

## JOINT REGIONAL PLANNING PANEL (Sydney West Region)

<b>JRPP No</b>	<b>2014SYW001</b>
<b>DA Number</b>	<b>0474/13</b>
<b>Local Government Area</b>	<b>Ku-ring-gai Council</b>
<b>Proposed Development</b>	<b>Demolish existing structures &amp; construct 2 mixed use buildings containing medical centre, 116 residential units, basement parking &amp; associated landscape works involving threatened species development</b>
<b>Street Address</b>	<b>17-23 Merriwa Street, Gordon</b>
<b>Applicant</b>	<b>Brewster Murray Pty Ltd</b>
<b>Owner</b>	<b>Sput No. 10 Pty Limited</b>
<b>Number of Submissions</b>	<b>Original proposal – 5 submissions Amended proposal – 6 submissions</b>
<b>Recommendation</b>	<b>Approval</b>
<b>Report by</b>	<b>Joshua Daniel, Executive Assessment Officer</b>

## EXECUTIVE SUMMARY

<b>Primary Property</b>	17-23 Merriwa Street, GORDON NSW 2072
<b>Lot &amp; DP</b>	Lot 40 DP 803006
<b>Proposal</b>	Demolish existing structures & construct 2 mixed use buildings containing a medical centre, 116 residential units, basement parking & associated landscape works involving threatened species development
<b>Development application no.</b>	DA0474/13
<b>Ward</b>	GORDON
<b>Applicant</b>	Brewster Murray Pty Ltd
<b>Owner</b>	Sput No. 10 Pty Limited
<b>Date lodged</b>	27/11/2013
<b>Issues</b>	Street activation, impact on threatened species, communal open space amenity
<b>Submissions</b>	Original proposal – 5 submissions Amended proposal – 6 submissions
<b>Land &amp; Environment Court Recommendation</b>	N/A
<b>Assessment Officer</b>	Approval Joshua Daniel

### LEGISLATIVE REQUIREMENTS:

<b>Zoning</b>	B4 – Mixed Use
<b>Permissible under</b>	KLEP (Local Centres) 2012
<b>Relevant legislation</b>	SEPP 55 SEPP 65 SEPP (BASIX) 2004 SREP (Sydney Harbour Catchment) 2005 KLEP (Local Centres) 2012 KDCP (Local Centres) 2013
<b>Integrated development</b>	No

### PURPOSE FOR REPORT

To determine Development Application No. 0474/13, which is for demolition of existing structures and construction of 2 mixed use buildings containing a medical centre, 116 residential units, basement parking & associated landscape works involving threatened species development on land at 17-23 Merriwa Street, Gordon.

The application is required to be determined by the Joint Regional Planning Panel as the stated cost of works (CIV) of \$27.7 million exceeds \$20 million.

## HISTORY

### Site history:

The site has a history of commercial use.

The below tables provide a summary of development applications and pre-development application meetings relating to the site.

Historical development applications:

<b>Date:</b>	<b>Application ID:</b>	<b>Proposal:</b>	<b>Determination:</b>
26/05/2009	DA 239/09	Commercial – demolition of internal office partitions	Approved
25/06/2002	549/02/DK	External signage to building façade	Approved
08/11/2001	645/01/DO	Additions and alterations to commercial building	Approved
25/10/2001	5/01/DOA	Refurbish office building	Approved
23/03/2000	720/99/DO	Refurbishment of existing building and convert into office accommodation	Approved
12/06/1998	5791/98	Change of use to medical centre	Approved

Pre-Development application consultation:

<b>Date:</b>	<b>Application ID:</b>	<b>Proposal:</b>	<b>Key Issues:</b>
01/10/2013	PRE0107/13	Demolition of existing building and construction of a new residential flat building	<ul style="list-style-type: none"><li>• Consideration of mixed use development</li><li>• Non-compliances with Local Centres DCP</li><li>• Activation of street frontages</li></ul>

### Rezoning history

The site was rezoned in February 2013 from the Business 3(b)-(B1) Commercial Services zone under the Ku-ring-gai Planning Scheme Ordinance to the current B4 - Mixed Use zone under the Ku-ring-gai LEP (Local Centres) 2012.

### Current development application history

27 November 2013	Development application was lodged.
6 December 2013	Additional copies of plans and documentation were lodged.
13 December 2013	Application is notified/advertised for 30 days.

17 February 2014	Additional information was provided (environmental site assessment report).
5 March 2014	Council sent a letter to the applicant requesting amended plans/ further information.
22 April 2014	Additional information was provided.
13 June 2014	Amended plans and further additional information was lodged, including a Species Impact Statement (SIS).
27 June 2014	Application is re-notified/advertised for 30 days.
9 July 2014	Amended landscape plan was lodged.
25 July 2014	Council staff briefed the Joint Regional Planning Panel.
12 August 2014	Council sent a memo to the applicant indicating outstanding urban design issues (amended plans required).
21 August 2014	Amended plans were lodged addressing outstanding urban design issues.
10 September 2014	SIS, additional information and amended plans were lodged.
17 September 2014	Council sent a memo to the applicant requesting amended basement plans for compliant driveway access.
14 October 2014	Amended basement and landscape plans were lodged.

## THE SITE AND SURROUNDING AREA

### The site:

Visual character study category:	1920-1945
Easements/rights of way:	No
Heritage Item:	No
Heritage conservation area:	No
In the vicinity of a heritage item:	No
Bush fire prone land:	No
Endangered species:	Yes (Sydney Turpentine Ironbark Forest)
Urban bushland:	No
Contaminated land:	No

## **Site description:**

The site is described as Lot 40 in DP 803006 and is generally rectangular in shape, with an area of 4320m<sup>2</sup>. The site has a frontage of 60 metres to the northern side of Merriwa Street and a frontage of 45 metres to the southern side of Fitzsimons Lane. The narrower frontage to Fitzsimons Lane is as a result of a 15 metres wide irregularity in the north-western corner of the site, which represents a car park area on the adjoining allotment. The site depth is approximately 78 metres with the exception of the irregular portion.

The site has a north-south fall of approximately 7 metres from Fitzsimons Lane to Merriwa Street and an east-west cross fall of approximately 5 metres, with average grades ranging between 8-9%.

## **Existing development**

Existing development on site includes:

- a 3 storey commercial building in the southern part of the site, fronting Merriwa Street
- a 3 storey commercial building in the northern part of the site, fronting Fitzsimons Lane, with two levels of basement car parking and one level of rooftop parking
- the buildings are linked by a central core building
- the buildings comprise 5631.2m<sup>2</sup> of gross floor area (GFA)
- vehicular access is provided via a driveway off Merriwa Street to basement parking and a ramp off Fitzsimons Lane to the rooftop car park

A portion of the site's area adjacent to the northern boundary at the Fitzsimons Lane frontage is identified by Council's mapping as containing an endangered ecological community, Sydney Turpentine Ironbark Forest (STIF).

The site does not contain any heritage items and is not within a heritage conservation area.

## **Surrounding development**

Surrounding development on the block bounded by Merriwa Street, Fitzsimons Lane and Ridge Street consists predominantly of commercial office and mixed use buildings, ranging in height between 2 storeys and 5 storeys.

The adjoining property to the east (No. 11-15 Merriwa Street) also has frontage to Fitzsimons Lane. The site has been recently cleared and benefits from a development consent granted by the NSW Land & Environment Court in October 2013 for demolition of a 2 storey commercial building and construction of a new part 5 and part 6 storey building with basement parking for commercial use, childcare centre, café and associated signage.

The adjoining property to the west, along the Merriwa Street frontage, (No. 25-27 Merriwa Street) is located on the corner of Merriwa Street and Ridge Street and supports a 3 storey commercial building with numerous significant canopy trees within the front setback of both street frontages. The adjoining property to the west, along the Fitzsimons Lane frontage, (No. 73 Ridge Street) is a 2 storey commercial building with a car park area and driveway to the eastern side, adjacent to the subject site.

Development opposite the site to the north in Fitzsimons Lane comprises a 2 storey commercial building on the corner of Ridge Street (No. 77 Ridge Street) and a 4 storey curved commercial building (No. 924 Pacific Highway), which has its main frontage to the Pacific Highway and is located beyond a 2 level above ground car park at the Fitzsimons Lane frontage. Commercial development prevails to the north-east along Fitzsimons Lane, with building frontages being to the Pacific Highway and car parking facilities fronting Fitzsimons Lane. Building heights are up to 6 storeys.

Development opposite the site to the south in Merriwa Street, consists of dwelling houses, which also prevail in the broader area to the west. Development along the eastern end of Merriwa Street includes a two storey seniors housing complex diagonally opposite the site (No. 26-30 Merriwa Street) and, further to the east towards the Pacific Highway, properties featuring 6 to 8 storey new residential flat buildings.



**Figure 1- Aerial photo of the site and surrounding area (source: KMC GIS)**

## **THE PROPOSAL**

The proposal involves demolition of existing structures and construction of 2 mixed use buildings containing a medical centre, 116 residential units, basement parking and associated landscape works involving threatened species development. Details of the proposed new buildings are as follows:

	<b>Building A (south)</b>	<b>Building B (north)</b>
<b>Street frontage</b>	Merriwa Street	Fitzsimons Lane
<b>No. of storeys</b>	7 storeys	7 storeys
<b>Front setback</b>	12 metres	3 metres

Building A (addressing Merriwa Street) is proposed to accommodate residential dwellings while Building B (addressing Fitzsimons Lane) comprises residential dwellings with a ground floor medical centre and communal space.

Buildings A & B will provide 116 apartments in total comprising the following mix:

- 69 x 1-bedroom apartments
- 44 x 2-bedroom apartments
- 3 x 3-bedroom apartments

Two levels of basement car parking are provided beneath each building and linked via ramps given the level differences. The basement provides a total of 153 car spaces, with the following breakdown:

- 4 dedicated car spaces for the medical centre
- 129 car spaces for the residential use
- 20 car spaces for visitors

Vehicular access is provided via driveways from Merriwa Street and Fitzsimons Lane.

A pedestrian through link is proposed within the site alongside the eastern boundary which will enable pedestrian thoroughfare between Merriwa Street and Fitzsimons Lane.

Associated stormwater management and landscaping works are proposed.

Tree removal proposed includes the removal of one *Eucalyptus paniculata* (Grey Ironbark), which is located adjacent to the Fitzsimons Lane property frontage. The subject tree is identified as comprising part of Sydney Turpentine Ironbark Forest (STIF), listed as an Endangered Ecological Community (EEC) under the *Threatened Species Conservation Act 1995*. Accordingly, the proposal involves 'threatened species development' as referred to in s78A(8)(b) of the *Environmental Planning & Assessment Act 1979*.

#### **Amended plans dated 19/03/14 (Rev B), 21/08/14 (Rev C) & 9/10/14 (Rev D)**

The amended plans proposed numerous changes to the application as summarised below:

- conversion of uses at ground floor use of building fronting Fitzsimons Lane to comply with planning provisions and increase street activation:

- previously proposed residential unit converted to communal residential space
- previously proposed commercial premises converted to medical centre
- revised apartment mix
- Species Impact Statement (SIS) submitted for proposed removal of a Grey Ironbark tree associated with an endangered ecological community, Sydney Turpentine Ironbark Forest (STIF)
- provision of 800m<sup>2</sup> offset area allocated on site for Sydney Turpentine Ironbark Forest (STIF) conservation with associated construction methodologies for top soil protection
- internal amenity improvements
- communal open space amenity enhanced
- building façade amendments for improved urban design
- driveway and associated basement car parking amendments to achieve compliant grades

## COMMUNITY CONSULTATION

In accordance with the notification provisions of Part 5 of the Ku-ring-gai Local Centres Development Control Plan, owners of surrounding properties were given notice of the application. In response, submissions from the following were received:

1. *P. Culme-Seymour – 7-26 Merriwa Street, Gordon NSW 2072*
2. *J. Seckold – 9/26-30 Merriwa Street, Gordon NSW 2072*
3. *D. McDonnell – 36 Merriwa Street, Gordon NSW 2072*
4. *K.L. Chow – 80 Ridge Street, Gordon NSW 2072*
5. *F. Teh & M. Teh – 32 Merriwa Street, Gordon NSW 2072*

The submissions raised the following issues:

### ***Insufficient time to lodge objection***

The application was notified for a period of 30 calendar days in accordance with the requirements of Part 5 of the Ku-ring-gai Local Centres DCP.

### ***Privacy/overlooking impacts to dwellings in Merriwa Street***

The subject site is zoned B4 and allows mixed use development as proposed. The proposed development complies with building height and floor space provisions. No significant privacy or overlooking impacts are envisaged to



dwellings or their private open spaces in Merriwa Street given the proposed 12m front setback to Building A, in addition to the 20m separation provided across the street and varying front setbacks to the dwellings on the opposite side of Merriwa Street, generally being a minimum of approximately 6m. Further visual separation/screening will be provided by trees/vegetation therein. Council's Urban Design consultant is satisfied that amenity of neighbouring residents will be satisfactorily maintained.

***Traffic and parking issues in Merriwa Street, including pedestrian safety and parking shortage***

Council's Development Engineer is satisfied with the traffic and parking aspects of the proposed development. The RMS has been consulted on the proposal and raised no objections. The development will result in reduced traffic generation due to the change in composition from the existing commercial use to the proposed mixed use as stated in the traffic report and by Council's Development Engineer below (internal referrals). Additionally, the proposal complies with the applicable car parking requirements as indicated in the Local Centres DCP compliance table below.

***Construction impacts including traffic, noise and dust***

Any construction impacts related to traffic and noise will be short term and limited to within the working hours of 7.00am – 5.00pm Monday to Friday and 8.00am to 12 noon Saturday as required by condition **(Condition 52)**. Dust control measures will also be required by condition to protect the amenity of surrounding properties **(Condition 60)**.

***Removal of trees***

Council's Landscape Assessment Officer and Ecological Assessment Officer support the application, including proposed tree removal as discussed below. A significant area of the site will be provided as soft landscaping area with good landscaping amenity and tree planting provided overall, including an area dedicated to the conservation of the endemic Sydney Turpentine Ironbark Forest (STIF) ecological community.

***Noise***

An acoustic impact assessment has been provided which addresses all relevant residential noise sources, including mechanical ventilation associated with the proposal, and concludes that the development will comply with the expected acoustic privacy requirements. Council's Environmental Health Officer has no objections to the development in this regard, subject to conditions **(Conditions 28, 44, 88, 94, 113)**.

***Usage of building – hours of business, short term parking adding to traffic flow and congestion***

The proposed uses, which include residential occupancy and a medical centre, are permissible in the zone and considered acceptable having regard to an assessment of the likely impacts as discussed below. Hours of business for the medical centre are appropriate (8am-7.30pm Mon, Tues, Wed & Fri; 8am-9pm Thurs; and 8am-3pm Sat) and given its location fronting Fitzsimons Lane, the operation of the medical centre is not expected to impact residential amenity in Merriwa Street. Traffic and parking aspects of the development are acceptable as discussed above, and are supported by Council's Development Engineer.

### ***Building height excessive and out of scale***

The proposed building height complies with the 23.5 metres height requirement as prescribed by the Ku-ring-gai Local Environmental Plan (Local Centres) 2012. The building height is also acceptable having regard to existing development in the streetscape, shadow cast, visual impacts and neighbouring amenity, particularly noting the substantial 12 metres front setback to Merriwa Street.

### ***Solar access impacts to residential properties, including nos. 26-30 and 36 Merriwa Street***

The development site has a north-south orientation and solar access diagrams submitted with the application indicate that solar access will be maintained to all neighbouring properties in accordance with the requirements of the Local Centres DCP. In particular, the development allows for the retention of more than 3 hours sunlight between 9am and 3pm on 21 June to living areas and the principal portion of the private and communal open space of all neighbouring residential properties.

### ***Amended plans dated 19/03/14 (Rev B)***

The amended plans were also notified. Submissions from the following were received:

1. *P. Culme-Seymour – 7-26 Merriwa Street, Gordon NSW 2072*
2. *J. Seckold – 9/26-30 Merriwa Street, Gordon NSW 2072*
3. *D. McDonnell – 36 Merriwa Street, Gordon NSW 2072*
4. *M.B. Aynsley-Lewis – 15/26-30 Merriwa Street, Gordon NSW 2072*
5. *K.L. Chow – 80 Ridge Street, Gordon NSW 2072*
6. *S. Ward – 43 McIntyre Street, Gordon NSW 2072*

The submissions in response to the amended plans raised the following additional issues:

### ***Privacy/overlooking impacts to No. 43 McIntyre Street.***

The amendments do not result in any increased privacy or overlooking impacts as compared with the original scheme, which are addressed above in relation to properties in Merriwa Street. The property at No. 43 McIntyre Street

is located approximately 70m to the south of the proposed development site, beyond the residential properties in Merriwa Street and, as such, would not be adversely affected having regard to privacy or overlooking impacts.

