	<b>YES</b>
<ul style="list-style-type: none"> <li>15m setback</li> <li>(3<sup>rd</sup> &amp; 4<sup>th</sup> storeys)</li> </ul>	>15m to No. 7 Burns Road & No. 8 Woniora Avenue	<b>YES</b>
<b>Part 4.1 Landscape design:</b>		
<b>Deep soil landscaping (min)</b> 150m <sup>2</sup> per 1000m <sup>2</sup> of site area = 1582m <sup>2</sup>	2403m <sup>2</sup>	<b>YES</b>
<b>No. of tall trees required:</b> 35 trees	> 35 trees	<b>YES</b>
<b>Part 4.2 Density:</b>		
<b>Building footprint (max):</b> 35% of total site area	35%	<b>YES</b>
<b>Floor space ratio (max): 1.3:1</b>	1.3:1	<b>YES</b>
<b>Part 4.3 Setbacks:</b>		
<b>Street boundary setback (min):</b> 13-15 metres No more than 40% of the building may be located in the setback zone No more than 15% of front setback can be occupied by courtyards	13 – 14m >40% (above and below ground level) <15%	<b>YES</b> <b>NO</b> <b>YES</b>
<b>Rear boundary setback (min):</b> 6m	9m	<b>YES</b>
<b>Side boundary setback (min):</b> 6m	26m to western boundary	<b>YES</b>
<b>Setback of ground floor courtyards to street boundary (min): 11m</b>	10m	<b>NO</b>
<b>Part 4.4 Built form and articulation:</b>		
<b>Façade articulation:</b>		
<ul style="list-style-type: none"> <li>Wall plane depth &gt;600mm</li> </ul>	600mm	<b>YES</b>
<ul style="list-style-type: none"> <li>Wall plane area &lt;81m<sup>2</sup></li> </ul>	<81m <sup>2</sup>	<b>YES</b>
<b>Built form:</b>		
<ul style="list-style-type: none"> <li>Building width &lt; 36m</li> </ul>	Blocks D & E >36m below ground Blocks C & D (ground level) >36m Block D – 24m (L1 - 4) Block E – 21m (L1 - 4)	<b>NO</b> <b>NO</b> <b>YES</b> <b>YES</b>
<ul style="list-style-type: none"> <li>Balcony projection &lt; 1.2m</li> </ul>	<1.2m	<b>YES</b>
<b>Part 4.5 Residential amenity</b>		
<b>Solar access:</b>		
<ul style="list-style-type: none"> <li>&gt;70% of units receive 3+ hours direct sunlight in winter solstice</li> </ul>	70%	<b>YES</b>

<ul style="list-style-type: none"> <li>• &gt;50% of the principle common open space of the development receives 3+ hours direct sunlight in the winter solstice</li> </ul>	>50%	YES
<ul style="list-style-type: none"> <li>• No single aspect units with southern orientation</li> </ul>	Nil	YES
<ul style="list-style-type: none"> <li>• &lt;15% of the total units are single aspect with a western orientation</li> </ul>	Block D – 15% Block E – 15%	YES YES
<ul style="list-style-type: none"> <li>• At least 3 hours of sunlight between 9am &amp; 3pm for adjoining properties zoned 2(c2)</li> </ul>	>3 hours	YES
<b>Part 4.52 Visual privacy:</b>		
Separation b/w windows and balconies of a building and any neighbouring building on site or adjoining site: Storeys 1 to 4		
<ul style="list-style-type: none"> <li>• 12m b/w habitable rooms</li> </ul>	15 -18m to 1-3 Burns Rd	YES
<ul style="list-style-type: none"> <li>• 9m b/w habitable and non-habitable rooms</li> </ul>	>15m to 5 Burns Rd	YES
<ul style="list-style-type: none"> <li>• 6m b/w non-habitable rooms</li> </ul>	9m between Blocks C & D	NO
5th Storey	11-12m between Blocks D & E	NO
<ul style="list-style-type: none"> <li>• 18m b/w habitable rooms</li> </ul>	18m to 1-3 Burns Rd	YES
<ul style="list-style-type: none"> <li>• 13m b/w habitable and non-habitable rooms</li> </ul>	>18m to 5 Burns Rd	YES
<ul style="list-style-type: none"> <li>• 9m b/w non-habitable rooms</li> </ul>	14m between Blocks C & D	NO
	12m between Blocks D & E	NO
<b>Internal amenity:</b>		
<ul style="list-style-type: none"> <li>• Habitable rooms have a minimum floor to ceiling height of 2.7m</li> </ul>	3m	YES
<ul style="list-style-type: none"> <li>• Non-habitable rooms have a minimum floor to ceiling height of 2.4m</li> </ul>	3m	YES
<ul style="list-style-type: none"> <li>• 1-2 bedroom units have a minimum plan dimension of 3m in all bedroom</li> </ul>	>3m	YES
<ul style="list-style-type: none"> <li>• 3+ bedroom units have a minimum plan dimension of 3m in at least two bedrooms</li> </ul>	>3m in at least two bedrooms	YES
<b>Single corridors:</b>		
<ul style="list-style-type: none"> <li>• serve a maximum of 8 units</li> </ul>	<8 units	YES
<ul style="list-style-type: none"> <li>• &gt;1.5m wide</li> </ul>	1.5m	YES
<ul style="list-style-type: none"> <li>• &gt;1.8m wide at lift lobbies</li> </ul>	1.8m	YES
<b>Storage space for each unit:</b>		
6m <sup>3</sup> for studio/1 bedroom units	6m <sup>3</sup> for 1 bedroom units	YES
8m <sup>3</sup> for two bedroom units	8m <sup>3</sup> for two bedroom units	YES
10m <sup>3</sup> for three bedroom units	10m <sup>3</sup> for three bedroom units	YES



