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## 6A & 8 BUCKINGHAM ROAD, KILLARA – SUPPLEMENTARY REPORT

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### EXECUTIVE SUMMARY

<b>PURPOSE FOR REPORT:</b>	For the JRPP to determine DA0110/11 for the demolition of existing dwellings and construction of two residential flat buildings comprising 43 units, landscaping and associated works.
<b>BACKGROUND:</b>	Assessment reports were considered by the JRPP on 18 August 2011 and 1 December 2011. A supplementary assessment report addressing three issues was considered on 12 July 2012. On 12 July 2012 the JRPP requested the applicant to submit amended plans addressing two outstanding issues.
<b>COMMENTS:</b>	Amended plans which address the outstanding issues have been submitted in accordance with the JRPP resolution of 12 July 2012.
<b>RECOMMENDATION:</b>	Conditions be included in any development consent.

## PURPOSE FOR REPORT

For the JRPP to determine DA0110/11 which proposes demolition of existing dwellings and construction of two residential flat buildings comprising 43 units, landscaping and associated works.

## BACKGROUND

**18 August 2011** The JRPP considered a report prepared by Council staff which recommended refusal of the application. The JRPP resolved:

*That the matter be deferred and the staff be requested to provide a report that assesses the amended plans submitted by the applicant on the 2nd July 2011; for the following reason:*

*In light of the submissions made tonight and the request by the applicant to consider the amended plans, given the history of the matter and the claim by the applicant's representative that the amended plans address the concerns of the Council Staff, it is appropriate that the Panel have a report assessing those plans.*

**2 September 2011** An amended proposal was submitted. The information submitted with the amended proposal included revised architectural, landscape and stormwater plans and supporting documents.

**23 September 2011** The amended proposal is notified

**1 December 2011** The JRPP considered a report prepared by Council staff which recommended refusal of the amended proposal. The JRPP resolved:

*The Panel unanimously agree to defer the application, subject to determination of the S96AA and S82A applications and the applicant obtaining a registered easement for vehicular access over 2 – 6 Buckingham Road Killara or obtaining an approved legal access by some other means.*

*The Panel also invites the applicant to provide additional information to address the reasons for refusal contained in Council Officer's report to the Joint Regional Planning Panel meeting of 1 December 2011.*

**12 July 2012** The JRPP considered a supplementary report prepared by Council staff which recommended refusal of the application. The JRPP resolved:

*The Panel is of the opinion that the impact on the adjoining heritage item is acceptable and does not constitute a reason for refusal.*

*The Panel requires the applicant to submit amended plans that conform with the provisions of the KPSO and DCP 55 relating to manageable and visitable units within four weeks from the date of receipt of this request. These amended plans are to be assessed by council officers before the Panel meets again to consider this matter.*

*The Panel is prepared to consider deferred commencement condition provisions relating to the issue of access.*

## **9 August 2012**

Council staff forward to the JRPP correspondence from the Killara Golf Club containing the following advice:

*We wish to advise that The Killara Golf Club has the benefit of Covenant no. H 364453 to which Lots 1-4 inclusive in DP 414109 are subject. This matter is being dealt with by the Joint Regional Planning Panel.*

*We intend to rely upon that Covenant in support of the Club's opposition to the Development Application no. 0110 / 11 in relation to Lots 1-4 in DP 414101.*

The issues raised by the Killara Golf Club were addressed on pages 28 and 29 of the assessment report considered by the JRPP on 1 December 2011. The assessment report contained the following text:

***The proposed rear setback is less than the setback of No. 8A Buckingham Road and does not comply with a covenant on the land that is designed to prevent development from casting a shadow on the bowling greens. On 3 August 2011 the High Court of Australia upheld an appeal which sought to enforce a restrictive covenant over land that was zoned under LEP 194***

*Having regard to the 9am shadow diagram for Building B (drawing No. DA29) the rear setback of Building B would need to be increased by 10m to avoid any overshadowing of the bowling green. To avoid any overshadowing of the Golf Club land (i.e. no shadow cast beyond the common boundary) the setback would be to be increased by 16.2m.*

*Clause 68 of the KPSO 'Suspension of Acts, covenants etc' states that a covenant can be set aside where it is inconsistent with the KPSO. The rear setback required by DCP 55 is 6 metres and the proposed rear setback is 12.8 metres. To fully comply with the terms of the covenant, Building A would need to have a rear setback of 29 metres. To impose a rear setback requirement of 29 metres would be inconsistent with the objectives of the KPSO as the land would be unable to be developed to its reasonable potential.*