### ***Usage of building – proposed construction of residential units in non-residential zone***

The proposed development, incorporating residential units and a medical centre, is permissible in the B4 mixed use zone, is consistent with the zone objectives and is acceptable having regard to an assessment of the likely impacts as discussed in relation to the relevant environmental planning instruments below.

### **Amended plans dated 21/08/14 (Rev C) & 9/10/14 (Rev D)**

The amended plans Rev C and Rev D were not required to be notified as the amendments did not involve greater impacts than the original proposal.

## **INTERNAL REFERRALS**

### **Engineering**

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

#### ***“Water management***

*Amended hydraulic plans have been received, as well as a supplementary letter and detention volume calculation sheet from the Local Centres DCP. The pipe network on the ground floor plan is still confusing, however the letter clarifies most points.*

*The water balance calculation is over-simple, and item 1 of the letter appears to commit to re-use of roofwater for irrigation only which is not consistent with the BASIX commitment for toilet flushing (BASIX commitments cannot be overridden). It is considered that the re-use of roofwater for toilet flushing as well as irrigation will most likely achieve Council's target of 50% reduction in runoff days. The recommended conditions require the Construction Certificate hydraulic plans to be amended to be consistent with the BASIX commitments.*

*The rainwater tanks still seem to be located where large trees are proposed. It is expected that Landscape Services will condition these to be located closer to the basement **(Condition 31)**.*

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

*The parking required for the uses proposed is:*

- *Medical centre – 5 spaces*

- Residential – minimum 92, maximum 130 spaces (including 12 accessible)
- Visitor - 20 spaces

*The plans show 115 resident, 13 accessible resident, 20 visitor (including 2 accessible) and 5 medical centre parking spaces. The shared zone adjacent to the space labelled 148 (Basement 1B) may not comply with AS2890.6:2009, however this space is surplus so it is considered that it could be converted to a standard parking space on the Construction Certificate plans.*

*There is no accessible space designated for the medical centre, which is definitely required, however given that there is a surplus of resident parking spaces, this can also be revised on the Construction Certificate plans.*

*Space is provided for the correct number of bicycles.*

*With regard to Item 1 of the Roads and Maritime Services comments, the traffic generation rates given in the new Technical Direction are the same as those used in the applicant's traffic report.*

*With regard to Item 2 of RMS comments, i.e. the cumulative effect of nearby developments, this consideration was done at the rezoning stage and has resulted in the works program identified in the contributions plan. As stated in the traffic report, this particular development will result in a reduced traffic generation because of the change from commercial to residential.*

*Other RMS comments have been incorporated into the recommended conditions where appropriate (**Conditions 5, 12, 47**).*

### **Waste management**

*The proposed medical centre will generate a relatively small amount of waste, so on-street collection by Council's commercial contractor will be acceptable.*

*The correct number of bins has been shown for the residential use.*

*Longitudinal sections through the two entry driveways have been provided, which generally demonstrate that 2.6 metres of headroom will be available for the small waste collection vehicle.*

### **Council infrastructure**

*The applicant will be required to provide paving and street tree planting in accordance with Council's Public Domain Plan. The*

design can be submitted prior to issue of the Construction Certificate **(Condition 47)**.

*The application is acceptable, subject to conditions.”*

## **Landscaping**

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

### ***“Tree impacts***

*Amendments were made to the plans to address the impacts on T5, T9, T10, T11, T12, T17 & T19.*

*It was recommended that the driveway off Merriwa Street be relocated to preserve T23b located on the adjoining property. The relocation of the driveway is not possible due to the existing electricity kiosk which is to be retained. Conditions are recommended to minimise the impacts on T23b **(Conditions 54, 75, 81)**.*

### ***Tree removal***

*There is a total of twenty five trees located on the site and seventeen trees will require removal for the proposed development.*

*Five trees, including T21, T23a and T27-29, are considered to have low to very low landscape value. Ten trees, including T4, T9-12, T13-15, T25 and T26, are considered to have moderate landscape value. Two (2) trees, including T24 and T32, have high landscape significance.*

*No objection is raised to the proposed tree removal given the substantial planting to be carried out, including ten locally occurring canopy species characteristic of Sydney Turpentine Ironbark Forest and associated native understorey. There will be a total offset area for Sydney Turpentine Ironbark Forest of 800 square metres.*

*The trees to be removed are as follows:*

<b>Tree/location</b>	<b>Comments</b>
<i>T4 – <i>Corymbia citriodora</i> (Lemon Scented Gum) / North eastern corner</i>	<i>18 metres high in good health. Limited potential for future growth due to location within a cut out section of a concrete driveway</i>
<i>T9 to T12 – 4 x <i>Melaleuca quinquenervia</i> (Broad Leaved Paperbark)</i>	<i>9-12 metres in good health. Crown lifted to 5 metres</i>

<i>/ Eastern side boundary</i>	
<i>T13 to T15 – 3 x Archontophoenix cunninghamiana (Bangalow Palm) / Within the building footprint</i>	<i>10-12 metres in good health</i>
<i>T21 – Cotoneaster sp. (Cotoneaster) / Merriwa Street nature strip</i>	<i>Weed species</i>
<i>T23a – Angophora costata (Sydney Red Gum) / Within the Merriwa Street driveway footprint</i>	<i>5 metres high in good health</i>
<i>T24 – Syncarpia glomulifera (Turpentine) / Within the Merriwa Street driveway footprint</i>	<i>13 metres high in good health. Planted specimen. Site constraints along Merriwa Street restrict the driveway entrance to the western boundary where the tree is located.</i>
<i>T25 &amp; T26 – 2 x Casuarina glauca (Swamp Oak) / Western side boundary</i>	<i>15 metres high in good health</i>
<i>T27 – Thuja sp. (Arborvitae) / Western side boundary</i>	<i>6 metres high in good health</i>
<i>T28 &amp; T29 - 2 x Casuarina glauca (Swamp Oak) / Western side boundary</i>	<i>13 metres high in good condition</i>
<i>T32 – Eucalyptus paniculata (Grey Ironbark) / Northern boundary</i>	<i>15 metres high in good health, approximately 25% epicormic growth. Remnant species of Sydney Turpentine Ironbark Forest (refer to ecology comments)</i>

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

*A condition is recommended requiring an amendment to the landscape plan to include the additional offset planting of Sydney Turpentine Ironbark Forest along the eastern side boundary (Condition 31).*

### ***Stormwater plan***

*To preserve T23 a condition is recommended to amend the stormwater plan to delete the stormwater pit within the path adjacent to the main entrance from Merriwa Street **(Condition 32)**.*

## **BASIX**

*The BASIX certificate indicates that 600 square metres of indigenous and low water use planting is required within the common areas. The landscape plan complies with this requirement.*

*The application is acceptable, subject to conditions”.*

## **Ecology**

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

*“During the site inspection remnant trees were identified within and adjacent to the frontage of the subject property.*

*The remnant native vegetation comprised of Tree 32-Eucalyptus paniculata (Grey Ironbark) & Tree 31-Syncarpia glomulifera (Sydney Turpentine) which comprise part of Sydney Turpentine Ironbark Forest (STIF) listed as an Endangered Ecological Community (EEC) under the Threatened Species Conservation Act 1995. Native ground covers were sparse to absent due to past clearing and the establishment of herbaceous weeds and grasses.*

*Tree 32-Grey Ironbark which is proposed for removal has been mapped as category 5 “Landscape Remnant” under the Town Centres KLEP DCP 2013.*

## **Controls**

- 1. Retain trees identified as Category 5 Canopy Remnant on the Greenweb map. (Refer to maps in 6R.1 of this Part).*
- 2. Planting within land identified as Category 5 on the Greenweb map is to consist of not less than 30% locally native species. Species are to reflect the relevant vegetation communities within the area. A mix of groundcover shrubs and trees is desirable.*

## **Objectives**

*To protect smaller canopy remnants for habitat, species diversity and ecosystem services across a range of topographies.  
To maintain trees for the services they provide to human well-being.*

## ***Impacts of the proposal***

*The development proposes the removal of T32-Grey Ironbark.*

*The arborist states that Tree 32 has good vigour and has no evidence of pest or disease and has a high retention value. The arborist also advised that the tree is stable with sound branching structure and contains 15% epicormic growth.*

## ***Ecological assessment***

*An impact assessment (7-part test) has been prepared by Cumberland Ecology in accordance with section 5a of the Environmental Planning and Assessment Act 1979 to assess the impacts of the proposal upon the onsite Sydney Turpentine Ironbark Forest community (T32)-Grey Ironbark.*

*The following conclusions below made by Cumberland Ecology are supported:*

*The individual tree to be removed is part of a larger local population of Eucalyptus paniculata as it is within range to cross-pollinated via common, urban avifauna. We therefore conclude that the removal of the individual tree from the subject site will not result in the local extinction of STIF, as the additional recorded trees occur within or adjacent to remnant patches of STIF. As outlined in the SIS, the minor short-term impacts from the loss of a tree will be compensated for in the long-term with the provision of a larger area of higher quality STIF with greater long-term security, maintaining the presence of STIF in the wider area and the locality.*

**Note:** *Only 1 native endemic STIF canopy tree identified as T32 is proposed for removal.*

*“The subject site is currently very degraded in terms of habitat value to native species. The single native tree to be removed is a mature Eucalyptus paniculata Grey Ironbark, which is a characteristic species of the Endangered Ecological Community Sydney Turpentine Ironbark Forest. However the habitat is poor, isolated and fragmented that its occurrence on site would not qualify as an example of the endangered ecological community under Commonwealth legislation”.*

*Further to the above conclusion it is also noted that the area in which T32 is growing has been highly disturbed/modified as result of the installation of the road, landscape gardens and structures, as a result the soil profiles have been altered substantially.*



*The threatened species assessment guidelines (TSAG) defines local occurrence as the following: The ecological community that occurs within the study area. However the local occurrence may include adjacent areas if the ecological community on the study area forms part of a larger contiguous area of that ecological community and the movement of individuals and exchange of genetic material across the boundary of the study area can be clearly demonstrated.*

*At the time of the site inspections in July 2014, T32-Grey Ironbark was in flower, on the same day a site inspection was undertaken of a large mature Grey Ironbark located upon No 16-22 Dumaresq Street to examine fruit form the tree it was noted that this Ironbark was also in flower and was being actively foraged upon by Rainbow Lorikeets.*

*The applicant has demonstrated that the local occurrence of Sydney Turpentine Ironbark Forest community extends beyond the subject site as the exchange of genetic material (pollen) between remnant Ironbark specimens has been demonstrated via pollinators.*

*The applicant has also provided a map showing the location of remnant Ironbark trees and as stated below that cross-pollination of specimens is feasible via pollinators such as Rainbow Lorikeets. The statement below also concludes that the removal of T32 Ironbark tree is unlikely to have a significant impact upon the Sydney Turpentine Ironbark Forest community.*

*“All recorded individuals occurred within 1 km of the Eucalyptus paniculata individual present within the subject site. As a distance of 1 km is easily covered by common, urban, nectivorous avifauna such as Rainbow Lorikeets (Trichoglossus haematodus) and Noisy Miners (Manor/namelanocephala), cross-pollination of the tree present on the subject site with other Eucalyptus paniculata individuals in the wider locality is entirely feasible, indicating that the individual present on the subject site is part of a larger population spread across the locality. Therefore, removal of the individual tree from the subject site will not result in local extinction of STIF”.*

*The above conclusion is supported as such no concurrence is deemed necessary from the Office of Environment and Heritage.*

*As mentioned above T32 is the only component that is representative of the onsite Sydney Turpentine Ironbark Forest community.*

*As mentioned above local occurrence is defined as “The ecological community that occurs within the study area. However the local*

*occurrence may include adjacent areas if the ecological community on the study area forms part of a larger contiguous area of that ecological community and the movement of individuals and exchange of genetic material across the boundary of the study area can be clearly demonstrated”.*

*To demonstrate that T32 is contiguous consideration must be given to the definition of “Local Population”. The TSAG describes population as the following “The population that occurs in the study area. The assessment of the local population may be extended to include individuals beyond the study area if it can be clearly demonstrated that contiguous or interconnecting parts of the population continue beyond the study area, according to the following definitions”.*

*“The local population of a threatened plant species comprises those individuals occurring in the study area or the cluster of individuals that extend into habitat adjoining and contiguous with the study area that could reasonably be expected to be cross-pollinating with those in the study area”.*

*Having consideration to the following terms “contiguous” & “local population” as defined above I am satisfied that T32-Grey Ironbark forms part of a larger local population of Ironbark specimens.*

*The reasonable interconnection is that pollinators e.g. Grey-headed Flying Fox, birds (Rainbow Lorikeets) and insects can cross-pollinate between individual Ironbark specimens in a fragmented landscape via flying.*

*Therefore the removal of one Ironbark specimen from a larger local population of Grey Ironbark’s is not considered to have a significant impact upon the “local occurrence” of the Sydney Turpentine Ironbark Forest.*

**Conclusion:** *There are no objections to the DA on ecological grounds, subject to conditions (Conditions 6, 91)”.*

## **Building**

Council’s Building Surveyor is satisfied the proposed development will be compliant with the requirements of the Building Code of Australia and the access to premises standards, subject to conditions **(Conditions 51, 106)**.

## **Health**

Council’s Environmental Health Officer has no objection to the proposal, subject to conditions **(Conditions 26, 27, 28, 44, 88, 89, 94, 105, 110, 111, 113)**.

## EXTERNAL REFERRALS

### Urban design

Council's Urban Design Consultant has reviewed the application against the provisions of SEPP 65 and has provided the following comments:

#### ***"1 - Context***

**SEPP 65:** *Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area. Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.*

*The subject site is located within a B4 zone that enjoys dual street frontage.*

*Merriwa Street presents as a leafy, landscaped street comprising residential dwellings of detached generally single storey houses and small-scale (two-storey) apartment types to the south and west of the site with substantial 6 to 8-storey new residential flat development on amalgamated lots east of the site on the southern side of Merriwa Street. Existing surrounding development on the northern side of Merriwa Street ranges between 2 to 3 and 6-storey commercial building types with landscaped front setbacks.*

*Fitzsimons Lane presents as a degraded pedestrian character, with no structured street tree pattern or species and is predominantly a service lane character.*

*The subject site is located within a precinct undergoing transition that will see mixed-use buildings of up to 3.1 FSR and 26.5 metres height being developed (dependant upon use). There has been considerable developer interest in the precinct following gazettal of the KLEP Local Centres 2012, which indicates the potential for renewal in this precinct.*

*A mix of building use is encouraged in this precinct to create a layering of the new urban character that will complement this precinct of dual frontage lots as it transforms Fitzsimons Lane from a service lane to an activated primary frontage and seeks to better engage with the surrounding existing low density residential area. It is to be noted that there has been resistance to the provision of ground floor commercial use in most proposed mixed-use developments in this precinct. Market demand has been cited as the reason. This is accepted, however, developments that are not reasonably identified as mixed use in order to benefit from*

*development incentives for mixed use are not supported. Mixed use is intended to provide alternative services, employment opportunities and facilities that are not afforded to wholly residential development. Therefore, proposed building use in the precinct attracts different controls and incentives for private and communal amenity.*

*The initial development application proposed a very small component of the overall GFA for commercial use although the proposal was submitted as a mixed use development. This was not supported on several urban design grounds: it did not provide the landscape, communal and private amenity expected of a wholly residential development and; importantly did not meet the urban strategy objectives for Fitzsimons Lane.*

*The proposed residential use for the Merriwa Street frontage was accepted on urban design grounds as being consistent with the emerging and likely future character of that street as more redevelopment is proposed. Previous amendments substantially addressed the Fitzsimons Street activation. Mixed use is supported on the subject site as it reflects the surrounding urban character of Fitzsimons Lane while clearly differentiating a high-density residential type from the wholly residential use to the south.*

*The through-block connection is supported as such links improve and encourage pedestrian activity by increasing block permeability and improve access to services and other facilities. Blocks on the western side of the Highway are notoriously long and impact upon the character of the local centre. They discourage pedestrian trips, which in Gordon, is further exacerbated by the steep topography. Therefore, the dedication of a through-site link is supported.*