<b>Outdoor living:</b> <ul style="list-style-type: none"> <li>ground floor apartments have a terrace or private courtyard greater than 25m<sup>2</sup> in area</li> </ul> <b>Balcony sizes:</b> <ul style="list-style-type: none"> <li>10m<sup>2</sup> – 1 bedroom unit</li> <li>12m<sup>2</sup> – 2 bedroom unit</li> <li>15m<sup>2</sup> – 3 bedroom unit</li> </ul> NB. At least one space >10m <sup>2</sup> <ul style="list-style-type: none"> <li>primary outdoor space has a minimum dimension of 2.4m</li> </ul>	Unit 504 <25m <sup>2</sup>  1 bedroom – 10m <sup>2</sup> 2 bedroom – 12m <sup>2</sup> 3 bedroom – 15m <sup>2</sup> 10m <sup>2</sup> Part of balconies <2.4m	<b>NO</b>   <b>YES</b> <b>YES</b> <b>YES</b> <b>YES</b> <b>NO</b>
<b>Part 4.7 Social dimensions:</b>		
<b>Visitable units – 70% (min)</b>	70%	<b>YES</b>
<b>Housing mix:</b> Mix of sizes and types	1,2,3 bedroom units	<b>YES</b>
<b>Part 4.8 Building sustainability:</b>		
<b>Excavation: Natural ground level must be maintained within 2m setback of side and rear boundary</b>	2m (min)	<b>YES</b>
<b>Part 5 Parking and vehicular access:</b>		
<b>Car parking spaces (min):</b> <ul style="list-style-type: none"> <li>13 (visitors)</li> <li>81 (residents)</li> <li>94 (total)</li> </ul>	13 (visitor incl. disabled spaces) 81 (residents incl. 8 disabled spaces) 94 (total)	<b>YES</b> <b>YES</b> <b>YES</b>

## Part 4.2 Floor space ratio

The proposal complies with the specified floor space ratio (1.3:1) for the whole site (No. 1 – 21 Woniora Avenue). A plan of consolidation has been submitted with the application. **(Condition 19)**

## Part 4.3 Setbacks

### Front setback

The buildings (above and below ground level) occupy more than 40% of the setback zone. This non-compliance is considered to be acceptable because the buildings comply with the required setback to the front boundary with substantial landscaping to minimise bulk and scale to the public domain. The varying materials on the façade to Woniora Avenue (face brick and painted render) together with the proposed articulation provide sufficient architectural interest to reduce impacts to the streetscape.

The below ground non-compliance is acceptable because the proposal complies with the deep soil landscaping requirements and would have no visual impact to the

streetscape. The non-compliant area has been earmarked for storage for future residents thereby promoting improved residential amenity. In summary, the non-compliance with the permitted footprint within the articulation zone is considered to be acceptable in the site circumstances.

### **Private courtyards**

The private courtyards have a setback of 10 metres to the front boundary rather than 11 metres required under DCP 55. This non-compliance is considered to be satisfactory because there are only two non-compliant courtyards for Block E which are similar in setback to the front courtyards for Blocks A, B, and C. Furthermore, there would be ample soft landscaping with canopy trees to minimise bulk and scale to the streetscape and there would be no loss of privacy or views for nearby properties with the road reserve and the proposed landscaping within the front setback.

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

According to DCP 55, the width of a single building on any elevation facing the street should not exceed 36 metres. However, Blocks D and E are joined at basement Level 1 making it one building and Blocks C and D are also joined at ground level with the linkage to the communal areas within each building. Technically, the buildings would be wider than 36 metres.

This non-compliance is considered to be satisfactory because Blocks D and E when viewed from the street would appear as two separate buildings. Blocks C and D would also appear as two separate buildings with a single storey linkage between buildings. The single storey linkage would also have a front setback of 26 metres to the front boundary thereby minimising any impact to the public domain. There would also be adequate soft landscaping including canopy trees within the front setback to minimise the visual impact of the buildings when viewed from the streetscape.

### **4.5.2 Visual privacy**

There would be a substantial rear setback (9 metres) to No. 1 – 3 Burns Road with soft landscaping and canopy trees to minimise overlooking. In addition, planter boxes have been provided on the northern side of the top floor terraces to minimise privacy loss for the properties in the interface zone. The balconies on the northern side of Blocks D and E (Levels 1 – 3) have movable privacy louvers on the balconies similar to the existing privacy screens on Blocks A, B, C to minimise overlooking.

There would be no privacy loss for No. 5 Burns Road with the existing vegetation within the rear setback of this property (**see Figure 5**) together with the proposed vegetation including canopy trees within the compliant rear setback of the subject site (9 metres minimum).



**Figure 5: The large tree within the rear setback of No. 5 Burns Road**

The substantial front setback, the road reserve and the substantial plantings within the front setback would minimise overlooking to the dwellings located directly opposite the subject site in Woniora Avenue.

There is a non-compliance with the required setbacks between Blocks C and D and D and E. The windows and balconies on the western side of Block C have movable privacy louvres on this elevation to minimise privacy loss as shown in **Figure 6**. Nevertheless, it is recommended that privacy screens and planter boxes be fitted to the eastern and western side of Block D and the eastern side of Block E. **(Condition 21)**



**Figure 6: The privacy louvres on the western side of Block C**

There would be no privacy loss at ground levels between Blocks C and D because most of the community facilities are located at this level in each building. There would be no privacy loss between the ground floor units in Blocks D and E with the proposed courtyard walls and the compliant distance between buildings. In summary, there would be no privacy loss as a result of the proposed residential flat buildings.

#### **Part 4.5.5. Outdoor living**

Unit 504 on the western side of Block E provides a balcony (14.7m<sup>2</sup>) rather than a courtyard (25m<sup>2</sup> min). This non-compliance is considered to be satisfactory because the proposed balcony would minimise impacts to the riparian zone. A balcony is more desirable in that location due to the need to have a habitable floor level that is 500mm above the 1:100 as recommended in the flood study.

Nevertheless, the balcony provides a functional area for outdoor recreation with pleasant views of the watercourse and the vegetation on the banks of Spring Gully Creek to satisfy the objectives for this control.

In part, some of the balconies fail to have a minimum dimension of 2.4 metres. This non-compliance is considered to be satisfactory because each unit has the required minimum total area and each balcony provide a functional outdoor area with solar access.

#### **Part 6 - Consideration of isolated sites**

With the proposed development, No. 23 Woniora Avenue, a vacant lot would have a site area of less than 1,200m<sup>2</sup> and a frontage to Woniora Avenue of less than 23 metres. Under DCP 55, this site would be considered to be an isolated site. However, No. 23 Woniora Avenue could be combined with the adjoining land also zoned 2(d3) to allow further multi unit development to satisfy the requirements of DCP 55.

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

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

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

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

#### **Development Control Plan No. 43 – Car parking**

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

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

Matters for 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.