*The decision of the High Court in Cumerlong Holdings Pty Ltd v. Dalcross Properties Pty Ltd concerned a site that was zoned 2(d3) under LEP 194. The site was subject to a restrictive covenant that prevented the use of the site for hospital or medical purposes. These uses are allowed under the 2(d3) zoning. The principle issue considered by the Court was whether the Governor of New South Wales was required to approve the LEP because it permitted development that was contrary to the terms of the restrictive covenant. The Court held that the Governor's approval was required and issued orders restraining the respondent from acting on their development consent for a hospital/medical*

*use. The subject situation can be distinguished from the matter considered by the High Court as the restrictive covenant in question relates to impacts from buildings or landscaping rather than the use of land, and that the subject site was zoned 2(d3) under LEP 200 rather than LEP 194. The ramifications of these differences are unknown and untested.*

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|--------------------------|---|
| <b>13 August 2012</b>    | Council staff advise the JRPP that the deadline for the submission of amended plans (12 August 2012) has passed and no plans have been submitted.   |
| <b>14 August 2012</b>    | The JRPP advises the applicant to submit amended plans by 15 August 2012  |
| <b>15 August 2012</b>    | The applicant submits an updated access report.   |
| <b>21 August 2012</b>    | The applicant requests an extension of time to submit amended plans.  |
| <b>23 August 2012</b>    | Council staff advise the applicant that the amended plans must be submitted by 7 September 2012 in accordance with the 14 day time extension recommended by the JRPP.   |
| <b>31 August 2012</b>    | The JRPP provides the recommended wording for a deferred commencement condition which would require vehicular access to the subject site through 2-6 Buckingham Road to be constructed and formalised prior to an operative consent being issued. |
| <b>7 September 2012</b>  | The applicant submits amended plans.  |
| <b>7 September 2012</b>  | Council staff advise the applicant that the amended plans do not satisfactorily address the visitable housing requirements of DCP 55.   |
| <b>10 September 2012</b> | The applicant submits further amended plans.  |
| <b>26 September 2012</b> | DA0099/12 for a basement connection between Nos. 2-6 Buckingham Road and Nos. 6A & 8 Buckingham Road was refused under delegated authority.   |

## **ASSESSMENT OF AMENDED PLANS**

The JRPP resolution of 12 July 2012 advised that the, *...impact on the adjoining heritage item is acceptable and does not constitute a reason for refusal, and, The Panel is prepared to consider deferred commencement condition provisions relating to the issue of access.* As the JRPP did not accept the recommended reasons for refusal relating to orderly development, heritage, car parking and SEPP 65 these issues have not been revisited in this supplementary report. Notwithstanding, the professional view of Council's assessment

officers on the planning merits of the balance of the proposal as previously reported still stands.

A deferred commencement condition provided by the JRPP relating to the issue of access is included in the list of recommended conditions. An assessment of the amended plans against the manageable housing requirements of the KPSO and the visitable housing requirements of DCP 55 is provided below.

### **Manageable housing**

The applicant has resolved the non compliance with the development standard for manageable housing by altering the post adaptation plans for the main bedroom in Apartments 4 and 15. In the post adaptation plans the built in wardrobes which have storage capacities of 5.6m<sup>3</sup> for Apartment 4 and 2.9m<sup>3</sup> for Apartment 15 are deleted and replaced with freestanding wardrobes with a capacity of 1.9m<sup>3</sup>. The deletion of the built-in wardrobes provides additional space in the bedroom to accommodate the circulation space requirements of AS 1428.1.

The amended plans bring the proposal into conformity with the requirements of AS 4299 and compliance with the development standard for manageable housing is achieved. This particular solution has resulted in a poor design outcome where valuable storage space has been sacrificed to achieve compliance. It should be noted that the Australian Standards do not contain minimum wardrobe space requirements.

### **Visitable housing**

The bathroom doors in Apartments 10, 19, 26, 33, 38 and 39 have been changed from hinged doors to sliding doors. This amendment achieves compliance with the 1250mm X 900mm door swing clearance requirement in clause 1.4.12 of AS 4299. The amended proposal complies with the visitable housing requirements in Part 4.7 of DCP 55.