*Previous amendments to the street address to both Fitzsimons Lane and Merriwa Street were supported as providing satisfactory active frontage. The Merriwa Street pedestrian entry is generous and wide, is clearly defined from the street and is able to provide ground level units with their own entries accessed from a mid-level landing on the stairs.*

*Previous amendments were made to the treatment of fences to Merriwa Street to address the language of high walls that had been identified as disengaging from the street. A language of terraced planters makes better use of the topography in achieving adequate privacy to the ground floor units of Building A without the need for overly high fencing. Materials, detailing and integration of landscape will be critical to achieving a positive interface between the building and street while addressing the challenges of the rising topography. Gabion walls had been previously selected as the material for these walls and were not supported as they were a material that was inconsistent with the overall design strategy and*

*architectural expression. Current amendments propose a stone cladding (to replace the gabion walls) that is used for landscaped areas within other parts of the development. These are supported as providing an appropriate streetscape character that better integrates the landscape and built form expression of the building base, how the building meets the ground, and addresses previously identified issues of scale (these were overly high unarticulated walls that had dominated the south-west corner address).*

*Previous amendments to the Fitzsimons Lane frontage had addressed concerns about street activation identified in the initial DA although had raised a new issue with the resolution of the access ramp and location of doors that had been placed a new pinch-point. The current amendments have now adequately resolved this issue so that a clearer and more comfortable entry is achieved.*

*The inclusion of the internal communal space is supported. This has been further refined and has the potential to make a very positive contribution to both the public/private interface, as well as significantly increasing the amenity afforded future residents. Previous amendments achieved a much-improved relationship between internal and external spaces enabling visual and physical connections while still achieving adequate privacy.*

*The relocation of the driveway (Building B) approximately 2 metres to the east enables a landscape zone along the western boundary and appears likely to protect the significant tree on the neighbouring site. While this achieves a positive streetscape character for Fitzsimons Lane consistent with the changing and desired character of this mixed-use precinct, confirmation of driveway levels is required to ensure the driveway as proposed can be achieved and meet technical requirements.*

## **2 – Scale**

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

*Permitted height appears to have been achieved.*

*Unacceptable solar access to proposed communal spaces had been identified as indicative of proposed scale being unsatisfactory during initial DA considerations.*

*Amendments have sought to retain the scale of proposed development but have addressed the deficient communal amenity and inconsistent Fitzsimons Lane activation through an internal communal area linked to north facing and south facing external spaces.*

*The north-facing space to the Fitzsimons Lane frontage will achieve a high level of solar amenity and the connection through the internal/external spaces provides options for communal use that achieve a very positive physical and visual relationship.*

*Building depth is outside recommended RFDC depths at the widest part (max 21m). Based on merit, this is acceptable given the number of units achieving the RFDC rule of thumb for cross ventilation and solar access. However, support is qualified as the building depth also plays a role in the quality of the ground level communal space. As such the inclusion of alternative communal spaces is supported. This has been adequately resolved with the improvements to proposed communal spaces in the amended schemes.*

*It is also noted that Building A proposes a large number of units be served by a single common corridor (up to 14). This exceeds the RFDC rule of thumb maximum of 8. Such a type is not generally encouraged within the RFDC. However, two lifts are provided which, combined with the configuration of the corridor as an L-shape, generally achieves the objectives of the RFDC. The overall amenity achieved in the common corridors is acceptable due to the natural light and ventilation proposed, and hence, the proposed corridors can be accepted. Articulation of the massing further lends support to the length of Building A.*

### **3 - Built Form**

**SEPP 65:** *Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.*

*Building types are generally supported although it is recognised that there is a significant volume of built form on the site.*

*Building alignments are varied while demonstrating cohesion that is supported.*

*Amended documents demonstrate further consideration of the vertical expression of proposed built form. The building base is*

*more clearly communicated as it meets the ground, which also helps to differentiate the middle components of building mass*

*The language of high walls remains, generally as a result of dealing with adverse topography, but has been better resolved with the introduction of natural materials as the expressions of the building base and some additional resolution of planters to better address the level changes.*

*Current amendments have adequately resolved the issue of the expression of the building base that demonstrates satisfactory design coordination that complements the scale of selected perimeter wall cladding and the architectural language of the development as a whole.*

*The cladding of base walls in combination with previous minor amendments to the Merriwa Street and Fitzsimons Lane facades (externally mounted screens) have created some activation of the facades - they can be moved - which enlivens the private-public interface.*

*Some additional openings were proposed along the western elevation with minor changes to sun-screens in the previous amendments. Overall, these amendments to the eastern and western façade treatment are minimal but did achieve adequate if minor improvements to the expression of built form from the original DA submission. The introduction of a grounding of the base of the built form with stone now satisfactorily reduces the impact of large areas of unarticulated rendered and painted walls previously proposed.*

*More design development of the internal and eastern and western facades had been expected during the process of revisions. Improvements (if only minor) have somewhat helped address previously identified deficiencies.*

*As previously identified, the southern/internal elevations of Building B did not appear to have been resolved to the same extent at the elevations addressing street frontages, with little design development to address this in submitted amendments. There still remains a disappointing level of attention to the fine-grain design resolution of these internal elevations resulting in an outlook for residents of Building A onto a built form dominated by a language of rendered walls with little variety of materials.*

*It is acknowledged that some minor changes to externally mounted screens and inclusion of a framed corner element to the internal elevation of Building B as previously submitted were a minimal attempt to address the issue of scale and quality upon the outlook of residents in Building A. This is barely satisfactory. However, because there is sufficient order to the architectural composition, it*

*is considered the proposal meets the basic objectives of the RFDC. Conditions of consent could include a requirement for materials detailing and selection of all internal elevations to be the same as that proposed for the Merriwa Street and Fitzsimons Lane façades and subject to additional information to be submitted.*

*Built form is 3-dimensional and the use of materials needs to better consider the corner treatment of the southern façade of Building B as it turns the eastern and western corners in particular. The materials and colour palette needs to demonstrate descriptions in the materials palette are consistent with the descriptions of the drawing legends on elevations. This was identified in previous reviews and has not been addressed so may need clarification as a development condition (**Condition 23**).*

#### **4 - Density**

**SEPP 65:** *Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents). Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.*

*Proposed development complies with permitted FSR. There is a large number of units proposed on the site, dominated by 1-bedroom types, that increases the unit yield and places greater focus on the communal amenity particularly on a site that has an adverse topographical location of a south-facing slope.*

*Previous deficiencies were identified in the quality of proposed communal space and amenity of some units.*

*Previously amended documents incorporated an internal communal area at ground level addressing Fitzsimons Lane. This will have at-grade dual access to both north-facing and south-facing external communal areas that creates a much-improved relationship between internal and external ground levels and achieves a positive communal outcome that satisfies the issues of proposed density. The amended solution also satisfactorily addresses the activation of Fitzsimons Lane for non-residential uses.*

*Current amendments have now adequately resolved storage as required under SEPP 65 RFDC. This is an important issue for density in terms of number of units being proposed because a lack of storage can result in unacceptable habitable space particularly where units are already small sized. Amendments to*



*accommodate storage have required some changes to internal layouts of some units that are supported.*

*It is noted that only 3 of the 116 units are 3-bedroom. This limits the development as being suitable to accommodating families with more than one child (37% are 2-bedroom units). However, the urban vibrancy of an area is dependant upon available dwellings being occupied, so where accommodation demand is for more 1-bedroom units, it is accepted that the intended urban character for the Fitzsimons Lane precinct will be better served with maximum occupancy rates rather than a proliferation of units that may remain unoccupied. (Collection of data to analyse demand and occupancy rates of differing unit choices could be explored to assist Council as future development needs to ensure a suitable mix can be provided across the Ku-ring-gai LGA thus avoiding a concentration of a very narrow cross-section of the community across the LGA within walking distance to local centres due to a limited variety of housing choice.) The improvements to the communal spaces now offer residents a choice of internal and external spaces that also satisfactorily addresses concerns about unit typology.*

## **5 - Resources, Energy and Water Efficiency**

**SEPP 65:** *Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction. Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.*

*Resources, Energy and Water efficiency can be generally supported.*

*Proposed arrangement of massing and corresponding internal layouts maximise the northern aspect and solar amenity for most units.*

*Provision of deep soil is sufficient to support trees along Merriwa Street and side boundary areas.*

*Cross-ventilated units are achieved although it is noted that there is an over representation of single aspect units that is not encouraged as a typology unless high levels of amenity can be demonstrated.*

*Single aspect units with a southerly aspect are generally unavoidable where a building's long axis is E-W and where topography is adverse to optimal solar access. This is reinforced when in combination with proposed long double-loaded corridors.*

*While not supported as a type, it is accepted that these units are within the RFDC rule of thumb that allows a maximum of 10% of units with a SE-SW aspect and they achieve large areas of glazing to achieve reasonable levels of natural light and outlook.*

*Lobbies have access to natural light and ventilation that is supported.*

## **6 - Landscape**

**SEPP 65:** *Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain. Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by coordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character. Landscape design should optimise usability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.*

*Site levels are complex with the significant cross-fall (approx. 11.7 metres diagonal NE to SW and 6-8 metres N to S). This raises challenges for development where basement access is from two frontages of differing levels, which potentially impact upon the relationship of ground level floors to the external landscape spaces. A satisfactory relationship between ground floor levels along street frontages has been largely achieved but has presented difficulties through the centre of the site.*

*As identified during DA consideration, the primary central communal open space fights the proposed levels resulting in that space being significantly below NGL (1>2m) while also setting up privacy conflicts for ground level units of Building A and unacceptably high walls to the base of Building B.*

*Amendments retained the central communal space with high walls to the north (basement car park behind) while a redesign of the ramp has enabled a terracing of planters to reduce the impact of scale and soften the character of that central space. Additional terraces had also helped resolve the scale of the internal wall.*

*The character of this lower level central space appears to be more enclosed than is desirable, and in contrast to the RFDC objectives that the role of communal space is to add value to the quality of outlook, privacy and views of residents. However, this has been*

*offset by previously proposed amendments that delivered an alternative communal space that will achieve a northern aspect to Fitzsimons Lane, an internal area then linked to a space on the southern side open to the west that will still achieve some solar amenity in the later afternoon of winter and during autumn, spring and summer. The amended proposal is accepted as offering a selection of communal spaces of differing character that offer good amenity suitable for each season.*

*The through-site link is supported as encouraging pedestrian activity and promoting passive and active surveillance through the site and will be managed by agreement between Council and the site owner.*

## **7 - Amenity**

**SEPP 65:** *Good design provides amenity through the physical, spatial and environmental quality of a development. Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts, and service areas, outlook and ease of access for all age groups and degrees of mobility.*

*Amenity is generally good with efficient internal unit layouts and with predominantly northerly aspects to the majority of units.*

*Common lobbies have clear sightlines and access to natural light and ventilation that is supported.*

*Current amendments need to ensure bathrooms and ensuites B1/B2/B3/B4/B5/B6.01 and B6.02 and laundries B6.01/02 to external walls include windows so they are naturally ventilated. This is required by condition **(Condition 24)**.*

## **8 - Safety and Security**

**SEPP 65:** *Good design optimises safety and security, both internal to the development and for the public domain. This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.*

*Generally clear sight lines are achieved with good prospects for passive surveillance of entries and to the street frontages.*

*The quality of building entries is supported. They achieve clear paths of travel, and are generously proportioned.*

*The proposed resolution of the communal spaces enables a positive interaction with Fitzsimons Lane and high levels of passive surveillance internal to the development.*

*Amendments to the building entry and relationship of ground level units to Merriwa Street and the communal and medical centre at Fitzsimons Lane have satisfactorily resolved a clear definition of public and private while engaging the public private interface.*

## **9 - Social dimensions**

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

*Previously identified deficiencies in layouts of post-adaptive units have been satisfactorily resolved.*

*The predominance of 1-bedroom units has been satisfactorily offset by the provision of high quality well-integrated internal and external communal spaces.*

## **10 - Aesthetics**

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

*The architectural character proposes a contemporary aesthetic that is generally supported.*

*There is a clear expression of building elements such as the treatment of balconies, walls and openings that demonstrates a rational language of the hierarchy of spaces accommodated internally.*

*As discussed previously, further consideration has been given to the treatment of the base of the building coordinated with the language of landscape structures/walls so there is an holistic expression of the building as it emerges from the ground with*

*current amendments satisfactorily resolving the expression of the base walls with stone cladding (replacing gabion walls).*

*Additional information regarding the application of the materials palette is required to the internal elevations of Buildings A and B (south and internal western elevation) so that the outlook for residents is maximised. As identified in Principle 3 – Built Form, the materials palette dwg DA10.01 description still does not match the references to the key of materials listed on elevations. As identified in previous reviews, applications of a single rendered paintwork to large areas was not supported as it affects the perception of scale and detracts from the expression of built form. This remains an issue although it is noted that the basic expression of built form would likely just pass basic urban design objectives. Further fine-grain development of these internal elevations and more variety to the materials selections would benefit the development”.*

An amended sample board of materials and finishes is required as a condition of consent **(Condition 23)**.

## **Roads and Maritime Services**

The development has been referred to Roads and Maritime Services (RMS) under the terms of SEPP (Infrastructure) 2007, who commented as follows:

*"It is noted that Merriwa Street is a local road under care and control of Council. However, RMS has reviewed the application and provides the following advisory comments to Council for its consideration in the determination of the application:*

- 1. It is noted that the former RTA's publication regarding development guidelines has been superseded with TDA 2013/04a indicating new traffic generation rates which need to be referred to.*
- 2. Council shall consider the nearby developments at 11-15 Merriwa Street and 910 Pacific Highway, Gordon and the potential impact of all three developments on the road network.*
- 3. Car parking provision to Council's satisfaction.*
- 4. The layout of the proposed car parking areas, loading docks and access driveway associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004 and AS 2890.2 - 2002 for heavy vehicle usage.*

5. *The swept path of the longest vehicle (including garbage truck) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which illustrates that the proposed development complies with this requirement.*
6. *Due to safety concerns, RMS do not support the right turn movement of construction vehicles from Merriwa St onto Pacific Highway. If right turn movements are required from Pacific Highway into Merriwa Street, preferred arrival route is via Ryde Road on ramp, left into Ridge Street then left into Merriwa Street. If right turn movements onto Pacific Highway are required for departing the site, the preferred route is via Vale Street with traffic signals assisting this right turn movement onto Pacific Highway at both Dumaresq Street and St Johns Avenue.*

*Ultimately, RMS supports left in / left out movements only at the intersection of Pacific Highway and Merriwa Street. Consequently, alternate truck routes during demolition, excavation and construction are to be investigated (refer to Condition 5).*

7. *The Construction Traffic Management Plan (CTMP) and related Traffic Control Plans will be considered once the above mentioned alterations are made to the Assessment of Traffic and Parking Implications and related documents and alternate truck route options are investigated.*
8. *Due to the close vicinity of both Ryde Road and Pacific Highway, the CTMP with associated Traffic Control Plans is to be submitted separately so as to be assessed and authorised by the RMS Traffic Management Unit prior to the start of any construction activities. All construction / demolition vehicles must enter and exit in a forward direction with appropriate turning circles to be provided within the property. A construction vehicle route must be provided in the Construction Management Plan being mindful of schools and school zones along the route. Due to the close vicinity of Pacific Highway and Ryde Road where high volume of vehicles are experienced during peak periods, permitting the movement of construction vehicles along Pacific Highway or Ryde Road during peak periods is considered unacceptable. Traffic Controllers are to ensure safety of pedestrians and to ensure the entry and exit of construction vehicles are managed appropriately.*
9. *All works associated with the proposed development shall be at no cost to the RMS”.*

The above matters are addressed in the comments by Council's Development Engineer.

## STATUTORY PROVISIONS

### Sydney Regional Environmental Planning Policy (Sydney Harbour Catchment) 2005

SREP 2005 applies to the site as the site is located in the Sydney Harbour Catchment. The Planning Principles in Part 2 of the SREP must be considered in the preparation of environmental planning instruments, development control plans, environmental studies and master plans. The proposal is not affected by the provisions of the SREP which relate to the assessment of development applications as the site is not located in the Foreshores and Waterways Area as defined by the Foreshores and Waterways Area Map.

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

The provisions of SEPP 55 require Council to consider the potential for a site to be contaminated. In this regard, a Phase 2 Environmental Site Assessment report prepared by Benviron Group, dated July 2013, was submitted with the application.