### **Riparian Policy**

Under Council's Riparian Policy, Spring Gully Creek is a category 3 watercourse requiring a 10 metres setback to structures to enhance riparian environments. A 10 metres setback has been provided for the main building with very minor encroachments into the setback zone with balconies and the basement car park. The NSW Office of Water and Council's Landscape Assessment Officer are satisfied that the minor non-compliance are acceptable in the site circumstances.

### **Section 94 Plan**

Under Section 94 of the Environmental Planning and Assessment Act, Council is empowered to impose a levy to provide additional community services for the increased population in Ku-ring-gai generated by the proposed development.  
**(Condition 45)**

### **LIKELY IMPACTS**

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

### **SUITABILITY OF THE SITE**

The site is zoned 2(d3) for residential use. The proposed development is considered to be suitable for the site because it provides multi unit development permitted in the zone without undesirable impacts for adjoining properties and/or the streetscape.

### **ANY SUBMISSIONS**

The matters raised in the submissions have been addressed.

### **PUBLIC INTEREST**

The proposal is considered to be in the public interest because it provides additional housing choice in Ku-ring-gai with no unreasonable impacts upon the streetscape and/or adjoining properties.

## CONCLUSION

This application has been assessed under the heads of consideration under 79C of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies. The proposal is supported by a SEPP 1 objection to the height controls in clause 25I(8) and 25I(9) which is considered to be well founded.

The development complies with the key controls in the relevant planning instruments and policies and likely to provide satisfactory residential amenity for any future residents with no impacts to adjoining properties and/or heritage items. The application, is therefore, recommended for approval, subject to appropriate conditions of consent.

## RECOMMENDATION

Pursuant to Section 80(1) of the Environmental Planning and Assessment Act, 1979

THAT the Sydney West Joint Regional Planning Panel, as the consent authority, is of the opinion that the objection under *State Environmental Planning Policy No. 1 – Development Standards* seeking a variation to Council's height standard in Clause 25I(8) and 25I(9) in the Ku-ring-gai Planning Scheme Ordinance is well founded. The Joint Regional Planning Panel is also of the opinion that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this case as there would be no impacts for adjoining properties, the streetscape and/or any loss of residential amenity.

### AND

THAT the Sydney West Joint Regional Planning Panel, as the consent authority, is satisfied that the objection under SEPP No. 1 is well founded and also of the opinion that the granting of consent to DA0951/10 is consistent with the aims of the Policy, grants deferred commencement development consent to DA0951/10 for demolition and construction of two residential flat buildings, basement parking and landscaping at Nos 11 – 21 Woniora Avenue, Wahroonga as well as a linkage between Block C (No. 1 – 9 Woniora Avenue) and Block D at Nos. 11 - 21 Woniora Avenue, Wahroonga for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

### SCHEDULE A - Deferred commencement condition

***Evidence required to satisfy the following condition must be submitted to Council within twelve (12) months of the date of this consent.***

This consent does not operate until the following deferred commencement condition has been satisfied:

#### **1. Consent for relocation of Council's stormwater pipe/ easement**

In order to activate the consent, the applicant shall obtain a resolution from Ku-ring-gai Council that it will consent to the relocation of the existing stormwater pipe and the release/ relocation of the Council easement for drainage. Council's Operations Department will be responsible for preparing the necessary report to Council, subject to payment of the adopted fee for the preparation of such reports.

A full hydraulic design for the works is to be prepared in accordance with the requirements of Chapter 9 of Council's DCP 47 *Water Management* and submitted to Council with the application. The direction of overland flow when the capacity of the system is exceeded is to be indicated and the documentation is to confirm that the basement carpark of the development will be protected from inundation.

Council's approval for the relocation of the pipe and release of the easement is to be obtained prior to the operation of the consent. Such approval is not guaranteed.

**Reason:** To protect Council's infrastructure and ensure that provision is made for stormwater drainage.

***Upon receipt of written notification from Council that the abovementioned condition has been satisfied, the following conditions will apply:***

**SCHEDULE B - The standard conditions of consent are set out as follows:**

#### **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:

<b>Plan no.</b>	<b>Drawn by</b>	<b>Dated</b>
DA01 Rev E - Site analysis and staging	Gilsenan Associates	19/9/11
DA02 Rev E - Basement 2	Gilsenan Associates	19/9/11
DA03 Rev E - Basement 1	Gilsenan Associates	19/9/11
DA04 Rev E - Ground floor	Gilsenan Associates	19/9/11
DA05 Rev E - Level 1	Gilsenan Associates	19/9/11
DA06 Rev E - Level 2	Gilsenan Associates	19/9/11
DA07 Rev E - Level 3	Gilsenan Associates	19/9/11
DA08 Rev E - Level 4	Gilsenan Associates	19/9/11
DA09 Rev E - Roof plans	Gilsenan Associates	19/9/11
DA10 Rev E - North and south elevations	Gilsenan Associates	19/9/11
DA11 Rev E - Main building and driveway sections	Gilsenan Associates	19/9/11

DA101 Rev E - Basement 2 floor plan	Gilsenan Associates	19/9/11
DA102 Rev E - Basement 1 floorplan	Gilsenan Associates	19/9/11
DA103 Rev E - Ground floor plan (common areas)	Gilsenan Associates	19/9/11
DA104 Rev E - Ground floor plan	Gilsenan Associates	19/9/11
DA105 Rev E - Level 1 floor plan	Gilsenan Associates	19/9/11
DA106 Rev E - Level 2 floor plan	Gilsenan Associates	19/9/11
DA107 Rev E - Level 3 floor plan	Gilsenan Associates	19/9/11
DA108 Rev E - Level 4 floor plan	Gilsenan Associates	19/9/11
DA109 Rev E - North and south elevations (Blocks D & E)	Gilsenan Associates	19/9/11
DA110 Rev E - East and west elevations (Block D)	Gilsenan Associates	19/9/11
DA111 Rev E - East and west elevations (Block E)	Gilsenan Associates	19/9/11
DA200 Rev E - Development schedules	Gilsenan Associates	19/9/11
DA201 Rev E - Cross-ventilation plan	Gilsenan Associates	19/9/11
DA202 Rev E - Deep soil plan (overall)	Gilsenan Associates	19/9/11
DA203 Rev E - Site coverage diagram	Gilsenan Associates	19/9/11
DA203.1 Rev E - FSR diagram Basement 1	Gilsenan Associates	19/9/11
DA203.2 Rev E - FSR diagram - Ground	Gilsenan Associates	19/9/11
DA203.3 Rev E - FSR diagram - Level 1	Gilsenan Associates	19/9/11
DA203.4 Rev E - FSR diagram - Level 2	Gilsenan Associates	19/9/11
DA203.5 Rev E - FSR diagram - Level 3	Gilsenan Associates	19/9/11
DA204 Rev E - Shadow diagram June 21	Gilsenan Associates	19/9/11
DA205 Rev E - Shadow diagram March 21	Gilsenan Associates	19/9/11
DA206 Rev E - Shadow diagram for elevations June 21 No 1	Gilsenan Associates	19/9/11
DA207 Rev E - Shadow diagram for elevations June 21 No 2	Gilsenan Associates	19/9/11
DA208 Rev E - Shadow diagram for elevations June 21 No 3	Gilsenan Associates	19/9/11
Site management plan - Stage 2A Drawing No ECMP-SK-01 Rev B	Hughes Trueman	22/9/11
Site management plan - Stage 2B Drawing No ECMP-SK-02 Rev A	Hughes Trueman	22/9/11
Landscape masterplan Job No W1325 Drawing 001 Issue I	Site Image	20/9/11