## **RECOMMENDATION**

The following conditions be included should the Joint Regional Planning Panel resolve to grant development consent to DA0110/11:

### **SCHEDULE A - DEFERRED COMMENCEMENT TERMS:**

This consent shall not operate until the following deferred commencement terms are satisfied:

#### **1. Provision of vehicular access (deferred commencement)**

- (1) The consent authority is satisfied that vehicular access to and from the development and Buckingham Road is available in the manner proposed in the development application (through the basement of an approved residential flat development on 2-6 Buckingham Road).
- (2) Evidence is to be submitted, to the satisfaction of the consent authority, of registration on title of a vehicular easement/covenant burdening 2-6 Buckingham Road and

benefiting 6A-8 Buckingham Road which allows ongoing legal vehicular access consistent with the physical arrangement required to satisfy deferred consent Condition no.1.

**Reason:** To ensure that vehicular access to the development is provided.

## **2. Drainage easement (deferred commencement)**

The applicant shall submit documentary evidence that the property benefits from a drainage easement over the downstream property (Killara Golf Course) as far as the public drainage system. This consent will not operate until the documentary evidence has been submitted to Council and approved by Council's Development Engineer.

**Reason:** To ensure that provision is made for stormwater drainage from the site in a proper manner that protects adjoining properties.

**NOTE:** The deferred commencement terms must be satisfied within 5 years of the date that the consent is granted. If the deferred commencement terms are not satisfied within 5 years, the consent will lapse.

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

### **SCHEDULE B – GENERAL CONDITIONS:**

#### **CONDITIONS THAT IDENTIFY APPROVED PLANS:**

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

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

<b>Plan no.</b>	<b>Drawn by</b>	<b>Dated</b>
DA02 Issue B	Aleksandar Design Group Pty Ltd	17/06/2011
DA03 Issue B	Aleksandar Design Group Pty Ltd	17/06/2011
DA04 Issue B	Aleksandar Design Group Pty Ltd	17/06/2011
DA05 Issue B	Aleksandar Design Group Pty Ltd	17/06/2011
DA06 Issue B	Aleksandar Design Group Pty Ltd	17/06/2011
DA07 Issue C	Aleksandar Design Group Pty Ltd	10/09/2012
DA08 Issue B	Aleksandar Design Group Pty Ltd	17/06/2011
DA09 Issue C	Aleksandar Design Group Pty Ltd	10/09/2012
DA10 Issue B	Aleksandar Design Group Pty Ltd	17/06/2011
DA11 Issue C	Aleksandar Design Group Pty Ltd	10/09/2012
DA12 Issue B	Aleksandar Design Group Pty Ltd	17/06/2011
DA13 Issue C	Aleksandar Design Group Pty Ltd	10/09/2012
DA14 Issue C	Aleksandar Design Group Pty Ltd	10/09/2012
DA15 Issue C	Aleksandar Design Group Pty Ltd	23/08/2011

DA16 Issue B	Aleksandar Design Group Pty Ltd	17/06/2011
DA17 Issue C	Aleksandar Design Group Pty Ltd	23/08/2011
DA18 Issue B	Aleksandar Design Group Pty Ltd	17/06/2011
DA19 Issue B	Aleksandar Design Group Pty Ltd	17/06/2011
DA20 Issue C	Aleksandar Design Group Pty Ltd	23/08/2011
DA21 Issue C	Aleksandar Design Group Pty Ltd	23/08/2011
DA22 Issue B	Aleksandar Design Group Pty Ltd	17/06/2011
DA23 Issue C	Aleksandar Design Group Pty Ltd	23/08/2011
DA24 Issue B	Aleksandar Design Group Pty Ltd	17/06/2011
DA25 Issue C	Aleksandar Design Group Pty Ltd	23/08/2011
DA26 Issue C	Aleksandar Design Group Pty Ltd	23/08/2011
DA27 Issue C	Aleksandar Design Group Pty Ltd	23/08/2011
DA43 Issue A	Aleksandar Design Group Pty Ltd	18/02/2011
DA44 Issue A	Aleksandar Design Group Pty Ltd	17/06/2011
C00.01 Revision B	ABC Consultants	20/06/2011
C01.01 Revision C	ABC Consultants	20/06/2011
C01.02 Revision C	ABC Consultants	20/06/2011
C02.01 Revision B	ABC Consultants	20/06/2011
C02.02 Revision B	ABC Consultants	20/06/2011
C03.01 Revision B	ABC Consultants	20/06/2011
C03.02 Revision B	ABC Consultants	20/06/2011