The investigation considered the potential for suspected historical activities to have caused contamination at the site and determine land use suitability for the proposed land use in accordance with SEPP 55.

The report concludes the following:

*Based on the results of this investigation it is considered that the risks to human health and the environment associated with soil contamination at the site are low in the context of the proposed use of the site. The site is therefore considered to be suitable for the proposed development, subject to the following recommendations:*

- *Any soils proposed for removal from the site should initially be classified in accordance with the "Waste Classification Guidelines, Part 1: Classifying Waste" NSW DECC (2009).*

*If during any potential site works, significant odours and / or evidence of gross contamination (including asbestos) not previously detected are encountered, or any other significant unexpected occurrence, site works should cease in that area, at least temporarily, and the environmental consultant should be notified immediately to set up a response to this unexpected occurrence.*

Accordingly, the site is considered to be suitable for the proposed development having regard to the provisions of SEPP 55, subject to the above recommendations being imposed as a condition **(Condition 53)**.

### State Environmental Planning Policy (Infrastructure) 2007

The proposed development is not subject to the provisions of State Environmental Planning Policy (Infrastructure) 2007, as the proposal does not meet the thresholds for traffic-generating development specified in Schedule 3 of the SEPP.

Notwithstanding, the application was referred to the RMS for comment. The RMS issued advice in response as discussed above.

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

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

### **State Environmental Planning Policy No. 65 - Design quality of residential flat development**

Council's Urban Design Consultant has reviewed the application against the 10 design quality principles of SEPP 65 (refer above comments). In summary, the development satisfies SEPP 65 in the following ways:

- the development responds to the future character of the area as defined by KLEP (Local Centres) 2012 and the Local Centres DCP
- the bulk and height of the development is appropriate in the context of the future character of the area as defined by KLEP (Local Centres) 2012 and the Local Centres DCP
- the built form of the development contributes to the streetscape
- the density of the development is consistent with the future densities of the area as defined by KLEP (Local Centres) 2012 and the Local Centres DCP
- the design of the development is such that it makes efficient use of natural resources, energy and water
- landscaping within the development responds to the future character of the area as well as resulting in aesthetic quality and amenity for occupants, adjoining properties and the public domain
- the development provides amenity for its occupants and for those of adjoining properties
- the development optimises safety and security, both internal to the development and for the public domain
- the development responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities



- the aesthetic quality of the development contributes to the desired future character of the area

### Residential Flat Design Code:

The Residential Flat Design Code (RFDC) supports the ten design quality principles identified in SEPPP 65. Council's Urban Design consultant has supported the proposed development as discussed above (external referrals) and the application is considered satisfactory having regard to an assessment against the RFDC guidelines as provided in the below compliance table.

RFDC Compliance Table

	<b>Guideline</b>	<b>Compliance</b>
<b>PART 02 SITE DESIGN</b>		
<b>Site Configuration</b>		
<i>Deep Soil Zones</i>	A minimum of 25 percent of the open space area of a site should be a deep soil zone (393m <sup>2</sup> ); more is desirable. Exceptions may be made in urban areas where sites are built out and there is no capacity for water infiltration. In these instances, stormwater treatment measures must be integrated with the design of the residential flat building.	YES (967m <sup>2</sup> – 61.5%)
<i>Open Space</i>	The area of communal open space required should generally be at least between 25 and 30 percent of the site area. Larger sites and brown field sites may have potential for more than 30 percent (1296m <sup>2</sup> ).	YES (1573m <sup>2</sup> - 36.4%)
<i>Planting on Structures</i>	In terms of soil provision there is no minimum standard that can be applied to all situations as the requirements vary with the size of plants and trees at maturity. The following are recommended as minimum standards for a range of plant sizes:  Medium trees (8 metres canopy diameter at maturity) - minimum soil volume 35 cubic metres - minimum soil depth 1 metre - approximate soil area 6 metres x	YES

	<b>Guideline</b>	<b>Compliance</b>
	6 metres or equivalent.	
<i>Safety</i>	<p>Carry out a formal crime risk assessment for all residential developments of more than 20 new dwellings.</p> <p>Reinforce the development boundary to strengthen the distinction between public and private space</p> <p>Optimise the visibility, functionality and safety of building entrances</p> <p>Improve the opportunities for casual surveillance.</p> <p>Minimise opportunities for concealment</p> <p>Control access to the development.</p>	YES
<i>Visual Privacy</i>	Refer to Building Separation minimum standards	YES (acceptable privacy and building separation outcomes - refer to urban design comments).
<i>Pedestrian Access</i>	Identify the access requirements from the street or car parking area to the apartment entrance.	YES
	<p>Follow the accessibility standard set out in Australian Standard AS 1428 (parts 1 and 2), as a minimum.</p> <p>Provide barrier free access to at least 20 percent of dwellings in the development.</p>	YES
<i>Vehicle Access</i>	Generally limit the width of driveways to a maximum of six (6) metres.	YES (6m)
	Locate vehicle entries away from main pedestrian entries.	YES
<b>PART 03 BUILDING DESIGN</b>		
<b>Building Configuration</b>		
<i>Apartment layout</i>	Single-aspect apartments should be limited in depth to 8 metres from	YES (8m or less)

	<b>Guideline</b>	<b>Compliance</b>
	a window.	
	The back of a kitchen should be no more than 8 metres from a window.	YES (8m or less)
	The width of cross-over or cross-through apartments over 15 metres deep should be 4 metres or greater to avoid deep narrow apartment layouts.	YES (apartments 15m or less)
<i>Apartment Mix</i>	Provide a diversity of apartment types, which cater for different household requirements now and in the future.	YES
<i>Balconies</i>	<p>Provide primary balconies for all apartments with a minimum depth of 2 metres.</p> <p>Developments which seek to vary from the minimum standards must demonstrate that negative impacts from the context-noise, wind – can be satisfactorily mitigated with design solutions.</p>	YES
<i>Ceiling Heights</i>	<p>The following recommended dimensions are measured from finished floor level (FFL) to finished ceiling level (FCL).</p> <p>These are minimums only and do not preclude higher ceilings, if desired in residential flat buildings or other residential floors in mixed use buildings:</p> <p>In general, 2.7 metres minimum for all habitable rooms on all floors, 2.4 metres is the preferred minimum for all non-habitable rooms, however 2.25 metres is permitted.</p> <p>For two storey units, 2.4 metres minimum for second storey if 50 percent or more of the apartment has 2.7 metres minimum ceiling heights.</p>	YES (3.0m or above, with exception of 2.7m for top floor)
<i>Ground Floor Apartments</i>	Optimise the number of ground floor apartments with separate entries and consider requiring an	YES (mixed use zoning – ground floor apartments with separate entries provided as appropriate to

	<b>Guideline</b>	<b>Compliance</b>
	appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site.	Merriwa Street frontage given topography and residential streetscape amenity considerations. Ground floor medical centre provided to Fitzsimons Lane to achieve required street activation).
	Provide ground floor apartments with access to private open space, preferably as a terrace or garden.	YES
<i>Internal Circulation</i>	In general, where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to eight. Exceptions may be allowed:  for adaptive reuse buildings where developments can demonstrate the achievement of the desired streetscape character and entry response where developments can demonstrate a high level of amenity for common lobbies, corridors and units, (cross over, dual aspect apartments).	NO (refer to below discussion)
<i>Storage</i>	In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:  - studio apartments 6m <sup>3</sup> - one-bedroom apartments 6m <sup>3</sup> - two-bedroom apartments 8m <sup>3</sup> - three plus bedroom apartments 10m <sup>3</sup>	YES (refer to urban design comments)
<b>Building Amenity</b>		
<i>Daylight Access</i>	Living rooms and private open spaces for at least 70% of apartments in a development should receive a minimum of three hours direct sunlight between 9 am and 3 pm in mid-winter. In dense urban areas a minimum of two hours may be acceptable.	NO (refer to below discussion)
	Limit the number of single-aspect	YES (10% maximum)

	<b>Guideline</b>	<b>Compliance</b>
	apartments with a southerly aspect (SW-SE) to a maximum of 10% of the total units proposed. Developments which seek to vary from the minimum standards must demonstrate how site constraints and orientation prohibit the achievement of these standards and how energy efficiency is addressed (see Orientation and Energy Efficiency).	
<i>Natural Ventilation</i>	Building depths, which support natural ventilation typically range from 10 to 18 metres.	NO (refer to below discussion)
	Sixty percent (60%) of residential units should be naturally cross ventilated.	YES (67.5%)
	Twenty five percent (25%) of kitchens within a development should have access to natural ventilation.	YES (25%)
<b>Building Performance</b>		
<i>Waste Management</i>	Supply waste management plans as part of the development application submission as per the NSW Waste Board.	YES
<i>Water Conservation</i>	Rainwater is not to be collected from roofs coated with lead- or bitumen-based paints, or from asbestos- cement roofs. Normal guttering is sufficient for water collections provided that it is kept clear of leaves and debris.	YES

An assessment of the variations to the design controls identified in the compliance table is provided below.

### **Internal circulation**

The RFDC specifies that where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to eight. The proposal is non-compliant in this regard as Building A involves up to 14 units being served by single common corridors. However, this is considered acceptable in the circumstances and supported by Council's Urban Design consultant given the provision of two lifts, L-shaped

configuration of corridors, suitable corridor width, and overall amenity achieved with respect to natural light and ventilation.

### **Daylight access**

In accordance with the RFDC, living rooms and private open spaces for at least 70% of apartments in a development should receive a minimum of three hours direct sunlight between 9 am and 3 pm in mid-winter. In dense urban areas a minimum of two hours may be acceptable. It is proposed that 71.8% of apartments achieve a minimum of 2 hours which is considered acceptable on merit having regard to the overall access to daylight and amenity achieved by the apartments and supported by Council's Urban Design consultant. In particular, the proposed arrangement of the buildings and corresponding internal layouts maximise the northern aspect and solar amenity to the majority of units. Single aspect units with a southerly aspect represent a maximum of 10% of units in accordance with the RFDC and these units provide large areas of glazing to achieve reasonable levels of natural light and outlook.

### **Natural ventilation**

The RFDC provides that building depths, which support natural ventilation, typically range from 10 to 18 metres. The proposed development exceeds this range, providing a building depth of up to 21 metres at the widest part. However, this is considered satisfactory and is supported by Council's Urban Design consultant having regard to the overall cross ventilation and solar access provided to the development, subject to natural ventilation being required to a number of bathrooms and laundries as required by condition **(Condition 24)**. Additional amenity is provided by the inclusion of a communal open space room at the ground floor of Building B.

## **Local Content**

### **Ku-ring-gai LEP (Local Centres) 2012**

#### **Zoning and permissibility:**

The site is zoned B4 Mixed Use. The proposed development is classified as a mixed use building containing a residential flat building and a medical centre and is permissible in the zone.

#### **Mixed use zone objectives:**

The development:

- provides a mix of compatible land uses
- integrates business, office, residential, retail and other development in proximity to public transport and encourages walking and cycling

- through footpath upgrades, through site links, and well designed and planned bicycle facilities
- supports the integrity and viability of adjoining local centres by providing for a range of “out of centre” uses and business activities

The proposed development therefore satisfies the zone objectives.

#### **Development standards:**

The proposed development complies with the applicable development standards of the LEP as indicated in the below table.

<b>Development standard</b>	<b>Proposed</b>	<b>Complies</b>
<b>Building height:</b> 23.5m (Area 2)	23.2m	<b>YES</b>
<b>Floor space ratio:</b> 2.0:1 (Area 6)	2.0:1	<b>YES</b>
<b>Ground floor development in business zones:</b> Applicable to development with commercial premises component: No residential and no parking at ground floor	Mixed use development with residential accommodation and medical centre (no commercial premises proposed)	<b>N/A</b>
<b>Minimum street frontage in business zones:</b> 20m	45m	<b>YES</b>

#### **Clause 5.9 – Preservation of trees or vegetation**

Council's Landscape Development Officer is satisfied that the proposed development will not unduly impact upon any existing significant trees or vegetation, subject to conditions.

#### **Clause 5.10 – Heritage conservation**

The site does not contain a heritage item and is not in the immediate vicinity of any heritage items or within a heritage conservation area.

#### **Clause 6.1 – Earthworks**

The proposed development will not restrict the existing or future use of the site, adversely impact on neighbouring amenity, the quality of the water table or disturb any known relics.

#### **Clause 6.2 - Stormwater and water sensitive urban design**

Council's Development Engineer is satisfied that the proposed development has been designed to control stormwater run-off as per the requirements of the LEP, subject to conditions.

#### **Clause 6.6 – Ground floor development in business zones**

Clause 6.6 states the following:

- “(1) The objective of this clause is to ensure that active uses are provided at the street level in business zones to encourage the presence and movement of people.*
- (2) This clause applies to land in the following zones:*
- (a) Zone B2 Local Centre,*
  - (b) Zone B4 Mixed Use,*
  - (c) Zone B5 Business Development.*
- (3) Development consent must not be granted to development for the purposes of commercial premises or to a mixed use development with a commercial premises component, or a change of use of a building to commercial premises, on land to which this clause applies unless the consent authority is satisfied that the ground floor of the building:*
- (a) will not be used for the purposes of residential accommodation or a car park or to provide ancillary car parking spaces, and*
  - (b) will provide uses and building design elements that encourage interaction between the inside of the building and the external public areas adjoining the building.*
- (4) Subclause (3) (b) does not apply to any part of a building that:*
- (a) faces a service lane that does not require active street frontages, or*
  - (b) is used for 1 or more of the following purposes:*
    - (i) a lobby for a commercial, residential, serviced apartment or hotel component of the building,*
    - (ii) access for fire services,*
    - (iii) vehicular access.”*

The objective of Clause 6.6 applies to the development given the subject land is located within Zone B4 Mixed Use. The development satisfies the objective of the clause as the medical centre, communal room and associated entry courtyards are considered to provide active uses at the street level which encourage the presence and movement of people at the principal active frontage of the development to Fitzsimons Lane.

Street activation is further enhanced by the proposed 3 metres front setback to the building on the Fitzsimons Lane frontage and pedestrian through link alongside the site's eastern boundary, which will provide access between Fitzsimons Lane and Merriwa Street, increasing block permeability and improving access to services and facilities within the area as envisaged for the future. These aspects of the development have been designed in accordance with the site specific setback provisions of the Local Centres DCP and are discussed further below.

The capacity for street activation is limited along the Merriwa Street frontage given the notable cross fall of the site which results in the ground floor level being up to 5.5 metres above the street frontage at the south-western corner of the site. Notwithstanding these topographical constraints, the proposed ground floor development at the Merriwa Street frontage is accepted on planning and urban design grounds having regard to practicable street



activation provided by the generous pedestrian entry width, definition from the street, and provision of ground level entry units with individual entries. The building is set back 12 metres from the street in accordance with the site specific provisions of the DCP as detailed below, which is sympathetic to streetscape character and neighbour amenity having regard to the opposite side of Merriwa Street consisting of low density residential development in the subject context.

Sub clauses 6.6(3) and 6.6(4) do not allow residential accommodation or car parking at the ground floor level of commercial developments. These clauses are not applicable to the proposed development as it does not involve a commercial premises component. Specifically, the proposed development represents a mixed use development incorporating residential accommodation and a medical centre, which is not classified as commercial premises under the LEP.

Accordingly, the application is satisfactory with regard to Clause 6.6 as it applies to the development by virtue of its provision of active uses at street level in accordance with the objective of the clause.