Landscape plan W1325 Drawing 002 Issue B	Site Image	20/9/11
Landscape plan W1325 Drawing 101 Issue I	Site Image	20/9/11
Landscape plan W1325 Drawing 102 Issue I	Site Image	20/9/11
Landscape plan W1325 Drawing 103 Issue I	Site Image	20/9/11
Landscape plan W1325 Drawing 104 Issue J	Site Image	20/9/11
Landscape plan W1325 Drawing 107A	Site Images	15/7/10
Landscape plan - Stage 2 Drawing 301 Issue I	Site Image	20/9/11
Landscape plan Stage 2 Drawing 302 Issue I	Site Image	20/9/11
Landscape plan Stage 2 Drawing 303 Issue I	Site Image	20/9/11
Landscape plan Stage 2 Drawing 304 Issue J	Site Image	20/9/11
Landscape plan Stage 2 Drawing 401 Issue L	Site Image	20/9/11
Landscape plan Stage 2 Drawing 402 Issue K	Site Image	20/9/11
Landscape plan Stage 2 Drawing 403 Issue J	Site Image	20/9/11
Landscape plan Stage 2 Drawing 404 Issue K	Site Image	20/9/11
Landscape details and specifications Drawing 501 Issue H	Site Image	20/9/11
Landscape details and specifications Drawing 502 Issue G	Site Image	20/9/11
Landscape details and specifications Drawing 503 Issue F	Site Image	19/9/11
Landscape details and specifications Drawing 504 Issue C	Site Image	21/7/11
BASIX Low water use planting plan W1325	Site Image	10/10/11
Entry port details block D & E	Gilsenan & Associates	10.10.11
Notes and legends sheet CIV-HT-S02 - DA0102 Rev D	Hughes Trueman	06.12.10
Bulk excavation plan CIV-HT-S02-DA0115 Rev C	Hughes Trueman	06.12.10
Sediment and erosion control plan CIV-HT-S02 DA0110 Rev D	Hughes Trueman	06.12.10
Siteworks plan CIV-HT-S02- DA0120 Rev L	Hughes Trueman	22.07.11

Siteworks details CIV-HT-S02-DA0130 Rev E	Hughes Trueman	07.07.11
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Document(s)	Dated
BASIX Certificate # 342985M_05	20/9/11
Access report prepared by Accessibility Solutions (NSW) Pty Ltd	22/11/10
Environmental noise assessment prepared by Acoustic Logic (section 4 – recommended constructions)	17/9/10
Crime risk assessment prepared by Urbis	Nov. 2010
Vegetation Management Plan prepared by Cumberland Ecology	July 2011
Arborist report by Urban Tree Management	13/7/11

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

## 2. Inconsistency between documents

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

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

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

### 3. Road opening permit

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

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

### 4. Notice of commencement

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

**Reason:** Statutory requirement.

### 5. Notification of builder's details

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

**Reason:** Statutory requirement.

## **6. 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 Woniara Avenue over the site frontage, including the full intersection.
- All driveway crossings and laybacks opposite the subject site.

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

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

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

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

## **7. Archival recording of buildings**

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

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

Information shall be bound in an A4 report format. It shall include copies of

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

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

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

## **8. 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**

- 1-3 Burns Road
- Block C of 1-9 Woniora Avenue

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.

## **9. 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 may 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.

## 10. Work zone

A Works Zone is to be provided in Warrangi Street subject to the approval of the Kuring-gai Local Traffic Committee.

No loading or unloading must be undertaken from the public road or nature strip

unless within a Works Zone which has been approved and paid for.

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.

## 11. 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.

## 12. 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.

## 13. Tree protection fencing

To preserve the following tree/s, no work shall commence until the area beneath their canopy is fenced off, 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
Tree 38/ <i>Archontophoenix cunninghamiana</i> (Bangalow Palm)	2.0
Tree 41/ <i>Chamaecyparis obtusa</i> 'Crippsii' (Golden Cripps Cypress)	5.0

Trees 59, 64 to 68/ <i>Cyathea cooperi</i> (Scaly Treefern)	2.0
Trees 69/ <i>Acmena smithii</i> (Lilly Pilly)	2.9

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 the construction phase.

#### 14. Tree protection fencing excluding structure

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

##### Schedule

Tree/Location	Radius in metres
Tree 37/ <i>Brachychiton acerifolius</i> (Flame Tree)	2.4

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 the construction phase.

#### 15. 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.

## 16. 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.

## 17. 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

Tree 46, 49 and 51/ *Syncarpia glomulifera* (Turpentine)

Tree 55/ *Eucalyptus pilularis* (Blackbutt)

Tree 58/ *Pittosporum undulatum* (Sweet Pittosporum)

Tree 71/ *Syncarpia glomulifera* (Turpentine)

Tree 72/ *Syncarpia glomulifera* (Turpentine)

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

## 18. 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.

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

### 19. Lot consolidation

Prior to issue of the Construction Certificate the Applicant must consolidate the existing Torrens lots which will form the development site being Nos. 1 – 21 Woniora Avenue, Wahroonga. Evidence of lot consolidation, in the form of a plan registered with Land and Property Information, must be submitted for approval of the Principal Certifying Authority prior to issue of the Construction Certificate.