Document(s)	Dated
SEPP 65 Design Quality Statement prepared by Aleksandar Jelacic	undated
Access and Compliance Requirements Assessment Report prepared by PSE Access Consulting	11 September 2012
Traffic Impact Assessment Report prepared by Traffix – Traffic and Transport Planners	June 2011
DA42 Issue A – Finishes Board	18 February 2011
Basix certificate No. 360906M_02	29 June 2011
Preliminary Geotechnical Assessment by Jeffery and Katauskas Pty Ltd	17 January 2007
Arboricultural Assessment and Development Impact Report by Urban Forestry Australia	February 2011
Waste Management Plan	February 2011

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

## 2. Inconsistency between documents

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

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

## 3. Approved landscape plans

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

Plan no.	Drawn by	Dated
DA-LS01, Sheet 1 of 7, Issue C	Melissa Wilson Landscape Architect	29/06/2011
DA-LS02, Sheet 2 of 7, Issue C	Melissa Wilson Landscape Architect	29/06/2011
DA-LS02, Sheet 3 of 7, Issue C	Melissa Wilson Landscape Architect	29/06/2011
DA-LS03, Sheet 4 of 7, Issue C	Melissa Wilson Landscape Architect	29/06/2011
DA-LS04, Sheet 5 of 7, Issue C	Melissa Wilson Landscape Architect	29/06/2011
DA-LS05, Sheet 6 of 7, Issue C	Melissa Wilson Landscape Architect	29/06/2011
DA-LS06, Sheet 7 of 7, Issue C	Melissa Wilson Landscape Architect	29/06/2011

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

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

##### **4. Road opening permit**

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

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

##### **5. Notice of commencement**

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

**Reason:** Statutory requirement.

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

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

**Reason:** Statutory requirement.

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

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



submitted to Council:

#### Public infrastructure

- Full road pavement width, including kerb and gutter, of Buckingham Road over the site frontage, and as far as the Pacific Highway.
- All driveway crossings and laybacks opposite the subject site.

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

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

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

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

### 8. Archival recording of buildings

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

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

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

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

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

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

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

Address

- 8a and 10 Buckingham Road
- 2-6 Buckingham Road

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

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

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

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

## 10. Geotechnical report

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

- appropriate excavation methods and techniques
- vibration management and monitoring
- dilapidation survey
- support and retention of excavated faces
- hydrogeological considerations

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

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

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

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

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

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:

- o Demolition
- o Excavation
- o Concrete pour
- o Construction of vehicular crossing and reinstatement of footpath
- o 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.

**No construction vehicle access is permitted in Buckingham Road further west than number 8 Buckingham Road.**

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

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

## **12. Work zone**

A Works Zone is to be provided in Warrangi Street subject to the approval of the Ku-ring-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.

### 13. 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.

### 14. Tree protection fencing

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

<b>Schedule</b>	
<b>Tree/location</b>	<b>Radius from trunk</b>
<i>Cinnamomum camphora</i> (Camphor laurel) Tree 20	6m
<i>Callistemon viminalis</i> (Weeping Bottlebrush) Tree 21	1.5m
<i>Camellia sasanqua</i> (Chinese Camellia) Tree 22	1.5m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 23	3m
<i>Cinnamomum camphora</i> (Camphor laurel) Tree 35	3m
<i>Cinnamomum camphora</i> (Camphor laurel) Tree 36	3m
<i>Cinnamomum camphora</i> (Camphor laurel) Tree 37	3m
<i>Cinnamomum camphora</i> (Camphor laurel) Tree 42	3m
<i>Cinnamomum camphora</i> (Camphor laurel) Tree 43	3m
<i>Melaleuca sp.</i> (Paperbark) Tree 44	3m
<i>Camellia sasanqua</i> (Chinese Camellia) Tree 52	2m

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

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

### 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
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 49
<i>Melia azedarach</i> 'Australasica' (White Cedar) Tree 50

**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.

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

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

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

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

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

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

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

Certifying Authority prior to the commencement of any works on site.

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

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

### **21. Consolidation of lots**

Prior to the issue of the Construction Certificate, the applicant is to consolidate the existing lots. Evidence of the consolidation, in the form of a plan registered with Department of Lands, is to be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate.

**Reason:** To ensure that development does not occur across property boundaries.

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

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

<b>Plan no.</b>	<b>Drawn by</b>	<b>Dated</b>
LS01-DA Sheet 1-3 Issue C	Melissa Wilson	29/06/11

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

1. To preserve neighbour amenity, the proposed planting of one (1) *Eucalyptus paniculata* (Grey Ironbark) shall be relocated to replace one of the two *Alphitonia* plantings south of the proposed basement driveway.
2. To provide adequate soil levels for viable establishment of proposed on-slab planting as shown on approved landscape plans to the north of Building B, planter depths, in accordance with the Residential Flat Design Guide, are to be shown.