## POLICY PROVISIONS

Policy Provisions (DCPs, Council policies, strategies and management plans)

### Ku-ring-gai Local Centres Development Control Plan

#### Volume A

COMPLIANCE TABLE		
Development control	Proposed	Complies
<b>Part 8 Mixed use development controls</b>		
<b>8A – Site design</b>		
<b>8A.1 Building setbacks</b>		
<b>Street setback - site specific requirements as per Volume B Part 1:</b>		
12m to Merriwa Street for landscaped gardens	<i>Building A:</i> 12m, incorporating landscaped garden	<b>YES</b>
3m to Fitzsimons Lane for building forecourts and landscaped gardens	<i>Building B:</i> 3m, incorporating courtyard and landscaping	<b>YES</b>
<b>Side setback</b>		
Nil required setback, except to provide for through-site pedestrian link	<b>East –</b> <i>Building A &amp; B:</i> 6m (wall), incorporating pedestrian link	<b>YES</b>

Party wall required for setbacks < 3m	<b>West –</b> <i>Building A:</i> 6.0m (wall)  <i>Building B:</i> 3.5m (wall)	<b>YES</b>   <b>YES</b>
<b>8A.2 Building separation</b>		
The minimum separation between residential buildings on the development sites and the adjoining sites must be:  Up to 4 <sup>th</sup> storey 12m between habitable rooms/balconies 9m between habitable rooms/balconies and non-habitable rooms 6m between non-habitable rooms  5 to 8 storeys over the podium 18m between habitable rooms/balconies 13m between habitable rooms/balconies and non-habitable rooms 9m between non-habitable rooms  <i>Notes:</i> 1. <i>Figures provided in middle column (proposed) represent minimum separation provided from the wall of units/balconies to respective boundaries with adjoining sites. Compliance is assumed on the basis of half of the required building separation being provided by the proposal.</i> 2. <i>Adjoining properties at time of report consist of existing/approved commercial uses (adjoining site to the east is vacant at the time of the report with approval for new commercial development – refer to above description of surrounding development).</i> 3. <i>Accordingly, minimum separation required for compliance is the distance specified between habitable rooms/balconies and non-habitable rooms.</i>	<b>East –</b> Levels 1-4 – <i>Building A &amp; B:</i> 6m  Levels 5-6 – <i>Building A &amp; B:</i> 9m  <b>West –</b> Levels 1-4 – <i>Building A:</i> 6m <i>Building B:</i> 3.5m (4.5m required)  Levels 5-6 – <i>Building A:</i> 8m & 9m <i>Building B:</i> 3.5m & 5.9m (level 6) (6.5m required)	<b>YES</b>   <b>YES</b>   <b>YES</b>  <b>NO</b>   <b>YES</b>  <b>NO</b>
<b>8A.3 Wind impact</b>		
10m/second at the footpath	No change at Merriwa Street or Fitzsimons Lane frontages.	<b>YES</b>
<b>8B – Access and parking</b>		

<b>8B.1 Vehicle and Service Access and Loading Facilities</b>		
In accordance with Volume B 1D, being: <ul style="list-style-type: none"> <li>- All access from Fitzsimons Lane or Merriwa Street</li> <li>- No vehicular or service access from Pacific Highway</li> <li>- Residential and commercial lobbies located on Fitzsimons Lane and Merriwa Street.</li> </ul>	Access from Fitzsimons Lane and Merriwa Street. Lobbies as appropriate to Fitzsimons Lane and Merriwa Street.	<b>YES</b>
<b>Vehicle access</b> Shared vehicle entry/exit point for different uses and secure and separate parking between uses	Shared access point from Fitzsimons Lane and parking spaces allocated between uses.	<b>YES</b>
<b>Service access</b> Enter and exit in a forward direction Waste access to have 4.5m finished ceiling height for the path of travel of waste vehicle for commercial/retail and 2.6m for residential	Compliant (as per Development Engineer comments).	<b>YES</b>
<b>Loading facilities</b> Internal loading facilities to be provided. Loading docks must not be visible public streets. Access and manoeuvring in accordance with AS2890.2	Loading facility accessible off Fitzsimons Lane entry. Access & manoeuvring compliant.	<b>YES</b>
<b>8B.2 Car parking provision</b>		
<b>Design</b> All parking to be within basement.	All parking is within the basement.	<b>YES</b>
Car parking shall not project above the finished ground level for active street frontages (Fitzsimons Lane) and <1m for supporting frontages (Merriwa Street)	A section of the basement projects approximately 3m above the existing ground level at the supporting frontage (Merriwa St).	<b>NO</b>
Car parking to comply with AS2890.1	Compliant	<b>YES</b>
Floor to ceiling heights for any above ground parking must be 3m to allow for change of use.	Basement parking is principally below ground level.	<b>YES</b>
<b>Car parking rates</b> <ul style="list-style-type: none"> <li>- Medical centre – minimum 5 spaces</li> </ul>	Refer Development Engineer comments above. <ul style="list-style-type: none"> <li>- Medical centre: 5 spaces</li> </ul>	<b>YES</b>

<ul style="list-style-type: none"> <li>- Residential – minimum 92, maximum 130 spaces (including 12 accessible)</li> <li>- Visitor – minimum 20 spaces</li> </ul>	<ul style="list-style-type: none"> <li>- Residential: 128 spaces (including 13 accessible)</li> <li>- Visitor: 20 spaces (including 2 accessible)</li> </ul>	<b>YES</b>       <b>YES</b>
<b>8B.3 Bicycle parking and support facilities provision</b>		
<b>Medical Centre</b> <ul style="list-style-type: none"> <li>- A minimum of 1 bicycle space per 600m2 for staff</li> <li>- A minimum of 1 bicycle space per 2500 m2 for visitors</li> </ul>	The medical centre being 120m <sup>2</sup> GFA does not generate a bicycle parking requirement.	<b>YES</b>
<b>Residential</b> <ul style="list-style-type: none"> <li>- A minimum of 1 bicycle space per 5 units shall be provided within the residential car park area (23 spaces)</li> <li>- A minimum of 1 bicycle space per 10 units shall be provided for visitors in the visitor car park area (11 spaces)</li> </ul>	A total of 36 bicycle spaces are provided: <ul style="list-style-type: none"> <li>- 24 allocated to residential units</li> <li>- 12 allocated to visitors.</li> </ul>	<b>YES</b>
<b>8C – Building design and sustainability</b>		
<b>8C.1 – Solar access</b>		
A minimum of 70% of apartments in each building must receive at least 2 hours direct sunlight to living rooms and adjacent private open space between 9am and 3pm on 21 June	71.8%	<b>YES</b>
A minimum of 50% of the common open space for residents use must receive direct sunlight for 3 hours between 9am and 3pm on 21 June	The primary common open space is located between the buildings such that self-shading limits direct solar access to 44% of the area (excluding building setback areas) for at least 3 hours between 9am and 3pm on 21 June.	<b>NO</b>
The number of single aspect apartments with a southerly aspect (SW to SE) is limited to 10% of the total number of apartments proposed in each building.	The proportion of single aspect units with a southerly aspect is 9.75%.  Additionally, units provide large areas of glazing to achieve reasonable levels of natural light	<b>YES</b>

	and outlook.	
All developments must allow the retention of 3 hours sunlight between 9am and 3pm on 21 June to living areas and the principal portion of the private and communal open space of residential development on adjoining lots.	<p>The existing neighbouring buildings are commercial buildings.</p> <p>The proposal is considered acceptable in terms of likely impacts to future development of neighbouring properties, particularly given the north-south orientation of the allotment.</p>	<b>YES</b>
Developments must allow the retention of a minimum 4 hours direct sunlight to all existing neighbouring solar collectors and solar hot water services	No impact on neighbouring solar collectors and solar hot water services.	<b>YES</b>
All developments must utilise shading and glare control	Shading devices are proposed.	<b>YES</b>
<b>8C.2 – Natural ventilation</b>		
All habitable rooms are to have operable windows or doors	Operable windows and doors provided.	<b>YES</b>
At least 60% of apartments must have natural cross ventilation	67.5%	<b>YES</b>
At least 25% of kitchens are to be immediately adjacent to an operable window	25%	<b>YES</b>
Cross ventilation is not to be dependent on skylights or open corridors where it would impact on privacy	No privacy impacts.	<b>YES</b>
Commercial (non-residential) workspaces to have operable windows to 30% of window area	Operable windows are provided.	<b>YES</b>
Dual aspect commercial workspaces to be provided where possible	North east and south east aspects provided.	<b>YES</b>
Where natural ventilation cannot be achieved, mechanical ventilation is to be provided to commercial workspaces	Natural ventilation achieved.	<b>YES</b>
<b>8C.3 – Office floor depth</b> <i>(Indicative assessment for medical centre)</i>		
Internal plan depth for office floors to be 10m maximum from glass to internal face of wall	8m	<b>YES</b>
Maximise opportunities for external openings – access to daylight and views	The tenancy is glazed to the northern aspect with good access	<b>YES</b>

	to daylight and views.	
<b>8C.4 – Apartment depth and width</b>		
Dual aspect apartments are to have a maximum internal plan depth of 18m from glass line to glass line	11m or less	<b>YES</b>
Single aspect apartments are to have a maximum internal plan depth of 8m from glass line to internal face of wall of habitable area	8m or less	<b>YES</b>
The width of dual aspect apartments over 15m deep must be 4m or greater to avoid deep narrow apartment layouts	No units > 15m in depth	<b>YES</b>
All kitchens must not be located more than 8m to the back wall of the kitchen from an external opening	8m or less	<b>YES</b>
<b>8C.5 – Apartment mix and sizes</b>		
A range of apartment sizes and types must be included in the development	An acceptable mix of 1 bedroom to 3 bedroom apartments are proposed.	<b>YES</b>
One bedroom and studio apartments are to have a minimum floor area of 38.5m <sup>2</sup>	50m <sup>2</sup> to 60m <sup>2</sup>	<b>YES</b>
Two bedroom apartments are to have a minimum floor area of 70m <sup>2</sup>	70m <sup>2</sup> to 80m <sup>2</sup>	<b>YES</b>
Three bedroom apartments are to have a minimum floor area of 95m <sup>2</sup>	95m <sup>2</sup>	<b>YES</b>
A mix of 1, 2 and 3 bedroom apartments are to be provided on the ground level	1, 2 and 3 bedroom apartments provided on the ground level.	<b>YES</b>
At least one apartments for each ten apartments is to be designed as adaptable housing Class C	10% adaptable apartments provided.	<b>YES</b>
At least 70% of apartments in the development are to be visitable	70% visitable apartments provided.	<b>YES</b>
<b>8C.6 – Room sizes</b>		
Living areas in apartments with two or more bedrooms are to have living areas with a minimum internal plan dimension of 4m	>4m	<b>YES</b>
Living areas in one bedroom apartments are to have a minimum internal plan	>3.5m	<b>YES</b>

dimension of 3.5m		
Bedrooms in one and two bedroom apartments must have minimum internal plan dimension of 3m (excluding wardrobes)	>3m	<b>YES</b>
In apartments with three or more bedrooms at least two bedrooms are to have minimum internal plan dimension of 3m (excluding wardrobes)	>3m	<b>YES</b>
Built in wardrobes are to be provided to all studio apartments, to all bedrooms in one and two bedroom apartments and to at least two bedrooms in apartments of three or more bedrooms	Built in wardrobes provided as required.	<b>YES</b>
Living areas in apartments with two or more bedrooms are to have living areas with a minimum internal plan dimension of 4m	>4m	<b>YES</b>
<b>8C.7 – Building entries</b>		
Buildings must address the street either: with main entrances to lift lobbies directly accessible and visible from the street; or with the path to the building entry readily visible from the street where site configuration is conducive to having a side entry.	The main entrances to Building A and Building B are both directly accessible and visible from their respective street frontages.  Side entries are also provided from the pedestrian through path to enhance street activation and engagement. Separate entry points are provided for the medical centre.	<b>YES</b>
Buildings with facades over 18m long must have multiple entries.	Multiple entries provided for each building.	<b>YES</b>
Building entry must be integrated with building facade design. At street level, the entry is to be articulated with awnings, porticos, recesses or projecting bays for clear identification.	Building entries are well identified and integrated with the building design and street level as far as practicable.  The level difference at the Merriwa Street frontage is addressed by suitable landscaping and pathways to the ground floor lobby.	<b>YES</b>
All entry areas must be well lit and designed to avoid any concealment or entrapment areas. All light spill is prohibited.	The entry area does not contain concealment or entrapment areas. Light spill will be minimised by the arrangement of building form.	<b>YES</b>

Lockable mail boxes must be provided close to the street. They must be at 90 degrees to the street and to Australia Post standards and integrated with front fences or building entries.	Mailboxes are suitably located.	<b>YES</b>
<b>8C.8 – Internal common circulation</b>		
The design of internal common circulation space must comply with the provisions in AS1428.1 and AS1428.2 to provide adequate pedestrian mobility and access.	An access report which demonstrates compliance with the standards has been provided.	<b>YES</b>
<p>All common circulation areas including foyers, lift lobbies and stairways must have:</p> <ul style="list-style-type: none"> <li>i) appropriate levels of lighting with a preference for natural light where possible;</li> <li>ii) short corridor lengths that give clear sight lines;</li> <li>iii) clear signage noting apartment numbers, common areas and general direction finding;</li> <li>iv) natural ventilation;</li> <li>v) low maintenance and robust materials.</li> </ul>	Appropriate lighting, sight lines, way finding, ventilation and materials to be available to lift lobbies and foyers.	<b>YES</b>
Where artificial lighting is required energy efficient lights are to be used in conjunction with timers or daylight controls.	This issue is addressed by the BASIX certificate.	<b>YES</b>
<p>All single common corridors must:</p> <ul style="list-style-type: none"> <li>- serve a maximum of 8 units</li> <li>- &gt;1.5m wide</li> <li>- &gt;1.8m wide at lift lobbies</li> </ul>	Up to 14 units will be served by single common corridors.	<b>NO</b>
<b>8C.9 – Roof forms and podiums</b>		
Upper storey must be articulated with differentiated roof forms	The upper storeys are sufficiently articulated (level 4 and above) with differentiated roof forms to minimise visual impacts.	<b>YES</b>
Service elements to be integrated into the design of the roof	Air conditioning is integrated in the roof design, the location shall form a condition of consent.	<b>YES</b>
Roof design must respond to solar	The roof design maintains solar	<b>YES</b>



access	access.	
<b>8C.10 – Communal open space</b>		
At least 10m <sup>2</sup> per dwelling must be provided as communal open space (1160m <sup>2</sup> )	1573m <sup>2</sup>	<b>YES</b>
A single parcel of communal open space with a minimum area of 80m <sup>2</sup> , minimum dimensions of 8m and 2 hours solar access to 50% of the space on 21 June must be provided	<p>Two areas of communal open space have an area exceeding 80m<sup>2</sup> and minimum dimension of 8m.</p> <p>An additional communal room is provided at the ground floor of Building B.</p> <p>Solar access is satisfactory as discussed above.</p>	<b>YES</b>
Shared facilities such as BBQs, shade structures, play equipment and seating are to be provided in the communal open space	BBQ facilities, shade (communal room) and seating provided.	<b>YES</b>
Access for people with a disability must be provided to communal open space	Access provided to all communal open space areas.	<b>YES</b>
<b>8C.11 – Private open space</b>		
Ground floor and podium apartments are to have a terrace or private courtyard with a minimum area of 25m <sup>2</sup>	3 out of 16 (19%) apartments have private open space areas < 25m <sup>2</sup> . The 3 non-compliant apartments have 15m <sup>2</sup> , 19m <sup>2</sup> and 23m <sup>2</sup> .	<b>NO</b>
<p>All apartments not at the ground floor or podium level are to include private open space with a minimum area (internal dimension) of::</p> <ul style="list-style-type: none"> <li>- 10m<sup>2</sup> – 1 bedroom apartment</li> <li>- 12m<sup>2</sup> – 2 bedroom apartment</li> <li>- 15m<sup>2</sup> – 3 bedroom or larger apartment</li> </ul>	<ul style="list-style-type: none"> <li>- 1 bedroom: 8m<sup>2</sup> to 23m<sup>2</sup> (11 &lt;10m<sup>2</sup>, 16%)</li> <li>- 2 bedroom: 10m<sup>2</sup> to 25m<sup>2</sup> (12 &lt;12m<sup>2</sup>, 27%)</li> <li>- 3 bedroom: 36m<sup>2</sup> to 56m<sup>2</sup></li> </ul>	<p><b>NO</b></p> <p><b>NO</b></p> <p><b>YES</b></p>
The primary outdoor open space must have a minimum dimension of 2.4m	2.4m	<b>YES</b>
The primary private open space is to have direct access from the main living areas	Private open spaces are accessed from the main living area.	<b>YES</b>
Private open space for ground and podium level apartments is to be differentiated from common areas by:	Changes in level, planting and fencing are used to differentiate ground level private open space	<b>YES</b>