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

### 20. Design details for excavation support



Prior to issue of the Construction Certificate, the applicant must submit, for approval by the Principal Certifying Authority, design drawings which demonstrate that excavation support to the basement will be either a secant pile wall or a watertight retaining wall as recommended in the letter report by SCP Consulting dated 9 February 2007, Ref 2007-027-PS, to ensure that drawdown of Spring Gully Creek does not occur.

**Reason:** To protect the environment.

## **21. Amendment to the architectural plans**

The following amendments must be made to the architectural plans prior to the release of the construction certificate:

- a) The windows and balconies on the eastern and western side of Block D must be fitted with movable privacy screens similar to those on the western side of Block C to minimise overlooking.
- b) Movable privacy screens must also be provided on the eastern windows and balconies of Block E to mitigate overlooking between units.
- c) Planter boxes similar to the planters on the north facing terraces must also be provided on the eastern and western side of the top floor terraces of Block D and the eastern side of Block E to minimise overlooking between units.

**Reason:** To maintain residential amenity.

## **22. Amendments to approved site management plan**

Prior to the issue of a Construction Certificate, the Certifying Authority shall be satisfied that a site management plan, has been submitted in accordance with the requirements of this condition as well as other conditions of this consent:

The site management plan (s) shall include:

1. Tree fencing to Trees 37 and 38 to be shown in accordance with conditions of consent
2. No machinery, plant or materials are to be stored within the Conservation Area as mapped in Figure 1.3 of the Flora and Fauna Report, prepared by Cumberland Ecology and dated July 2011.

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

**Note:** A site management plan shall be submitted to the Certifying Authority.

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

### 23. Amendments to approved landscape plan

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

Plan no.	Title	Drawn by	Dated
001 Issue I	Landscape Master Plan	Site Image	20/09/11
101/I, 102/I, 103/I, 104/J	Landscape Plan	Site Image	20/09/11
301-303 Issue I, 304 Issue J	Landscape Hardworks Plan Stage 2	Site Image	20/09/11
401/L, 402/K, 403/J, 404/K,	Landscape Softworks Plan Stage 2	Site Image	20/09/11
501/H, 504/C 502/G, 503/F	Landscape Details and Sections	Site Image	20/09/11
107A	Sketch Landscape Plan between Block C & D roof top	Site Image	15/7/10

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

- (a) An additional tall endemic canopy trees capable of attaining a minimum height of 13m, such as *Angophora costata* (Sydney Red Gum), is to be planted within front setback, in front of the proposed link building between Blocks C and D.
- (b) An additional tall endemic canopy tree capable of attaining a minimum height of 13m, such as *Syncarpia glomulifera* (Turpentine), is to be planted along northern site boundary, north of Unit 404, Block D.
- (c) To preserve biodiversity within the site, the proposed planting of *Eucalyptus microcorys* (Tallowwood) are to be substituted with *Syncarpia glomulifera* (Turpentine). Proposed planting shown within 1 metre of the driveway are to be relocated with a minimum 2 metres setback.
- (d) To provide viable establishment of canopy trees, the two proposed *Syncarpia glomulifera* (Turpentine) located in the front setback of Block E are to be relocated within the planting bed. Proposed plantings of *Jacaranda mimosifolia* (Jacaranda) and *Hymenosporum flavum* (Native Frangipani) within the canopy spread of the above trees are to be deleted.
- (e) Top of wall levels to retaining walls to be shown in accordance with the architectural plans.
- (f) To provide adequate soil levels for viable establishment of proposed on-slab planting as shown on approved landscape plans, planter depths, in accordance with the Residential Flat Design Guide, are to be shown. (1m min)
- (g) To preserve amenity between Level 1 balconies in Block C and Block D, the proposed plant species shown on the Sketch Landscape Plan between Block C

and D, Dwg no. 107A, 15/07/11, Site Image, shall be substituted with a row of at least seven (7) evergreen trees or shrubs that can attain minimum 4m in height and be retained at maximum 4m in height. Planters that can provide minimum 800mm soil depth excluding drainage and in accordance with the Residential Flat Design Guide, are to be provided.

- (h) Extent of Core Riparian Zone to be shown.
- (i) Existing trees to be numbered on all landscape plans in accordance with the arborist report.
- (j) Access from the Residents' Lounge in Block C and the proposed new path along the northern elevation is to be provided.
- (k) Ground floor apartment numbers to be shown.

**Reason:** To ensure adequate landscaping of the site.

## **24. Long service levy**

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

**Reason:** Statutory requirement.

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

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

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

**Reason:** Statutory requirement.

## **26. 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.

## **27. Air drying facilities**

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

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

**Reason:** Amenity & energy efficiency.

## **28. 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.

## **29. 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, (401, 405, 412, 420, 505, 510, 516, 521) 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.

### **30. 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 be based on Hughes Trueman Drawings CIV-HT-S02-DA0102D, 110D, 115C, 120L and 130E and must include the following detail:

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

The above construction drawings and specifications are to be prepared by a qualified and experienced civil/hydraulic engineer in accordance with Council's Water Management Development Control Plan 47, Australian Standards 3500.2 and 3500.3 - Plumbing and Drainage Code and the Building Code of Australia.

The construction certificate details shall not infringe in any manner, in particular the pipe network or the detention/retention tanks, upon the approved deep soil areas of the site and any protected tree upon the site and the adjoining properties, as required by conditions of this consent.

**Reason:** To protect the environment.

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

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

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

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

### 32. Noise from road and rail

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

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

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

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

### 33. 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.

### 34. Location of plant (residential flat buildings)

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

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

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

### 35. Driveway grades – basement carparks

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

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

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

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

### 36. 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
  - one visitor space must be designated as a resident space to achieve the required allocation of parking spaces
  - amendments may also need to be made to the distribution of spaces if necessary to ensure that Block D has the correct number of resident spaces following completion of Stage 2A of the development.

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

### 37. Car parking allocation

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

Resident car spaces	81
Visitor spaces	13
Total spaces	94

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.

### 38. Number of bicycle spaces

The basement car park shall be adapted to provide 15 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.

### 39. 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 Woniora Avenue:

- Construct new driveway crossing and footpath, kerb and gutter and half road pavement for the full site frontage.

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.

#### **40. 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.

#### **41. 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.

#### **42. 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.

#### **43. Amendments to the schedule of external finishes, colours**

Prior to the issue of a construction certificate, the Certifying Authority shall submit a amended colour scheme and or materials board to Council's Heritage Advisor for approval. A written acknowledgement from Council's Heritage Advisor must be obtained (attesting to this condition being appropriately satisfied) and submitted to the Certifying authority prior to the issue of the Construction Certificate.