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

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

### **23. Amendments to approved engineering plans**

Prior to the issue of a Construction Certificate, the Certifying Authority shall be satisfied that the approved engineering plan(s), 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:

<b>Plan no.</b>	<b>Drawn by</b>	<b>Dated</b>
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C02.01B and C02.02B	ABC Consultants	20.06.11
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The above engineering plan(s) shall be amended as follows:

**The plan area of the retention tank is to be reduced so that parking space B29 is not compromised.**

The above amendments are required to ensure compliance with the following:

- Australian Standard 2890.1 - "Off-street car parking".
- Ku-ring-gai Council Water Management Development Control Plan 47.

**Note:** An amended engineering plan, prepared by a qualified engineer shall be submitted to the Certifying Authority.

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

#### **24. Long service levy**

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

**Reason:** Statutory requirement.

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

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

It is the responsibility of the applicant, builder or developer to arrange the builder's indemnity insurance for residential building work over the value of \$20,000. The builder's indemnity insurance does not apply to commercial or industrial building work or to residential work valued at less than \$20,000, nor to work undertaken by persons holding an owner/builder's permit issued by the Department of Fair Trading (unless the owner/builder's property is sold within 7 years of the commencement of the work).

**Reason:** Statutory requirement.

#### **26. Air drying facilities**

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



from the public domain.

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

**Reason:** Amenity & energy efficiency.

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

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

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

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

## **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, [04, 20, 27 and 34),

are designed as Adaptable house class C 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 ABC Consultants Drawings 11004 C00.01B, C01.01C, C01.02C, C02.01B, C02.02B, C03.01B and C03.02B 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 and subsoil drainage (refer appendix 7.1.1 of Development Control Plan 47 for design)

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

**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 (residential only)**

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

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

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

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

### **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.

**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.

**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. Basement car parking details

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

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

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

### 36. Vehicular access and garaging

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

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

### 37. Car parking allocation

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

Resident car spaces	51
Visitor spaces	11
Total spaces	62

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 a minimum of 13 bicycle spaces in accordance with DCP 55. The bicycle parking spaces shall be designed in accordance with AS2890.3. Details shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

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

### **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 Buckingham Road:

- concrete footpath for the full frontage of the site.

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.

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

#### **42. 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.

#### 43. Section 94 Contributions - Centres

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

<b>Key Community Infrastructure</b>	<b>Amount</b>
Local parks and local sporting facilities	\$446,244.10
Local recreation and cultural facilities;	\$76,131.22
Local social facilities	
Local roads, local bus facilities & local drainage facilities (new roads and road modifications)	\$80,801.33
Local roads, local bus facilities & local drainage facilities (townscape, transport & pedestrian facilities)	\$298,905.14
<b>Total:</b>	<b>\$902,081.79</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 will continue to be indexed to reflect changes in the consumer price index and housing price index until they are paid 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.

Copies of Council's Contribution Plans can be viewed at Council Chambers, 818 Pacific Hwy Gordon or on Council's website at [www.kmc.nsw.gov.au](http://www.kmc.nsw.gov.au).

**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.

#### **44. Outdoor lighting**

Prior to the issue of a Construction Certificate, the Certifying Authority shall be satisfied that an outdoor lighting plan for the external pathways surrounding the development has been prepared and included in the Construction Certificate documentation. The plan is to comply with the requirements of 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.

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

#### **45. 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.



#### 46. 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.

#### 47. Temporary irrigation

Temporary irrigation within the Tree Protection Fencing is to be provided. Irrigation volumes are to be determined by the Project Arborist.

**Reason:** To protect trees to be retained on site.

#### 48. 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.

#### 49. 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.

## **50. 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.

## **51. 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.

## **52. 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.

## **53. 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.

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

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

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

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

**Reason:** Management of records.

#### **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 Jeffery and Katauskas and the report prepared prior to commencement of excavation. Over the course of the works, a qualified geotechnical/hydro-geological engineer must complete the following:

- further geotechnical investigations and testing recommended in the above report(s) and as determined necessary

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

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

#### **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 Jeffery and Katauskas and the report prepared before commencement of excavation works. 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. Toilet facilities**

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

**Reason:** Statutory requirement.

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

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

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

**Reason:** Safety.

#### **59. 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.

## **60. 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.

## **61. 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.

## **62. 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.

## **63. 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.

#### **64. 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.

#### **65. 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.

#### **66. 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.

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

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

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

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

**Reason:** To ensure structural stability.

#### **68. Drainage to drainage easement**

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

**Reason:** To protect the environment.

## 69. 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.

## 70. Arborist's report

The trees to be retained shall be inspected, monitored and treated by a Project Arborist who must be a qualified (AQF) Level 5 arborist in accordance with AS4970-2009 Protection of trees on development sites. Regular inspections and documentation from the Project Arborist to the Principal Certifying Authority are required including at the following times or phases of work. All monitoring shall be recorded and provided to the Principal Certifying Authority prior to completion of the works.