<p>A change in level</p> <p>Screen planting, such as hedges and low shrubs</p> <p>A fence wall to a maximum height of 1.8m, any solid wall component is to be a maximum height of 1.2m with 30% transparent component above plus gate to the common area</p>	<p>from common areas.</p> <p>Planter boxes are proposed to a height of 1.2 metres at ground floor level.</p> <p>Private open space adjacent to the pedestrian through link will be adequately separated by 1.8m high fencing.</p>	
<b>8C.12 Building facades</b>		
For building façade street wall controls for mixed use buildings in urban precincts (precinct G4), refer to Volume B Part 1D.3.	The proposal accords with the building setbacks and public domain outcomes of Volume B Part 1D.3 (Refer Part 8A.1 as above).	<b>YES</b>
<p><b>Built form (1D.4)-</b></p> <p>Provide active frontages to Fitzsimons Lane where ever possible.</p>	<p>The proposal includes a medical centre to activate the principal active frontage to Fitzsimons Lane.</p> <p>The proposal includes multiple building entries and a through-site-link, and is considered to result in good activation at the Fitzsimons Lane frontage, and a practical supporting active frontage to Merriwa Street.</p>	<b>YES</b>
<p><b>Public domain (1D.5)-</b></p> <p>Provide a new pedestrian accessway linking Merriwa Street and Fitzsimons Lane.</p>	The proposal includes a through-site-link to achieve the required pedestrian permeability between Merriwa Street and Fitzsimons Lane.	<b>YES</b>
The continuous length of a residential building over the podium facing the street or public domain must not exceed 36m.	<p>Building A: 35m</p> <p>Building B: 29.5m</p>	<b>YES</b>
Street, side and rear building facades must be modulated and articulation with wall planes varying in depth by not less than 0.6m. Defined base, middle and top. Expression of varied floor to floor height. Location of openings to reflect the rhythm and expression of uses within the building.	The development is well articulated. Refer to urban design comments.	<b>YES</b>

Buildings must be designed to incorporate solar protection elements, and must be co-ordinated and integrated with façade design.	The building outcome achieves these measures. Refer to urban design comments.	<b>YES</b>
Air conditioning units must not be located on the building façade or within the private open space.	Air conditioning units are concealed from view behind the rooftop parapets.	<b>YES</b>
Balconies that run the full length of the building façade are not permitted.	No balconies that run the full length of the building façade are proposed.	<b>YES</b>
Balconies must not project more than 1.2m from the outermost wall of the building façade.	A number of north-facing balconies to Building B project more than 1.2m from the relevant wall, up to a maximum of 3.6m at the eastern side of the building.	<b>NO</b>
Windows to a habitable room are to be situated to encourage opportunities for passive surveillance to the site and on site areas surrounding the building.	Windows to a habitable room are located to provide for passive surveillance to the site and on site areas surrounding the building.	<b>YES</b>
<b>8C.13 – Corner building articulation</b>		
<p>Street corners must be emphasised by accentuating parts of the building façade, through:</p> <ul style="list-style-type: none"> <li>i) changes in height, colour or facade materials;</li> <li>ii) change in building articulation;</li> <li>iii) facade orientation;</li> <li>iv) change in roof expression;</li> <li>v) splayed setbacks or curves;</li> <li>vi) corner entries.</li> </ul> <p>Corner buildings are to address both street frontages.</p>	The site is not a corner site, although has dual frontages. The proposal articulates all street frontages. The building has a sense of address from all frontages. Refer to urban design comments.	<b>YES</b>
<b>8C.14 – Ground commercial uses</b>		
Buildings on principle active street frontages must provide facades that address the street and public domain with appropriate façade treatments at street level.	<p>The development is acceptable having regard to street activation, and addresses the street and public domain on all frontages as far as practicable given topographical constraints.</p> <p>The pedestrian through link further enhances street activation aspects of the development.</p>	<b>YES</b>
<b>8C.15 – Awnings</b>		

Continuous awning must be provided to the full length of the principal active street frontage.  Provide awnings along the supporting active street frontages (including mixed use buildings in R4 zones) wherever practical, especially at key pedestrian entrances.	Awnings are provided at building entries.	<b>YES</b>
<b>8C.16 – Colonnades</b>		
All colonnade spaces must be within the property boundary.  Colonnades are to have a height/width ratio no less than 1.5:1, a minimum width of 2.4m, and a minimum soffit height of 3.6m.	Colonnades are not proposed as part of the development.	<b>YES</b>
<b>8C.17 – Internal ceiling heights</b>		
The minimum ceiling heights are to be: i) 3.3m for ground floor; ii) 3m for first floor commercial or residential uses; iii) 2.7m for residential use or 3m for commercial uses on all other floors	<ul style="list-style-type: none"> <li>- 3.0m ground floor residential</li> <li>- 3.6m ground floor medical centre</li> <li>- 3.0m first floor residential</li> <li>- 3.0m residential all other floors (except 2.7m for top floor)</li> </ul>	<b>NO</b>  <b>YES</b> <b>YES</b>  <b>YES</b>
<b>8C.18 – Visual privacy</b>		
Buildings must be designed to ensure privacy for residents of the development and of the neighbouring site. The use of offset balconies, recessed balconies, vertical fins, solid and semi-transparent balustrades, louvres/screen panels and planter boxes is encouraged.	Privacy for residents of the development and neighbouring sites has been suitably achieved through the use of measures including: <ul style="list-style-type: none"> <li>- recessed balconies</li> <li>- 1.8m high timber screens are between courtyards/balconies</li> <li>- 1.2m high planter boxes to private open spaces</li> <li>- 1.8m high fencing to separate private open spaces from pedestrian through link</li> </ul>	<b>YES</b>
Privacy for ground floor apartments should be achieved by the use of a change in level and/or screen planting.	Changes in level, fencing and landscaping used to achieve privacy for ground floor units.	<b>YES</b>
Continuous transparent balustrades are not permitted to balconies or terraces for the lower 3 storeys.	No continuous transparent balconies across the facades.	<b>YES</b>

Screening between apartments must be integrated with the overall building design.	Timber privacy screening devices are integrated into the design of the building.	<b>YES</b>																					
Landscaped screening must be provided to adjoining sites.	Landscaped deep soil planter zones are provided adjacent to the site's eastern and western side boundaries to facilitate suitable screen planting.	<b>YES</b>																					
<b>8C.19 – Acoustic privacy</b>																							
<p>The maximum LAeq (1 hour) noise levels of any development must not exceed the levels as set out in Table 8C.19-1, when measured at the window of a habitable room within a residential occupancy and in any case not more than 5 dB(A) above the background level during the day and evening and not exceeding the background level at night.</p> <table> <tr> <th><i>Time of day</i></th><th><i>Maximum noise level - Windows open</i></th><th><i>Maximum noise level - Windows closed</i></th></tr> <tr> <td><i>Day</i></td><td>55 dB(A)</td><td>45 dB(A)</td></tr> <tr> <td><i>Evening</i></td><td>50 dB(A)</td><td>40 dB(A)</td></tr> <tr> <td><i>Night</i></td><td>45 dB(A)</td><td>35 dB(A)</td></tr> <tr> <td></td><td>bedrooms only</td><td>bedrooms only</td></tr> <tr> <td></td><td>50 dB(A)</td><td>40 dB(A)</td></tr> <tr> <td></td><td>living areas</td><td>living areas</td></tr> </table>	<i>Time of day</i>	<i>Maximum noise level - Windows open</i>	<i>Maximum noise level - Windows closed</i>	<i>Day</i>	55 dB(A)	45 dB(A)	<i>Evening</i>	50 dB(A)	40 dB(A)	<i>Night</i>	45 dB(A)	35 dB(A)		bedrooms only	bedrooms only		50 dB(A)	40 dB(A)		living areas	living areas	<p>An acoustic impact assessment has been provided in support of the proposed development. It is considered that, with the provision of air conditioning, the development will comply with the expected acoustic privacy requirements.</p> <p>Council's Environmental Health Officer has supported the development in this regard, subject to conditions (refer to above comments).</p>	<b>YES</b>
<i>Time of day</i>	<i>Maximum noise level - Windows open</i>	<i>Maximum noise level - Windows closed</i>																					
<i>Day</i>	55 dB(A)	45 dB(A)																					
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	bedrooms only	bedrooms only																					
	50 dB(A)	40 dB(A)																					
	living areas	living areas																					
<b>8C.20 – Late night trading</b>																							
Development for late night trading premises must be designed to minimise the impacts of noise production on nearby and adjoining premises	<p>No late night trading proposed.</p> <p>Hours of trading for the proposed medical centre are as follows:  Mon Tue, Wed, Fri: 8am -7:30pm  Thurs: 8am -9pm  Sat: 8am -3pm  (Closed Sundays)</p>	<b>YES</b>																					
<b>8C.21 – Apartment storage</b>																							
<p>Storage space shall be provided at the following minimum volumes:</p> <ul style="list-style-type: none"> <li>- 6m<sup>3</sup> for studio and one bedroom apartments</li> </ul>	Storage provision complies with these requirements.	<b>YES</b>																					

<ul style="list-style-type: none"> <li>- 8m<sup>3</sup> for two bedroom units</li> <li>- 10m<sup>3</sup> for two bedroom units</li> <li>- 12m<sup>3</sup> for units with three or more bedrooms</li> </ul> <p>At least 50% of the required storage space must be provided inside the apartment.</p>		
<b>8C.22 – External air clothes drying facilities</b>		
Each apartment is required to have access to an external air clothes drying area, e.g. a screened balcony, a terrace or common area.	Provided via condition of consent <b>(Condition 93)</b> .	<b>YES</b>
External air clothes drying areas must be screened from public and common open space areas.	All external clothes drying areas are screened from public and common open space areas.	<b>YES</b>

An assessment of the variations to the design controls identified in the compliance table is provided below.

### **Building separation**

Building B involves two non-compliances with regard to building separation provided to the western side boundary as indicated in the above table. In particular, for Levels 1-4, a minimum separation to the western boundary of 4.5 metres is required and 3.5 metres is proposed. In relation to Levels 5-6, a minimum separation of 6.5 metres is required with 3.5 metres proposed for Level 5 and 5.9 metres proposed for Level 6. These non-compliances are considered acceptable in the circumstances given that the immediate area on the adjoining site to the west (No. 71 Ridge Street) is occupied by a car parking area and the nearest building on that site is approximately 22m from the subject boundary. Accordingly, building separation to the existing neighbouring commercial building is ample being in excess of 25.5m. Additionally, the non-compliance relates only to a length of approximately 11m along the irregular extent of the western side boundary and, as such, is unlikely to adversely affect the development potential of the adjoining site.

### **Car parking – design**

The DCP requires that car parking shall not project above the finished ground level for active street frontages (Fitzsimons Lane) and less than 1 metres for supporting frontages (Merriwa Street). The proposed basement car park does not project above finish ground level for the active street frontage (Fitzsimons Lane) and is therefore in accordance with the requirement, however, a projection of approximately 3 metres above the existing ground level at the supporting frontage (Merriwa Street) is proposed, which exceeds the maximum prescribed height by 2 metres. The projection is supported in the circumstances as the maximum breach of 2 metres occurs above the car park entry and results from the notable cross fall of the site such that the projection

reduces significantly to the eastern end of the frontage. Additionally, the projection will not unduly impact the streetscape given the subject wall is set back approximately 15m from the property frontage, the basement is integrated with the site landscaping (terraced walls) and building design and the proposed materials (stone cladding) provided appropriate character to the building façade as observed by Council's Urban Design consultant.

### **Solar access – common open space**

In accordance with the DCP requirement, a minimum of 50% of the common open space for residents use must receive direct sunlight for 3 hours between 9am and 3pm on 21 June. The primary common open space is located between the buildings such that self-shading limits direct solar access to 44% of the area (excluding building setback areas) for at least 3 hours between 9am and 3pm on 21 June. This is considered acceptable given constraints presented by site orientation and the achievement of a desirable and functional building footprint which will facilitate good solar access to the apartments in excess of the minimum requirements. Additionally, the development will benefit from a north-facing common open space room for recreational use at the ground floor of Building B to supplement the landscaped common open space between the buildings, as observed by Council's Urban Design consultant.

### **Internal common circulation**

As required by the DCP, all single common corridors must serve a maximum of 8 units. The proposal is non-compliant in this regard as Building A involves up to 14 units being served by single common corridors. However, this is considered acceptable in the circumstances and is supported by Council's Urban Design consultant given the provision of two lifts, L-shaped configuration of corridors, suitable corridor width, and overall amenity achieved with respect to natural light and ventilation.

### **Private open space**

The DCP specifies that ground floor and podium apartments are to have a terrace or private courtyard with a minimum area of 25m<sup>2</sup>. The proposal involves 3 out of 16 (19%) ground floor apartments with private open space areas less than 25m<sup>2</sup>. The 3 non-compliant apartments have 15m<sup>2</sup>, 19m<sup>2</sup> and 23m<sup>2</sup>. This is acceptable given the overall amenity provided by the generous setbacks and common open space areas. The proposal is supported by Council's Landscape Development Officer and Urban Design consultant having regard to landscaping amenity.

Additionally, as specified by the DCP, all apartments not at the ground floor or podium level are to include private open space with a minimum area (internal dimension) of 10m<sup>2</sup> for 1 bedroom apartments and 12m<sup>2</sup> for 2 bedroom apartments. The proposal involves a total of 23 apartments (19.8%) with private open space areas less than the minimum specified area. This is acceptable on merit given that the maximum extent of the shortfall for any

apartment is 2m<sup>2</sup> as indicated in the above table, and having regard to the overall amenity to units provided by ample internal floor area, solar access, and common open space provided.

### **Building facades**

The DCP provides that balconies must not project more than 1.2 metres from the outermost wall of the building façade. However, the proposed development includes several north-facing balconies to Building B which project more than 1.2 metres from the relevant wall, up to a maximum of 3.6 metres at the eastern side of the building. This is supported due to the building design being aligned with the skewed nature of the front boundary to Fitzsimons Lane to provide optimum street activation and a positive urban design outcome, including solar access amenity for these units. Additionally, Council's Urban Design consultant is supportive of built form aspects of the proposal and no adverse streetscape impacts are envisaged in this regard.

### **Internal ceiling heights**

In accordance with the DCP, ceiling heights are required to be a minimum of 3.3 metres for ground floor retail or commercial uses whether or not commercial uses are proposed. This is to allow for potential adaptability in the future. The medical centre usage at the ground floor of Building B provides a height of 3.6 metres in accordance with this control. However, the residential usage at the ground floor of Building A provides a height of 3.0 metres. This non-compliance is however considered suitable given the prevailing residential character of the respective building frontage to Merriwa Street, which is attributed to the generous 12 metres front setback and low density residential development located immediately opposite the site.

### **Volume B**

The site is within the Gordon Centre Urban Precinct. The relevant provisions of Volume B Part 1D Gordon Local Centre are addressed within the mixed use development compliance table above as many aspects the development controls overlap.

#### **Part 2 – Site design for water management**

Council's Development Engineer is satisfied that the proposed development has been designed to control stormwater run-off as per the requirements of the DCP, subject to conditions.

#### **Part 3 – Land contamination**

A site investigation report has been submitted with the application and the site is deemed suitable for the proposed development. The proposal is satisfactory having regard to land contamination as discussed above in relation to the provisions of SEPP 55.



## **Volume C**

### **Part 1 – Site design**

This part relates to earthworks and landscape design.

The proposed development incorporates earthworks, particularly those needed to accommodate the basement car parking. These works are effectively integrated into the natural topography of the site and are consistent with the requirements of this part.

Additionally, the landscaping works of the proposed development will complement the character of the surrounding area. The plantings are sited in a manner that will achieve amenity for the users of the site (including the pedestrian through link) and neighbouring properties.

### **Part 2 – Access and parking**

Access and parking aspects of the proposed development are acceptable as discussed above by Council's Development Engineer (internal referrals).

### **Part 3 – Building Design and Sustainability**

The proposal satisfies the relevant provisions of building design and sustainability. The following considerations are noted in particular:

- 3.4 – Waste Management

A waste management plan prepared in accordance with the DCP has been submitted and is acceptable.

- Part 3.5 and 3.6 – Acoustic privacy and visual privacy

The applicant has submitted an acceptable acoustic impact report detailing the measures to be implemented to protect resident amenity from noise sources both on and off the site. Council's Environmental Health Officer has no objection to the development having regard to acoustic privacy subject to conditions **(Conditions 26, 27, 28, 44, 88, 89, 94, 105, 110, 111, 113)**.

The visual privacy impacts of the development have been assessed having consideration of the controls set out under SEPP65 and LEP (Local Centres) 2012 and the underlying DCP. Any likely impacts are acceptable in this regard.

- Part 3.7 – Materials, finishes and colours

The applicant has submitted a materials and finishes board. The proposed materials and finishes to be used are acceptable, subject to a condition as recommended by Council's Urban Design consultant **(Condition 23)**.