Note: Details of the colour, finish and substance of all external materials, including schedules and a sample board of materials and colours, are to be submitted External materials more sympathetic to the nearby heritage items in particular the use of traditional materials (eg face brick, stone) and recessive colours are to be selected.

**Reason:** To maintain the significance of the nearby heritage items

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE OR PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION (WHICHEVER COMES FIRST):****44. 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.

#### **45. Section 94 Development Contributions**

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

<b>Key Community Infrastructure</b>	<b>Amount</b>
Local parks and local sporting facilities	\$87,557.51
Local recreation and cultural facilities;	\$544,589.90
Local social facilities	
Local roads, local bus facilities & Local drainage facilities	\$40,547.15
<b>TOTAL CONTRIBUTIONS</b>	<b>\$672,694.56</b>

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

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

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

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

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

##### **46. 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.

#### **47. 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.

#### **48. Basement excavation support**

To ensure that drawdown of Spring Gully Creek does not occur, excavation support to the basement is to be either a secant pile wall or a water tight retaining wall as recommended in the letter report by SCP Consulting dated 9 February 2007, Ref 2007-027-PS.

**Reason:** To protect the environment.

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

A copy of all approved and certified plans, specifications and documents incorporating conditions of consent and certification (including the Construction Certificate if required for the work) shall be kept on site at all times during the

demolition, excavation and construction phases and must be readily available to any officer of Council or the Principal Certifying Authority.

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

## **50. Engineering fees**

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

**Reason:** To protect public infrastructure.

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

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

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

## **52. Construction noise**

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

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

## **53. Site notice**

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

The site notice must:

- be prominently displayed at the boundaries of the site for the purposes of informing the public that unauthorised entry to the site is not permitted
- display project details including, but not limited to the details of the builder, Principal Certifying Authority and structural engineer

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

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

#### **54. Dust control**

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

- physical barriers shall be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust
- earthworks and scheduling activities shall be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed
- all materials shall be stored or stockpiled at the best locations
- the ground surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs
- all vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust
- all equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays
- gates shall be closed between vehicle movements and shall be fitted with shade cloth
- cleaning of footpaths and roadways shall be carried out daily

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

#### **55. Further geotechnical input**

The geotechnical and hydro-geological works implementation, inspection, testing and monitoring program for the excavation and construction works must be in accordance with the report by Geotechnique and other relevant conditions of this consent (particularly excavation support to prevent drawdown of the creek) . 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.

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

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

Geotechnical aspects of the development work, namely:

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

must be undertaken in accordance with the recommendations of the geotechnical report prepared by Geotechnique and other relevant conditions of this consent (particularly excavation support to prevent drawdown of the creek) . 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.

## **57. 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.

## **58. Guarding excavations**

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

**Reason:** To ensure public safety.

## **59. 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.

## **60. 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.

## **61. 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.

## **62. Construction signage**

All construction signs must comply with the following requirements:

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

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

**63. 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.

**64. 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.

**65. 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.

**66. 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.

## **67. 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.

## **68. Temporary rock anchors**

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

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

on the footpath outside the property. The wording on the signs is to be submitted to Council's Director Technical Services for approval before any signs are installed.

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

All works in the public road are to be carried out in accordance with the Conditions of Construction issued with any approval of works granted under Section 138 of the Roads Act 1993.

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

#### **69. Drainage to natural watercourses**

Stormwater runoff from all new impervious areas shall be piped to the watercourse within the site in accordance with the Controlled Activity Approval issued by the NSW Office of Water.

**Reason:** To protect the environment.

#### **70. Sydney Water Section 73 Compliance Certificate**

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

**Reason:** Statutory requirement.

#### **71. 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 the arborist to the Principal Certifying Authority are required at the following times or phases of work:

##### **Schedule**

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

Tree 37/ *Brachychiton acerifolius* (Flame Tree)  
located on the northern boundary of the site

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

Excavation for upper  
750mm of tributary  
relocation,  
commencement of

	landscape works within canopy spread.
Tree 38/ <i>Archontophoenix cunninghamiana</i> (Bangalow Palm) group of seven palms located on the northern boundary of the site	Excavation for upper 750mm of tributary relocation, commencement of landscape works within canopy spread.
Tree 41/ <i>Chamaecyparis obtusa 'Crippsii'</i> (Golden Cripps Cypress) located within the front setback of Building E	Construction of pedestrian path to be at grade. No cut or fill is to be undertaken within a 7.2m radius of the tree.
Tree 46, 49 and 51/ <i>Syncarpia glomulifera</i> (Turpentine) located west of Spring Gully Creek	Construction of pedestrian path to be at grade. No cut or fill is to be undertaken within the tree protection zones.
Tree 55/ <i>Eucalyptus pilularis</i> (Blackbutt) located at the south-west corner of the site, adjacent Spring Gully Creek	Construction of rock outlet discharge with scour protection to Spring Gully Creek.
Tree 58/ <i>Pittosporum undulatum</i> (Sweet Pittosporum) located at the south-west corner of the site, adjacent Spring Gully Creek	Construction of rock outlet discharge with scour protection to Spring Gully Creek.
Trees 59, 64 to 68/ <i>Cyathea cooperi</i> (Scaly Treefern) located on the northern boundary of the site	All works undertaken within the existing watercourse and required for the tributary relocation.
Trees 69/ <i>Acmena smithii</i> (Lilly Pilly) located on the northern boundary within the adjoining property	All works undertaken within the existing watercourse and required for the tributary relocation.
Tree 71/ <i>Syncarpia glomulifera</i> (Turpentine) located at the north-western corner of the site, on the adjoining property	Excavation for piers of bridge. Location of piers should have a minimum clearance above or beside structural roots of

100mm. Construction of pedestrian path to be at grade.

Tree 72/ *Syncarpia glomulifera* (Turpentine) located at the north-western corner of the site, on the adjoining property

Excavation for piers of bridge. Location of piers should have a minimum clearance above or beside structural roots of 100mm. Construction of pedestrian path to be at grade.