<b>Schedule</b>	
<b>Tree/location</b>	<b>Time of inspection</b>
<i>Cinnamomum camphora</i> (Camphor laurel) Tree 20, adjacent property	Commencement of demolition and excavation for building and retaining walls
<i>Callistemon viminalis</i> (Weeping Bottlebrush) Tree 21	Commencement of excavation for basement
<i>Camellia sasanqua</i> (Chinese Camellia) Tree 22	Commencement of excavation for basement
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 23, adjacent property	Commencement of excavation for basement and retaining walls
<i>Cinnamomum camphora</i> (Camphor laurel) Tree 35, adjacent property	Commencement of demolition and excavation for



	retaining walls
<i>Cinnamomum camphora</i> (Camphor laurel) Tree 36, adjacent property	Commencement of demolition and excavation for retaining walls
<i>Cinnamomum camphora</i> (Camphor laurel) Tree 37, adjacent property	Commencement of demolition and excavation for retaining walls
<i>Cinnamomum camphora</i> (Camphor laurel) Tree 42, adjacent property	Commencement of construction of rear retaining wall
<i>Cinnamomum camphora</i> (Camphor laurel) Tree 43, adjacent property	Commencement of construction of rear retaining wall
<i>Melaleuca</i> sp. (Paperbark) Tree 44, adjacent property	Commencement of construction of rear retaining wall
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 49, adjacent property	Commencement of excavation for building and private courtyard
<i>Melia azedarach</i> 'Australasica' (White Cedar) Tree 50	Commencement of demolition and excavation for private courtyards

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

## 71. 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
<i>Magnolia grandiflora</i> (Bull-bay Magnolia) Tree 1/ nature strip
<i>Nerium oleander</i> (Oleander) Tree 2/ nature strip

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

## 72. Canopy/root pruning

Canopy and/or root pruning of the following tree(s) which is necessary to accommodate the approved building works shall be undertaken by an experienced an AQF level 3 Arborist under the supervision of the Project Arborist and in accordance with the reduction pruning clause of AS4373-2007. All other branches are to be tied back and protected

during construction, under the supervision of a qualified arborist.

<b>Schedule</b>	
<b>Tree/location</b>	<b>Tree works</b>
<i>Callistemon viminalis</i> (Weeping Bottlebrush) Tree 21	Minor pruning for building clearance
<i>Camellia sasanqua</i> (Chinese Camellia) Tree 22	Minor pruning for building clearance
<i>Melia azedarach</i> 'Australasica' (White Cedar) Tree 50	Minor pruning for building clearance

**Reason:** To protect the environment.

### 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.

<b>Schedule</b>	
<b>Tree/location</b>	<b>Radius from trunk</b>
<i>Cinnamomum camphora</i> (Camphor laurel) Tree 20	8m
<i>Callistemon viminalis</i> (Weeping Bottlebrush) Tree 21	2m
<i>Camellia sasanqua</i> (Chinese Camellia) Tree 22	2m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 23	5m
<i>Cinnamomum camphora</i> (Camphor laurel) Tree 35	5m
<i>Cinnamomum camphora</i> (Camphor laurel) Tree 36	5m
<i>Cinnamomum camphora</i> (Camphor laurel) Tree 37	4m
<i>Cinnamomum camphora</i> (Camphor laurel) Tree 42	3m
<i>Cinnamomum camphora</i> (Camphor laurel) Tree 43	3m
<i>Melaleuca</i> sp. (Paperbark) Tree 44	3m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 49	4m
<i>Melia azedarach</i> 'Australasica' (White Cedar) Tree 50	6m
<i>Camellia sasanqua</i> (Chinese Camellia) Tree 52	2m

**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 the arborist report prepared by Urban Forestry Australia, dated February 2011.