#### Part 4 – Water management

Council's Development Engineer is satisfied that the proposed development has been designed to control stormwater run-off as per the requirements of the DCP, subject to conditions.

#### Part 5 – Notification

The application has been notified in accordance with the requirements of the DCP. The submissions received are addressed above.

### **Section 94 Development Contributions Plan 2010**

The development attracts a section 94 contribution of **\$2,070,445.64 (Condition 49)**.

### **LIKELY IMPACTS**

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

### **SUITABILITY OF THE SITE**

The site is suitable for the proposed development.

### **ANY SUBMISSIONS**

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

### **PUBLIC INTEREST**

The proposal is considered to be in the public interest.

### **CONCLUSION**

Having regard to the provisions of section 79C of the Environmental Planning and Assessment Act 1979, the proposed development is considered to be satisfactory.

### **RECOMMENDATION**

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

THAT the Sydney West Joint Regional Planning Panel, as the consent authority, grant development consent to DA 0474/13 for demolition of existing structures and construction of 2 mixed use buildings containing a medical centre, 116 residential units, basement parking & associated landscape works involving threatened species development on land at 17-23 Merriwa Street, Gordon, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

**Conditions that identify approved plans:**

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

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

<b>Plan no.</b>	<b>Drawn by</b>	<b>Dated</b>
DA2.01C – Basement 2A Floor Plan	Brewster Murray	21/08/14
DA2.03C – Basement 1A – Basement 2B Floor Plan	Brewster Murray	21/08/14
DA2.04D – Basement 1B	Brewster Murray	09/10/14
DA2.05D – Ground Floor Plan	Brewster Murray	09/10/14
DA2.06C – Level 1 Floor Plan	Brewster Murray	21/08/14
DA2.07C – Level 2 Floor Plan	Brewster Murray	21/08/14
DA2.08C – Level 3 Floor Plan	Brewster Murray	21/08/14
DA2.09C – Level 4 Floor Plan	Brewster Murray	21/08/14
DA2.10C – Level 5 Floor Plan	Brewster Murray	21/08/14
DA2.11C – Level 6 Floor Plan	Brewster Murray	21/08/14
DA2.12C – Roof Plan	Brewster Murray	21/08/14
DA3.01C – South Elevation & North Elevation	Brewster Murray	21/08/14
DA3.02C – East Elevation & West Elevation	Brewster Murray	21/08/14
DA3.03C – North Elevation (Building A) and South Elevation (Building B)	Brewster Murray	21/08/14
DA4.01C – Sections 1 & 2	Brewster Murray	21/08/14
DA4.02C – Longitudinal Sections	Brewster Murray	21/08/14
DA9.01B – Deep Soil & Excavation Plan	Brewster Murray	19/03/14
DA9.02D – Environmental Site Management Plan	Brewster Murray	12/09/14
DA9.03E – Offset Area for Sydney Turpentine Ironbark Forest	Brewster Murray	12/09/14
DA9.04E – Offset Area for Sydney Turpentine Forest Ground Floor	Brewster Murray	12/09/14
DA9.05E – Soil Protection Zone Section	Brewster Murray	12/09/14
13-569 LP01 Revision E - Landscape Plan	Site Design + Studios	12/06/14

<b>Document(s)</b>	<b>Dated</b>
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Traffic and parking assessment, prepared by Transport and Traffic Planning Associates	November 2013 (Rev A)
Basix certificate No. 513924M_02	12/06/14
Access report, prepared by Accessible Building Solutions	18/11/13
Acoustic report, prepared by Acoustic Logic	12/11/13
Arborist report, prepared by Earthscape Horticultural Services	May 2014
BCA report, prepared by Building Code Assistance	20/11/13
Geotechnical report, prepared by Benviron Group	June 2013
Solar access report, prepared by Brewster Murray	November 2013
Parking allocation statement, prepared by Transport and Traffic Planning Associates	17/4/14
Phase 2 Environmental Site Assessment report, prepared by Benviron Group	July 2013
Species Impact Statement and Addendum letter, prepared by Cumberland Ecology	May 2014 and 5/09/14
Construction Environmental Management Plan, prepared by Brewster Murray	September 2013 Rev A
Letter from Hong Huang, Director, Brewster Murray, Ref: DA0474/13: Council's email comments dated 22 Oct 2014	23/10/14

**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.	Prepared by	Dated
13-569 LP01 Revision E	Site Design & Studios	12/06/14

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

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

## 4. Asbestos works

All work involving asbestos products and materials, including asbestos-cement-sheeting (ie. Fibro), must be carried out in accordance with the guidelines for asbestos work published by WorkCover Authority of NSW.

**Reason:** To ensure public safety

## **5. Construction traffic management - Roads and Maritime Services**

Due to the close vicinity of both Ryde Road and Pacific Highway, the Construction Traffic Management Plan (CTMP) with associated Traffic Control Plans is to be submitted separately so as to be assessed and authorised by the RMS Traffic Management Unit prior to the start of any construction activities.

A construction vehicle route must be provided in the CTMP, being mindful of schools and school zones along the route. It is recommended that the CTMP include a prohibition on construction vehicle movements along Ryde Road and Pacific Highway during peak periods, as this is likely to be required for RMS approval of the CTMP.

Due to safety concerns, RMS do not support the right turn movement of construction vehicles from Merriwa Street onto Pacific Highway. For vehicles approaching from the north, the arrival route is to be via the Ryde Road on ramp and Ridge Street. For vehicles departing to the south, the departure route is to be via Vale Street and Dumaresq Street.

**Reason:** To comply with RMS requirements.

## **6. Vegetation Management Plan**

A vegetation management plan is to be prepared for the onsite Sydney Turpentine ironbark Forest community which is to be reinstated as per the landscape plan.

The Vegetation Management Plan (VMP) is to outline the criteria for the establishment, management and rehabilitation of the onsite Sydney Turpentine ironbark Forest community vegetation is required to be prepared and submitted for approval by the Council prior to the release of the construction certificate.

The VMP is to describe each task necessary for the implementation of the plan, the duration and priority. Maps, diagrams and plant species lists. The VMP is to describe the existing vegetation and natural features to be retained, proposed vegetation, sediment and erosion control and stabilisation works. The following points below are to be addressed within the Vegetation Management Plan.

Vegetation management	<ul style="list-style-type: none"><li>• Vegetation management objectives</li><li>• Weed removal methods</li><li>• Revegetation methods</li><li>• Habitat creation and management Maintenance strategies</li><li>• Consideration of threatened species and their habitats</li></ul>
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Protective measures	<ul style="list-style-type: none"> <li>• Protection of existing vegetation</li> <li>• Soil and stormwater management</li> <li>• Erosion and sediment control</li> <li>• Disposal of vegetation and materials on site</li> </ul>
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The VMP is to be prepared by a qualified ecologist or experienced bushland regenerator

**Reason:** To enhance, protect and ensure the long-term viability of the Sydney Turpentine Ironbark Forest community on the site.

## **7. Tree identification**

Prior to works commencing the existing trees shall be numbered in accordance with the arborist report and/or the approved plans. Trees shall be clearly tagged with confirmation from the project arborist that all marked trees correspond with those shown on the approved plan.

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

## **8. 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.

## **9. 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.

## **10. 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 Merriwa Street and Fitzsimons Lane over the site frontage.
- All driveway crossings and laybacks opposite the subject site.

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

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

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

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

#### **11. 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:

- 11-15 Merriwa Street and 25 Merriwa Street
- 71 Ridge Street

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

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

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

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

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

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

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

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

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

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

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

- demolition
- excavation
- concrete pour
- construction of vehicular crossing and reinstatement of footpath
- traffic control for vehicles reversing into or out of the site
- provide all of the protection measures in relation to the designated Sydney Turpentine Ironbark Forest areas detailed on the approved plans DA9.02 Issue C dated 05/09/14, DA9.03, DA9.04 and DA9.05 Issue D dated 05/09/14 by Brewster Murray Architects
- tree protection fencing is to be erected around T23

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

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

**Reason:** To ensure that appropriate measures have been considered during all phases of the construction process in a manner that maintains the



environmental amenity and ensures the ongoing safety and protection of people.

### **13. Work zone**

A Works Zone is to be provided 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.

### **14. Sediment controls**

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

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

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

### **15. 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.

### **16. Tree protection fencing**

To preserve the following tree/s, no work shall commence until the tree protection zone 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 development work on site.

Tree/location	Radius in metres
T2, T3, T5, T17, T19, T22, T23, T30	In accordance with the approved Environmental Site Management Plan

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

#### **17. Tree protective fencing type galvanised mesh**

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

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

#### **18. 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/No access
- this fence has been installed to prevent damage to the tree/s and their growing environment both above and below ground
- the name, address, and telephone number of the developer/builder and project arborist

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

#### **19. 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.

#### **20. Tree protection measures inspection**

Upon installation of the required tree protection measures, an inspection of the site by the project arborist and/or 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.

## **21. Construction waste management plan**

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

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

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

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

## **22. 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 achieve the best practice objectives of AS 2436-2010 and NSW Department of Environment and Climate Change Interim Construction Noise Guidelines. The report shall be prepared in consultation with any geotechnical report that itemises equipment to be used for excavation works.

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

- identification of the specific activities that will be carried out and associated noise sources
- identification of all potentially affected sensitive receivers, including residences, churches, commercial premises, schools and properties containing noise sensitive equipment
- the construction noise objective specified in the conditions of this consent
- the construction vibration criteria specified in the conditions of this consent
- determination of appropriate noise and vibration objectives for each identified sensitive receiver
- noise and vibration monitoring, reporting and response procedures
- assessment of potential noise and vibration from the proposed demolition, excavation and construction activities, including noise from construction vehicles and any traffic diversions
- description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction
- construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency

- 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.

**Conditions to be satisfied prior to the issue of the construction certificate:**

**23. Materials and finishes**

An amended sample board of materials and finishes is to be submitted to the satisfaction of the Principal Certifying Authority prior to issue of the Construction Certificate, indicating the following:

- a. materials and finishes for the buildings are to be as described on approved elevation plans where there is inconsistency with the sample board
- b. stone cladding is to be provided at the base of the building in lieu of gabion walls
- c. materials for internal elevations (North Elevation of Building A and South Elevation of Building B) are to match those for the Merriwa Street and Fitzsimons Lane building facades
- d. external wall finishes are to be sympathetic to the streetscape

**Reason:** To protect neighbour and streetscape amenity.

**24. Ventilation**

Windows are to be provided to the external walls of bathrooms and ensuites for Unit Nos. B1/B2/B3/B4/B5/B6.01 and B6.02, and laundries B6.01/02. This is to be indicated on amended plans to the satisfaction of the Principal Certifying Authority prior to issue of the Construction Certificate.

**Reason:** To facilitate natural ventilation.

**25. Soft landscape/planting area within the front setback to the medical centre**

Provision of a 1m wide soft landscape/planting area is required within the front setback to the medical centre in accordance with details provided in Item No. 4 of the letter from Brewster Murray, dated 23 October 2014, and referred to in the documents pertaining to Condition No. 1 of this consent. This is to be indicated on amended landscape and architectural plans to the satisfaction of the Principal Certifying Authority prior to issue of the Construction Certificate.

**Reason:** Landscape and streetscape amenity.

## **26. Construction of food preparation areas**

The construction of any food premises in the premises must meet the requirements of the Food Act 2003 and Regulations, Food Safety Standards, Australian Standard 4674 2004, and Australian Standard 1668 Parts 1 and 2. Plans submitted to the PCA prior to release of the Construction Certificate to satisfy this condition shall include the following:

- floor, wall and ceiling construction and finishes for the food preparation areas
- floor plan, elevations and sections showing the construction and fit-out of fixtures and fittings for the food preparation areas
- location of all noise generating plant
- location of coolroom/cold storage areas
- location of any dry food storage areas
- location and ducting for mechanical ventilation system. Mechanical ventilation systems must be installed in accordance with Part F4.5 of the Building Code of Australia and comply with Australian Standard AS1668.2 Parts 1 and 2
- location of an internal garbage storage area

**Reason:** To ensure compliance with public health guidelines and standards.

## **27. Garbage and recycling facilities**

An appropriate area shall be provided at the premises for the storage of all waste and recyclable material generated by this premises and associated garbage bins/recycling containers. The garbage storage area shall be covered and all internal walls be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning. Details of the waste storage area indicating compliance with the above, are to be provided to the Principal Certifying Authority (PCA) prior to issue of a Construction Certificate.

**Reason:** To prevent pollution of the environment and to protect the amenity of the area.

## **28. Noise from mechanical plant**

Detailed review of all external mechanical plant should be undertaken by an accredited acoustic consultant prior to release of the Construction Certificate once plant selections and locations are finalised. The review should include any acoustic treatments required to control plant noise emissions so that this plant will comply with the consent conditions. Any required acoustic treatments shall be installed.

**Reason:** Recommendations of Acoustic Logic Document reference 201311335.1/1211A/R1/SM- 12/11/2013 to protect the amenity of neighbouring residents.

## 29. Parking for people with disabilities

At least one parking space for the medical centre is to be designed for people with disabilities in accordance with AS2890.6:2009.

**Reason:** Disabled access and amenity.

## 30. Project arborist

A project arborist shall be commissioned prior to the release of the Construction Certificate to ensure all tree protection measures are carried out in accordance with the conditions of consent.

The project arborist shall have a minimum AQF Level 5 qualification with a minimum of 5 years experience. Details of the arborist including name, business name and contact details shall be provided to the Principal Certifying Authority with a copy to Council.

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

## 31. Amendments to approved landscape plan

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

Plan no.	Prepared by	Dated
13-569 LP01 Revision E	Site Design & Studios	12/06/14

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

- the plan shall be amended to include the additional offset planting of Sydney Turpentine Ironbark Forest in area C indicated on Offset Area plan DA9.03 Revision D by Brewster Murray
- the densities of planting with Area C shall be the same as the densities already indicated for Areas A & B
- T21 - *Cotoneaster sp.* (Cotoneaster) located on Merriwa Street nature strip shall be removed and replaced with a *Callistemon viminalis* (Weeping Bottlebrush)
- T23b - *Melaleuca quinquenervia* (Broad Leaved Paperbark) located on the adjoining property is to be retained, with such indicated on the plans
- provision of a 1m wide soft landscape/planting area is required within the Fitzsimons Lane setback to the medical centre in accordance with details provided in Item No. 4 of the letter from Brewster Murray, dated 23 October 2014
- proposed large trees shall be relocated where their positioning conflicts with the location of rainwater tanks

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

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

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

### **32. 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>
H5500B	J & M Group	November 2013
H5502C, H5503 C and H5504E	J & M Group	May and June 2014

The above engineering plan(s) shall be amended as follows:

- re-use of roofwater is to be for toilet flushing and irrigation as listed in the BASIX water commitments
- to preserve T23, the stormwater pit and attached pipe under the footpath that runs parallel to the main pedestrian entrance is to be deleted. To prevent stormwater runoff onto the nature strip area the path is to be graded towards the garden bed

**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.

### **33. 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.

### **34. 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.

### **35. Outdoor lighting**

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

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

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

### **36. 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.

### **37. 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.

### **38. Access for people with disabilities (commercial)**

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

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

**Reason:** To ensure the provision of equitable and dignified access for all people in accordance with disability discrimination legislation and relevant Australian standards.

### **39. 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.

#### **40. 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, [enter unit nos.], are designed as adaptable housing in accordance with the provisions of Australian Standard AS4299-1995: Adaptable Housing.

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

**Reason:** Disabled access & amenity.

#### **41. 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 within the canopy spread of any tree protected under Council's Tree Preservation Order, located on the subject allotment and adjoining allotments.

Alternatively if underground services must be located within the canopy spread of any protected tree/s the plan shall be endorsed by the project arborist outlining any tree protection measures required. A plan detailing the routes of these services and trees protected under Council's Tree Preservation Order shall be submitted to the Principal Certifying Authority.

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

#### **42. Landscape plan**

Prior to the issue of the Construction Certificate, the Principal Certifying Authority shall be satisfied that a landscape plan has been completed in accordance with Council's DA Guide, relevant development control plans and the conditions of consent by a Landscape Architect or qualified Landscape Designer.