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

## 72. 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

#### Approved tree works

Trees 2/ <i>Brachychiton populneus</i> (Kurrajong Tree)	Removal
Trees 3/ <i>Celtis occidentalis</i> (Hackberry)	Removal
Trees 4/ <i>Grevillea robusta</i> (Silky Oak)	Removal
Trees 5/ <i>Celtis occidentalis</i> (Hackberry)	Removal
Trees 30/ <i>Callistemon citrinus</i> (Lemon Scented Bottlebrush)	Removal
Trees 31/ <i>Callistemon citrinus</i> (Lemon Scented Bottlebrush)	Removal

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

## 73. 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.

## 74. 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
Tree 37/ <i>Brachychiton acerifolius</i> (Flame Tree)	2.4
Tree 38/ <i>Archontophoenix cunninghamiana</i> (Bangalow Palm)	2.0
Tree 41/ <i>Chamaecyparis obtusa</i> 'Crippsii' (Golden Cripps Cypress)	7.2
Tree 46, 49 and 51/ <i>Syncarpia glomulifera</i> (Turpentine)	6.7, 4.8, 3.6
Tree 55/ <i>Eucalyptus pilularis</i> (Blackbutt)	8.9
Tree 58/ <i>Pittosporum undulatum</i> (Sweet Pittosporum)	2.4
Trees 59, 64 to 68/ <i>Cyathea cooperi</i> (Scaly Treefern)	2.0
Trees 69/ <i>Acmena smithii</i> (Lilly Pilly)	2.9
Tree 71/ <i>Syncarpia glomulifera</i> (Turpentine)	5.6
Tree 72/ <i>Syncarpia glomulifera</i> (Turpentine)	3.4

**Reason:** To protect existing trees.

#### 75. Approved tree works

Approval is given for the following works to be undertaken to trees on the site. Tree numbers refer to arborist report prepared by Urban Tree Management, dated 13 July 2011.

#### Schedule

Tree location	Approved tree works
All existing trees identified to be removed as per the Tree Removal/Retention Plan, dwg 002/B, Site Image, 20/09/11	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.

#### 76. 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
Tree 37/ <i>Brachychiton acerifolius</i> (Flame Tree)	2.4
Tree 38/ <i>Archontophoenix cunninghamiana</i> (Bangalow Palm)	2.0
Tree 41/ <i>Chamaecyparis obtusa</i> 'Crippsii' (Golden Cripps Cypress)	7.2
Tree 46, 49 and 51/ <i>Syncarpia glomulifera</i> (Turpentine)	6.7, 4.8, 3.6
Tree 55/ <i>Eucalyptus pilularis</i> (Blackbutt)	8.9

Tree 58/ <i>Pittosporum undulatum</i> (Sweet Pittosporum)	2.4
Trees 59, 64 to 68/ <i>Cyathea cooperi</i> (Scaly Treefern)	2.0
Trees 69/ <i>Acmena smithii</i> (Lilly Pilly)	2.9
Tree 71/ <i>Syncarpia glomulifera</i> (Turpentine)	5.6
Tree 72/ <i>Syncarpia glomulifera</i> (Turpentine)	3.4

**Reason:** To protect existing trees.

#### 77. 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.

#### 78. 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 Dumaresq Street. The tree(s) used shall be a minimum 25 litres container size specimen(s):

##### Schedule

Tree/ species	Quantity	Location
<i>Elaeocarpus reticulatus</i> (Blueberry Ash)	8	Woniora Avenue at approx 10m centres

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

#### 79. Tree removal on nature strip

Following removal of the following tree/s 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.

##### Schedule

Tree location	Approved tree works
Trees 2/ <i>Brachychiton populneus</i> (Kurrajong Tree)	Removal
Trees 3/ <i>Celtis occidentalis</i> (Hackberry)	Removal
Trees 4/ <i>Grevillea robusta</i> (Silky Oak)	Removal
Trees 5/ <i>Celtis occidentalis</i> (Hackberry)	Removal
Trees 30/ <i>Callistemon citrinus</i> (Lemon Scented Bottlebrush)	Removal
Trees 31/ <i>Callistemon citrinus</i> (Lemon Scented Bottlebrush)	Removal

**Reason:** To protect the streetscape.

#### 80. 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.

### **81. 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.

### **82. 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.

### **83. 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:**

### **84. Relocation of Council stormwater pipeline – approved plans**

Prior to issue of the Occupation Certificate, the Principal Certifying Authority must be satisfied that the approved drainage works have been completed in accordance with the Council stamped drawings, conditions and specifications. The works must be supervised by the applicant's designing engineer and the works shall be completed and approved to the full satisfaction of Ku-ring-gai Council in the interests of ensuring quality of work involving public assets. The supervising consulting engineer is to provide certification upon completion that the works were constructed in accordance with the Council stamped drawings. The works must be subject to inspections by Council as noted in the conditions of approval. All conditions attached to the approved drawings for these works must be met in full prior to the Occupation Certificate being issued.

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

### **85. Geotechnical certification**

Prior to issue of the Occupation Certificate a suitably qualified and consulting structural/ geotechnical engineer is to provide certification to the Principal Certifying Authority that excavation and construction of the basement level, including temporary and permanent shoring and retention measures, have been carried out :

- According the relevant Australian Standards and guidelines, and
- According to any approved Geotechnical report undertaken for the development, and
- According to the recommendations of the letter report by SCP Consulting dated 9 February 2007, Ref 2007-027-PS, to ensure that drawdown of Spring Gully Creek does not occur.
- In a manner that ensures that the structural amenity of adjoining structures and property is fully maintained.

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

### **86. Confirmation of basement support**

Prior to issue of the Occupation Certificate a suitably qualified and consulting structural/ geotechnical engineer is to provide certification to the Principal Certifying Authority that basement dewatering has been achieved by a method which will not result in a permanently lowered water level in Spring Gully Creek.

**Reason:** To protect the environment.

#### **87. Easement for waste collection**

Prior to the issue of an occupation certificate, an easement for waste collection is to be created under Section 88B or 88E of the Conveyancing Act 1919. This is to permit legal access for Council, Council's contractors and their vehicles over the subject property for the purpose of collecting waste from the property. The terms of the easement are to be generally in accordance with Council's draft terms for an easement for waste collection and shall be to the satisfaction of Ku-ring-gai Council.

**Reason:** To permit legal access for Council, Council's contractors and their vehicles over the subject site for waste collection.