<b>Schedule</b>	
<b>Tree location</b>	<b>Approved tree works</b>
<i>Stenocarpus sinuatus</i> (Firewheel Tree) Tree 4	Removal
<i>Prunus cerasifera</i> 'Nigra' (Purple - Leafed Plum) Tree 5	Removal
<i>Rhododendron</i> sp. (Broad leaf Rhododendron) Tree 6	Removal
<i>Prunus cerasifera</i> 'Nigra' (Purple - Leafed Plum) Tree 7	Removal
<i>Prunus cerasifera</i> 'Nigra' (Purple - Leafed Plum) Tree 8	Removal
<i>Camellia</i> sp. (Camellia) Tree 9	Removal
<i>Camellia</i> sp. (Camellia) Tree 10	Removal
<i>Malus</i> sp. (Flowering Apple) Tree 11	Removal
<i>Acer palmatum</i> (Japanese Maple) Tree 12	Removal
<i>Camellia</i> sp. (Camellia) Tree 13	Removal
<i>Prunus cerasifera</i> 'Nigra' (Purple - Leafed Plum) Tree 14	Removal
<i>Liriodendron tulipifera</i> (Tulip Tree) Tree 15	Removal
<i>Cupressus sempervirens</i> "Swane's Golden" (Swane's Golden Cypress) Tree 16	Removal
<i>Camellia</i> sp. (Camellia) Tree 17	Removal
<i>Magnolia x soulangiana</i> (Magnolia) Tree 18	Removal
<i>Camellia</i> sp. (Camellia) Tree 19	Removal
<i>Cotoneaster</i> sp. (Cotoneaster) Tree 33	Removal
<i>Liriodendron tulipifera</i> (Tulip Tree) Tree 34	Removal
<i>Chamaecyparis obtusa</i> (Hinoki False Cypress) Tree 45	Removal
<i>Acer palmatum</i> (Japanese Maple) Tree 46	Removal
<i>Rhododendron</i> sp. (Broad leaf Rhododendron) Tree 47	Removal
<i>Crataegus</i> sp. (Hawthorn) Tree 48	Removal
<i>Melia azedarach</i> 'Australasica' (White Cedar) Tree 50	Removal
<i>Celtis</i> sp (Nettle Tree) Tree 51	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 under the supervision of the Project Arborist.

<b>Schedule</b>	
<b>Tree/location</b>	<b>Radius from trunk</b>
<i>Cinnamomum camphora</i> (Camphor laurel) Tree 20	8m
<i>Callistemon viminalis</i> (Weeping Bottlebrush) Tree 21	2m
<i>Camellia sasanqua</i> (Chinese Camellia) Tree 22	2m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 23	5m

<i>Cinnamomum camphora</i> (Camphor laurel) Tree 35	5m
<i>Cinnamomum camphora</i> (Camphor laurel) Tree 36	5m
<i>Cinnamomum camphora</i> (Camphor laurel) Tree 37	4m
<i>Cinnamomum camphora</i> (Camphor laurel) Tree 42	3m
<i>Cinnamomum camphora</i> (Camphor laurel) Tree 43	3m
<i>Melaleuca</i> sp. (Paperbark) Tree 44	3m
<i>Jacaranda mimosifolia</i> (Jacaranda) Tree 49	4m
<i>Melia azedarach</i> 'Australasica' (White Cedar) Tree 50	6m
<i>Camellia sasanqua</i> (Chinese Camellia) Tree 52	2m

**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 removal on nature strip**

Following removal of Tree 1 and Tree 2 from Council's nature strip, the nature strip shall be rehabilitated to the satisfaction of Council's Landscape Assessment Officer at no cost to Council.

**Reason:** To protect the streetscape.

#### **79. 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.

#### **80. 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.

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

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

**Reason:** To protect the environment.

## **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. Easement for waste collection**

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

The easement must also extend over 2-6 Buckingham Road in addition to any right of carriageway which may have been created.

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

## **85. 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. 360906M\_02 have been complied with.

**Reason:** Statutory requirement.

## **86. Mechanical ventilation**

Following completion, installation and testing of all the mechanical ventilation systems, the Principal Certifying Authority shall be satisfied of the following prior to the issue of any Occupation Certificate:

1. The installation and performance of the mechanical systems complies with:
  - The Building Code of Australia
  - Australian Standard AS1668
  - Australian Standard AS3666 where applicable
2. The mechanical ventilation system in isolation and in association with other mechanical ventilation equipment, when in operation will not be audible within a habitable room in any residential premises before 7am and after 10pm Monday to Friday and before 8am and after 10pm Saturday, Sunday and public holidays. The operation of the unit outside these restricted hours shall emit a noise level of not greater than 5dbA above the background when measured at the nearest adjoining property boundary.