**Note:** The Landscape Plan must be submitted to the Principal Certifying Authority.

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

#### **43. Recycling and waste management**

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

The responsibility for:

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

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

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

**Reason:** Environmental protection.

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

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

**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.

#### **45. Driveway grades - basement carparks**

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

- vehicular access can be obtained using grades of 20% (1 in 5) maximum

- all changes in grade (transitions) comply with Australian Standard 2890.1 - “Off-street car parking” (refer clause 2.5.3) to prevent the scraping of the underside of vehicles

If a new driveway crossing is proposed, the longitudinal sections must incorporate the driveway crossing levels as issued by Council upon prior application. **Note the levels shown at the boundary on the architectural plans may require adjustment.**

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

#### **46. Basement car parking details**

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

- all parking space dimensions, driveway and aisle widths, driveway grades, transitions, circulation ramps, blind aisle situations and other trafficked areas comply with Australian Standard 2890.1 - 2004 “Off-street car parking”
- a clear height clearance of **2.6 metres** 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.

#### **47. 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 Team Leader Urban Design and 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 Merriwa Street and Fitzsimons Lane:

- new vehicular crossings
- paving and street tree planting

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 Council's Public Domain Plan 2010 or as agreed by Council. 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.

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

#### **48. 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.

#### **49. 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>Infrastructure Type</b>	<b>Total</b>
Gordon TC New Roads & Road Mods	\$0
Gordon TC Local Parks & Sporting Facilities	\$1,219,262.11
Gordon TC Townscape Transport & Pedest Fac	\$665,085.01
LGA Wide Local Recreational & Cultural	\$186,098.52
<b>Development Contributions Total</b>	<b>\$2,070,445.64</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.

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

**50. 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.

**51. 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.

**52. 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.

### 53. Contamination and waste

Any soils proposed for removal from the site should initially be classified in accordance with the "Waste Classification Guidelines, Part 1: Classifying Waste" NSW DECC (2009).

If during any potential site works, significant odours and / or evidence of gross contamination (including asbestos) not previously detected are encountered, or any other significant unexpected occurrence, site works should cease in that area, at least temporarily, and the environmental consultant should be notified immediately to set up a response to this unexpected occurrence.

**Reason:** Environmental protection.

### 54. Landscape works near trees

To avoid tree impacts, all landscape works such as soil preparation, soil spreading, mulching and planting shall be carried out by hand within the specified radius of the following trees.

Tree/location	Radius in metres
T2 - <i>Eucalyptus microcorys</i> (Tallowood) T3 - <i>Corymbia citriodora</i> (Lemon Scented Gum) T5 - <i>Corymbia citriodora</i> (Lemon Scented Gum) / North eastern corner	5 metres
T17 - <i>Syzygium paniculatum</i> (Brush Cherry) T17 - <i>Syzygium paniculatum</i> (Brush Cherry) / South eastern corner	4 metres
T23 - <i>Syzygium paniculatum</i> (Brush Cherry) / South western corner	4 metres
T30 - <i>Cedrus deodara</i> (Himalayan Cedar) / North western corner	5 metres

**Reason:** To protect existing trees.

### 55. 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.

## **56. 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.

## **57. 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.

## **58. 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.

## **59. 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.

## **60. 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.

## **61. 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 **Benviron Group dated June 2013**. 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.

## **62. 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 **Benviron Group dated June 2013**. 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).

**Note:** If groundwater monitoring indicates that constant pumping would be required for long-term basement drainage, then a tanked basement design is to be adopted. The NSW Office of Water will also require a licence to be obtained for temporary dewatering in excess of 3 megalitres. All requirements of NSW Office of Water are to be met during design, excavation and construction.

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

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

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

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

## **64. Guarding excavations**

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

**Reason:** To ensure public safety.

#### **65. 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.

#### **66. Protection of public places**

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

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

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

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

**Reason:** To protect public places.

#### **67. 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.

#### **68. 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.

## **69. 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.

## **70. 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.

## **71. 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.

## **72. 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.

### **73. 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.

### **74. 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) <<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.

## 75. Arborist report

The tree/s to be retained shall be inspected and monitored by an AQF Level 5 Arborist in accordance with AS4970-2009 during and after completion of development works to ensure their long term survival. Regular inspections and documentation from the project arborist to the Principal Certifying Authority are required at the following times or phases of work including date, brief description of the works inspected, and any mitigation works prescribed.

All monitoring shall be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Tree/location	Time of inspection
T2 - <i>Eucalyptus microcorys</i> (Tallowood) T3 - <i>Corymbia citriodora</i> (Lemon Scented Gum) T5 - <i>Corymbia citriodora</i> (Lemon Scented Gum) / North eastern corner T17 - <i>Syzygium paniculatum</i> (Brush Cherry) T17 - <i>Syzygium paniculatum</i> (Brush Cherry) / South eastern corner T23 - <i>Syzygium paniculatum</i> (Brush Cherry) / South western corner T23b - <i>Melaleuca quinquenervia</i> (Broad Leaved Paperbark) / Adjoining property No 25 Merriwa Street (southern boundary) T30 - <i>Cedrus deodara</i> (Himalayan Cedar) / North western corner T31 - <i>Syncarpia glomulifera</i> (Turpentine) / Adjoining property adjacent to western side boundary	At the commencement of the site earthworks for the building and stormwater works followed by monthly inspections until the completion of all building works.

All works as recommended by the project arborist are to be undertaken by an experienced arborist with a minimum AQF Level 3 qualification.

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

## 76. Trees on nature strip

Removal/pruning of the following tree/s from Council's nature strip as specified in the following table shall be undertaken at no cost to Council by an experienced tree removal contractor/arborist holding public liability and

professional indemnity insurance amounting to a minimum cover of \$20,000,000. All pruning works shall be undertaken by an experienced Arborist/Horticulturist, with a minimum AQF Level 3 qualification as specified in AS 4373-2007 - Pruning of Amenity Trees.

Tree/location
T21 - <i>Cotoneaster</i> sp. (Cotoneaster) / Merriwa Street nature strip

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

## 77. Stockpiling of top soil

Top soil shall be stripped from areas to be developed and stock-piled within the site. Stock-piled topsoil must be located outside drainage lines and tree canopies and be protected from run-on water by suitably positioned diversion banks. Where the period of storage will exceed fourteen (14) days, stock-piles are to be seeded or sprayed with an appropriate emulsion solution to minimise particle movement.

**Reason:** To protect the environment.

## 78. Treatment of tree roots

If tree roots and branches 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 AQF Level 3 qualification. All root and branch pruning works shall be undertaken as specified in AS 4373-2007 - Pruning of Amenity Trees.

**Reason:** To protect existing trees.

## 79. Cutting of tree roots

Tree roots of 30mm or greater in diameter located within the specified radius of the trunk/s of the following tree/s shall not be severed or injured in the process of any works during the construction period. All root pruning works shall be undertaken by an experienced Arborist/Horticulturist, with a minimum AQF Level 3 qualification as specified in AS 4373-2007 - Pruning of Amenity Trees:

Tree/location	Radius in metres
T2 - <i>Eucalyptus microcorys</i> (Tallowood) T3 - <i>Corymbia citriodora</i> (Lemon Scented Gum) T5 - <i>Corymbia citriodora</i> (Lemon Scented Gum) / North eastern corner	5 metres

**Reason:** To protect existing trees.

## 80. Approved tree works



Prior to works commencing the following works shall be undertaken to the specified trees;

- All trees are to be clearly tagged and identified as per the arborist report prior to the removal/pruning of any tree/s on site
- Canopy and/or root pruning as specified in the following table shall be undertaken by an experienced Arborist/Horticulturist, with a minimum AQF Level 3 qualification
- All root or canopy pruning works shall be undertaken as specified in AS 4373-2007 - Pruning of Amenity Trees
- All other branches where required shall be tied back and protected during construction, under the supervision of a qualified arborist

Tree/location	Approved Tree Works
T4 - <i>Corymbia citriodora</i> (Lemon Scented Gum) / North eastern corner	Removal
T9 to 12 - 4 x <i>Melaleuca quinquenervia</i> (Broad Leaved Paperbark) / Eastern side boundary	Removal
T13 to 15 - 3 x <i>Archontophoenix cunninghamiana</i> (Bangalow Palm) / Within the building footprint	Removal
T21 - <i>Cotoneaster</i> sp. (Cotoneaster) / Merriwa Street nature strip	Removal
T23a - <i>Angophora costata</i> (Sydney Red Gum) / Within the Merriwa Street driveway footprint	Removal
T24 - <i>Syncarpia glomulifera</i> (Turpentine) / Within the Merriwa Street driveway footprint	Removal
T25 & 26 - 2 x <i>Casuarina glauca</i> (Swamp Oak) / Western side boundary	Removal
T27 - <i>Thuja</i> sp. (Arborvitae) / Western side boundary	Removal
T28 & 29 - 2 x <i>Casuarina glauca</i> (Swamp Oak) / Western side boundary	Removal
T32 - <i>Eucalyptus paniculata</i> (Grey Ironbark) / Northern boundary	Removal

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

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

## 81. Excavation near trees

No mechanical excavation shall be undertaken within the specified radius of the trunk/s of the following tree/s until root pruning is carried out by hand digging and/or air knife to a depth of 600 mm along the perimeter line of such works:

Tree/location	Radius in metres
T23b - <i>Melaleuca quinquenervia</i> (Broad Leaved Paperbark) / Adjoining property No 25 Merriwa Street (southern boundary)	4 metres

**Reason:** To protect existing trees.

## **82. 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.

## **83. 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.

## **84. 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.

## **85. 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
- 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.

## **86. 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:**

### **87. Noise**

- a. All noise generating equipment associated with the use of the premises including but not limited to air conditioning systems, mechanical exhaust and ventilation systems, refrigeration equipment, food premises equipment, amplified sound equipment, security gates and lift motors and the like, **must not exceed the background noise level by more than 5 decibels between 7am and 10pm when measured at the nearest property boundary.** Written confirmation from an accredited acoustic consultant that the development achieves compliance with this noise criteria is to be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.
- b. All noise generating equipment associated with the use of the premises, including but not limited to air conditioning systems, mechanical exhaust and ventilation systems, refrigeration equipment, food premises equipment, amplified sound equipment, security gates and lift motors and the like, **must not exceed the background noise level at all between 10pm and 7am at the nearest property boundary.** Written confirmation from an accredited acoustic consultant that the development achieves compliance with this noise criteria is to be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.
- c. Written confirmation is to be submitted to the Principal Certifying Authority from a suitably qualified acoustic consultant that the

development complies with Australian Standard AS3671-1989; AS2107-2000 and BCA noise requirements between occupancy types.

**Reason:** To protect residential amenity.

#### **88. Noise - acoustic consultant recommendations**

The PCA shall be satisfied, through certification from an accredited acoustic consultant, that all recommendations and requirements of the acoustic consultant report (Reference: 201311335.1/1211A/R1/SM - 12/11/2013) have been implemented prior to release of the Occupation Certificate.

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

#### **89. Mechanical ventilation**

Following completion, installation and testing of all the mechanical ventilation systems for the premises, including but not limited to the carpark and any food premises areas, certification shall be provided to the PCA from a suitably qualified person prior to the issue of an Occupation Certificate of the following: The installation and performance of the mechanical systems complies with:

- The Building Code of Australia
- Australian Standard AS1668
- Australian Standard AS3666 where applicable

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

#### **90. Easement for waste collection**

Prior to the issue of the Occupation Certificate, an easement for waste collection is to be created under Section 88B of the Conveyancing Act 1919. The terms of the easement are to be generally in accordance with Council's draft terms for an easement for waste collection and shall be to the satisfaction of Council's Development Engineer.

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

#### **91. STIF Rehabilitation offset area- Section 88b**

Prior to the release of the Occupation Certificate, a positive covenant and restriction on the use of land area to be created under Section 88B of the Conveyancing Act 1919, burdening the Sydney Turpentine Ironbark Forest rehabilitation offset area as identified in an approved VMP in perpetuity in accordance with the approved VMP.

Council is to be named as the authority to release, vary or modify the burdens.

**Reason:** To protect the STIF Rehabilitation offset area.

## **92. 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. 513924M\_02 have been complied with.

**Reason:** Statutory requirement.

## **93. Clotheslines and clothes dryers**

Prior to the issue of the Occupation Certificate, the Principal Certifying Authority shall be satisfied that the units either have access to an external clothes line located in common open space or have a mechanical clothes dryer installed.

**Reason:** To provide access to clothes drying facilities.

## **94. 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:

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

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

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

## **95. 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.

## **96. 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.

## **97. 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 88B or 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 Volume C Part 4R.9 of Ku-ring-gai Local Centres Development Control Plan). 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.

## **98. 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 Local Centres Development Control Plan have been achieved
- retained water is connected and available for use
- 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

**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.

#### **99. 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.

#### **100. 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 88B or 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 Volume C Part 4R.9 of Ku-ring-gai Local Centres Development Control Plan). 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.

#### **101. 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.

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

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

- the as-constructed car park complies with the approved Construction Certificate plans
- the completed vehicle access and accommodation arrangements comply with Australian Standard 2890.1 - 2004 "Off-Street car parking" in terms of minimum parking space dimensions



- finished driveway gradients and transitions will not result in the scraping of the underside of cars
- no doors, gates, grilles or other structures have been provided in the access driveways to the basement carpark, which would prevent unrestricted access for internal garbage collection from the basement garbage storage and collection area
- the vehicular headroom requirements of:
  - Australian Standard 2890.1 - "Off-street car parking"
  - **2.6 metres** height clearance for waste collection trucks 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.

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

Prior to issue of the Occupation Certificate and upon completion of all works which could cause damage to Council property, 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.

#### **104. 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.

#### **105. 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.

#### **106. 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:**

#### **107. Pedestrian through site link**

The pedestrian through site link between Merriwa Street and Fitzsimons Lane shall be made available for use by the public during daylight hours.

Any outdoor lighting of the through site link shall comply with AS/NZ1158.3:1999 pedestrian Area Lighting and AS4282:1997 Control of the Effects of Outdoor Lighting.

**Reason:** To provide safe pedestrian permeability and street activation.

#### **108. Garbage and recycling facilities**

All waste and recycling bins associated with the premises are to be stored within the designated internal waste storage area.

**Reason:** To prevent pollution of the environment and to protect the amenity of the area.

#### **109. Deliveries & waste collections**

Where there are impacts on the amenity of residential premises, all deliveries and waste collections services for the premises are to be carried out between the hours of 6am and 10pm.

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

#### **110. Food premises**

The construction of any food preparation and food storage areas shall be in accordance with the requirements of the Food Act 2003, Food Standards Code 3.2.3 (Food Premises and Equipment) and Australian Standard 4674-2004 (Design Construction and Fit-out of Food Premises).

**Reason:** To ensure compliance with food standards.

#### **111. Cooling towers**

All cooling towers installed at this premises are to be registered with Council and maintained in accordance with the Public Health Act 2010 and associated regulations.

**Reason:** To ensure compliance with public health legislation standards.

#### **112. 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: 2005 Pedestrian Area (Category P) Lighting and AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting.

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

### **113. Noise control - plant and machinery**

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

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

### **114. Loading and unloading**

At all times, all loading and unloading of service vehicles in connection with the use of the premises shall be carried out wholly within the site.

**Reason:** To ensure safe traffic movement.

### **115. Unobstructed driveways and parking areas**

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

**Reason:** To ensure safe traffic movement.

### **116. Hours of operation - medical centre**

At all times, the hours of operation for the medical centre are to be restricted to:

Monday, Tuesday, Wednesday, Friday **8am - 7.30pm**  
Thursday **8am - 9pm**  
Saturday **8am - 3pm**  
Sunday and public holidays **CLOSED**

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

**Joshua Daniel**  
**Executive Assessment Officer**

**Richard Kinninmont**  
**Team Leader Development Assessment**

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

**Michael Miocic**  
**Director Development and Regulation**

**ATTACHMENTS:**

- A. Location sketch (TRIM: 2014/278899)
- B. Zoning extract (TRIM: 2014/278901)
- C. Traffic and parking assessment (TRIM: 2013/305538)
- D. Parking allocation statement (TRIM: 2014/100676)
- E. Access report (TRIM: 2013/305539)
- F. Acoustic report (TRIM: 2013/305543)
- G. Arborist report (TRIM 2013/305544)
- H. BCA report (TRIM: 2013/305546)
- I. Geotechnical report (TRIM: 2013/305548)
- J. Solar access report (TRIM: 2013/305551)
- K. Phase 2 Environmental Site Assessment report (TRIM: 2014/050228)
- L. Species Impact Statement (TRIM: 2014/128934)
- M. Ecological Addendum letter to Species Impact Statement (TRIM: 2014/227266)
- N. Construction Environmental Management Plan (TRIM: 2014/230461)