#### **88. 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. 342985M\_05 have been complied with.

**Reason:** Statutory requirement.

#### **89. 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.

#### **90. 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.

### **91. 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.

### **92. 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.

### **93. 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 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.

#### **94. 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.

#### **95. 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.

#### **96. 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.

## **97. Reinstatement of redundant crossings and completion of infrastructure works**

Prior to issue of the Occupation Certificate, and upon completion of all works on the site which may cause damage to Council's infrastructure, the Principal Certifying Authority must be satisfied that he or she has received a signed inspection form from Council which states 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

This inspection may not be carried out by the Private Certifier because restoration of Council property outside the boundary of the site is not a matter listed in Clause 161 of the Environmental Planning and Assessment Regulation 2000.

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.

## **98. 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.

#### **99. 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
- a mirror is provided at the bend in the ramp between the two basement levels
- 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.

#### **CONDITIONS TO BE SATISFIED AT ALL TIMES:**

##### **100. No commercial use**

No part of the communal facilities on the ground floor in Blocks C and D may be leased to outside organisations for commercial gain, in particular the residents



function room. All services provided within the communal areas of the development shall be solely for the use of occupants of the development and their guests.

**Reason:** To ensure that communal areas on Level 1 of the development are used solely for the benefit of residents of the building, to protect residential amenity and to ensure that no commercial activity is carried out within the building.

### **101. No public entertainment**

This consent gives approval for communal and management facilities on the ground floor of Blocks C and D but not for any forms of musical or entertainment activities. No "*public entertainment*", as defined under *Local Government Act, 1993* is to be provided within the premises unless approved by a development application under the *Environmental Planning and Assessment Act, 1979*.

**Reason:** To maintain the amenity of adjoining properties.

### **102. No speakers or music outside**

A public address system or sound amplifying equipment must not be installed in or upon the premises so as to cause or permit the emission of sound onto any public place unless prior development consent has been obtained.

**Reason:** To maintain the amenity of adjoining properties.

### **103. Noise levels**

The  $L_{A10}$ \* noise level emitted from the communal areas and management facilities on the ground floor of Block C and D must not exceed the background noise level in any octave band centre frequency (31.5Hz-8Hz inclusive) by more than 5dB at the boundary of any affected residential premises.

Notwithstanding compliance with the above, the noise from the communal and management facilities on the ground floor of Block A shall not be audible within any habitable room in any residential premises, within the development site and/or adjoining properties.

\* For the purposes of this condition, the  $L_{A10}$  can be taken as the average maximum deflection of the noise emission from the communal and management facilities.

**Reason:** To maintain the amenity of adjoining properties.

**104. Hours of operation**

At all times, the hours of operation for the communal facilities are to be restricted to:

Monday to Sunday including public holidays is 7am to 10pm

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

**105. Maximum capacity of function room**

The capacity of the function room on the ground floor of building D is to be restricted to a maximum of 100 persons at any one time.

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

**106. Signage**

A clearly visible sign shall be permanently erected immediately adjacent to the entry/exit doors indicating that the guests of residents are to leave in an orderly fashion and shall leave the vicinity of the premises in a manner that does not disturb the quiet and good order of the neighbourhood.

**Reason:** To maintain the amenity of adjoining properties.

**107. Outdoor lighting**

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

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

**108. Vegetation Management Plan (VMP)**

The Vegetation Management Plan, prepared by Cumberland Ecology, dated July 2011, is endorsed in its entirety. All works detailed within the VMP-restoration, weed management techniques, environmental protection measures and recommendations to achieve biodiversity conservation outcomes during the construction and occupation of the proposed dwelling are to be carried out in accordance with the VMP.

**Reason:** To ensure the protection and enhancement of Sydney Turpentine Ironbark Forest within the site.

**INTEGRATED REFERRAL CONDITIONS:****109. NSW Office of Water**

- i. These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA0951/10 and provided by Council:

(i) Site plan, map and/or surveys

Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GTA will be required.

- ii. Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the NSW Office of Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.

- iii. The consent holder must prepare or commission the preparation of:

- (a) Vegetation Management Plan
- (b) Works Schedule
- (c) Soil and Water Management Plan

- iv. All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with the NSW Office of Waters guidelines located at [www.water.nsw.gov.au/Water-Licensing/Approvals/default.aspx](http://www.water.nsw.gov.au/Water-Licensing/Approvals/default.aspx)

- (a) Vegetation Management Plans
- (b) Riparian Corridors
- (c) In-stream works
- (d) Outlet structures
- (e) Watercourse crossings

- v. The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to the NSW Office of Water.

**Rehabilitation and maintenance**

- vi. The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the NSW Office of Water.

**Reporting requirements**

- vii. The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the NSW Office of Water as required.

**Security deposits**

- viii. The consent holder must provide a security deposit (bank guarantee or cash bond) - equal to the sum of the cost of complying with the obligations under any approval - to the NSW Office of Water as and when required.

**Access-ways**

- ix. The consent holder must not locate ramps, stairs, access ways, cycle paths, pedestrian paths or any other non-vehicular form of access way in a riparian corridor other than in accordance with a plan approved by the NSW Office of Water.

**Bridge, causeway, culverts, and crossing**

- x. The consent holder must ensure that the construction of any bridge, causeway, culvert or crossing does not result in erosion, obstruction of flow, destabilisation or damage to the bed or banks of the river or waterfront land, other than in accordance with a plan approved by the NSW Office of Water.

**Disposal**

- xi. The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by the NSW Office of Water.

**Drainage and stormwater**

- xii. The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by the NSW Office of Water.

**Erosion control**

- xiii. The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the NSW Office of Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.

**Excavation**

- xiv. The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by the NSW Office of Water.
- xv. The consent holder must ensure that any excavation does not result in (i) diversion of any river (ii) bed or bank instability or (iii) damage to native vegetation within the area where a controlled activity has been authorised, other than in accordance with a plan approved by the NSW Office of Water.

**River bed and bank protection**

- xvi. The consent holder must clearly mark, establish and maintain a riparian corridor along the Spring Gully Creek and its tributary generally in accordance with:
- The *Siteworks Plan*, Drawing No. CIV-HT-S02-DA0120, Rev L, by Hughes Trueman, dated 22/7/11, and
  - an average of 2 metres measured horizontally landward from the highest bank on both sides of the realigned tributary of Spring Gully Creek to be shown on a plan to be approved by the NSW Office of Water.

Robyn Pearson  
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**Attachments:**      Locality map  
                             Zoning extract  
                             Site analysis

Basement plans  
Floor plans  
Elevations  
Sections  
Landscape master plan  
Shadow diagrams  
SEPP 1 objection  
Stormwater plans