**Note:** Written confirmation from an acoustic engineer that the development achieves the above requirements is to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

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

## **87. 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.

## **88. 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.

## **89. 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.

## **90. 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.

## **91. Certification of drainage works (dual occupancies and above)**

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

- the stormwater drainage works have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans
- the minimum retention and on-site detention storage volume requirements of BASIX and Ku-ring-gai Water Management Development Control Plan No. 47 respectively, have been achieved
- retained water is connected and available for use
- basement and subsoil areas are able to drain via a pump/sump system installed in accordance with AS3500.3 and Appendix 7.1.1 of Ku-ring-gai Water Management Development Control Plan No. 47
- all grates potentially accessible by children are secured
- components of the new drainage system have been installed by a licensed plumbing contractor in accordance with the Plumbing and Drainage Code AS3500.3 2003 and the Building Code of Australia
- all enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices

The rainwater certification sheet contained in Appendix 13 of the Ku-ring-gai Water Management Development Control Plan No. 47, must be completed and attached to the certification. Where an on-site detention system has been constructed, the on-site detention certification sheet contained in Appendix 4 of DCP 47 must also be completed and attached to the certification.

**Note:** Evidence from a qualified and experienced consulting civil/hydraulic engineer documenting compliance with the above is to be provided to Council prior to the issue of an Occupation Certificate.

**Reason:** To protect the environment.

## **92. 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.

### **93. Basement pump-out maintenance**

Prior to issue of the Occupation Certificate, the Principal Certifying Authority shall be satisfied that a maintenance regime has been prepared for the basement stormwater pump-out system.

**Note:** A maintenance regime specifying that the system is to be regularly inspected and checked by qualified practitioners is to be prepared by a suitable qualified professional and provided to the Principal Certifying Authority.

**Reason:** To protect the environment.

### **94. 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.

#### **95. CCTV report of pipe after work**

Prior to issue of the Occupation Certificate, a closed circuit television inspection and report on the Council drainage pipeline traversing the site is to be undertaken by appropriate contractors and provided to Council's Development Engineer. The report is to include a copy of the footage of the inside of the pipeline. Any damage that has occurred to the section of the pipeline since the commencement of construction on the site must be repaired in full to the satisfaction of Council's Development Engineer at no cost to Council.

**Reason:** To protect the environment.

#### **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. Certification of as-constructed driveway/carpark – RFB**

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

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

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

Prior to issue of the Occupation Certificate, and upon completion of all works on 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.

#### **99. 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.

### **100. Infrastructure repair**

Prior to issue of the Occupation Certificate, the Principal Certifying Authority must be satisfied that any damaged public infrastructure caused as a result of construction works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) is fully repaired to the satisfaction of Council Development Engineer and at no cost to Council.

**Reason:** To protect public infrastructure.

### **101. Mechanical ventilation**

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

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

### **102. Fire safety certificate**

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

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

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

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

#### **103. No door restricting internal waste collection in basement**

At all times, the basement garbage storage and collection area is to be accessible by Council's Waste Collection Services. No doors, grilles, gates or other devices shall be provided in any location which would prevent this service. Where a gate, door or the like is to be erected, unimpeded access to the garbage collection point is to be provided by other means through written agreement with Council's Waste Collection Services.

**Reason:** To facilitate access to the garbage collection point.

#### 104. Noise control – plant and machinery

All noise generating equipment including any proposed mechanical ventilation system/s shall be located and/or soundproofed so the equipment is not audible within a habitable room in any residential premises before 7am and after 10pm Monday to Friday and before 8am and after 10pm Saturday, Sunday and public holidays. The operation of the unit outside these restricted hours shall emit a noise level of not greater than 5dbA above the background when measured at the nearest property boundary.

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

#### 105. Car parking

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

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

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

#### 106. 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.

Jonathan Goodwill  
**Executive Assessment Officer**

Shaun Garland  
**Team Leader**

Corrie Swanepoel  
**Manager**  
**Development Assessment Services**

Michael Miocic  
**Director**  
**Development & Regulation**

**Attachments:**

1. Letter from JRPP Chairperson dated 19 June 2012
2. Previous report considered by the JRPP on 1 December 2011
3. Minutes from JRPP meeting 1 December 2011
4. Previous report considered by the JRPP on 19 August 2011
5. Minutes from JRPP meeting 19 August 2011
6. Previous report considered by the JRPP on 12 July 2012
7. Minutes from JRPP meeting 12 July 2012
8. Amended floor plans dated 10 September 2012
9. Amended access report dated 14 August 2012