

# JOINT REGIONAL PLANNING PANEL

## (Sydney West Region)

JRPP No	2014SYW090
DA Number	DA0180/14
Local Government Area	Ku-ring-gai Council
Proposed Development	Demolish existing structures and construct a mixed use development containing 3 buildings, 144 residential apartments, retail space, basement parking and landscaping works
Street Address	870-898 Pacific Highway, Gordon
Applicant/Owner	Alto Prestige Pty Ltd  Alto Prestige Pty Ltd Georgio Altomonte Holdings Pty Ltd
Number of Submissions	Original proposal – 3 submissions Amended proposal – 1 submission Further amended proposal – 1 submission
Regional Development Criteria (Schedule 4A of the Act)	CIV of \$50, 942, 985
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> <li>• s79C(1)(a)(i) <ul style="list-style-type: none"> <li>KLEP (Local Centres) 2012</li> <li>SEPP 55</li> <li>SEPP 65</li> <li>SEPP (Infrastructure) 2007</li> <li>SEPP (BASIX) 2004</li> <li>SREP (Sydney Harbour Catchment) 2005</li> </ul> </li> <li>• s79C(1)(a)(iii) <ul style="list-style-type: none"> <li>KDCP (Local Centres) 2013</li> <li>Ku-ring-gai Contributions Plan 2010</li> </ul> </li> <li>• s79C(1)(a)(iv) <ul style="list-style-type: none"> <li>Environmental Planning &amp; Assessment Regulation 2000</li> </ul> </li> </ul>
List all documents submitted with this report for the panel's	1. Location sketch 2. Ku-ring-gai Planning Scheme Zoning Extract 3. Submission from Addison Lawyers including Memorandum of Opinion from Mr Adrian Galasso SC

consideration	4. Supplementary report to JRPP (Meeting of 24 March 2016) 5. Submission by Addison Lawyers 6. Original JRPP report (Meeting of 4 December 2015) 7. Architectural plans 8. Landscape plans 9. Stormwater management plans 10. Basix certificate 11. Clause 4.6 variation submission
Recommendation	Approval
Report by	Grant Walsh, Executive Assessment Officer
Report date	10 June 2016

## EXECUTIVE SUMMARY

<b>Primary Property</b>	870-898 Pacific Highway, GORDON NSW 2072
<b>Lot &amp; DP</b>	Lot 1 DP 654047 Lot 3 DP 609007 Lot 16 DP 249171
<b>Proposal</b>	Demolish existing structures and construct a mixed use development containing 3 buildings, 144 residential apartments, retail space, basement parking and landscaping works.
<b>Development Application No.</b>	DA0180/14
<b>Ward</b>	GORDON
<b>Applicant</b>	Alto Prestige Pty Ltd
<b>Owner</b>	Alto Prestige Pty Ltd Georgio Altomonte Holdings Pty Ltd
<b>Date lodged</b>	22 May 2014
<b>Issues</b>	Site isolation, height, extent of retail floor space, street activation
<b>Submissions</b>	Original proposal – 3 submissions Amended proposal – 1 submission Further amended proposal – 1 submission
<b>Land &amp; Environment Court</b>	N/A
<b>Recommendation</b>	Approval
<b>Assessment Officer</b>	Grant Walsh

### 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 (Infrastructure) 2007 SEPP (BASIX) 2004 SREP (Sydney Harbour Catchment) 2005 KLEP (Local Centres) 2012 KDCP (Local Centres) 2013 Ku-ring-gai Contributions Plan 2010
<b>Integrated development</b>	No

## BACKGROUND

The Development Application (DA0180/14) was first considered by the JRPP at its meeting of 4 December, 2015. The application was recommended for refusal because the development would result in the site isolation of the adjoining properties at 854, 860 and 900 Pacific Highway, Gordon contrary to Clause 3A.1 Land Amalgamation under Ku ring gai Local Centres Development Control Plan. At this meeting, the applicant submitted the following information to the JRPP (**Attachment 5**) for its consideration:

- a submission prepared by Addisons Lawyers
- a letter from GM Urban Design and Architecture regarding potential development schemes associated with two development concepts for 854 and 860 Pacific Highway
- a letter from Thomas Chang and Co, Solicitors, representing the purchasers of 900 Pacific Highway, Gordon
- a statutory declaration regarding conversations between the applicant and the owner of 854 Pacific Hwy
- a draft preliminary scheme for 900 Pacific Hwy

At the meeting the JRPP resolved to defer the matter for the following reason:

*“While the Panel considers the proposed development would add [sic] the supply of choice of housing of the North Metropolitan subregion and add to the potential retail capacity of Gordon as planned, the Panel is not satisfied that orderly an[sic] economic development of this and adjacent land occurs as the development will result in isolated sites. Accordingly the matter is deferred to enable advice to be provided to the Panel on the latest submission and to seek legal advice about the issue of isolation and whether the terms of the relevant planning principles have to be satisfied.”*

The development application was re-assessed in relation to the above listed documentation and further considered by the JRPP at its meeting of 24 March, 2015. The application was recommended for refusal for the same reason given in the original recommendation as it relates to Clause 3A.1 Land Amalgamation of the Local Centres Development Control Plan.

At the meeting the JRPP resolved to defer the matter for the following reasons:

*“The majority of the Panel (Bruce McDonald, Cr Elaine Malicki and Cr Christiane Berlioz vote to defer, Mary Lynne Taylor and John Colvin would vote to approve the application) has decided to defer the decision today, although the Panel is minded to approve the application based on the Assessment Report from Council Officers as to its merit, but the majority considers that the provisions of clause 6 of the DCP 2013 (Local Centres) are engaged and should be met and the documentation provided to the Panel in accordance with those provisions.”*

On 2 May 2016, Council received correspondence from the applicant indicating that they had obtained an opinion from Mr Adrian Galasso SC (**Attachment 3**) which concluded that the lot amalgamation issue is not relevant to the subject Development Application. The correspondence also made the following requests:

1. *that the Development Application be relisted for the next Panel hearing for Ku-ring-gai Municipal Council;*

2. *that Council officers prepare, on a without prejudice basis, conditions of development consent which the officers believe would be applicable were the Panel minded to grant development consent;*
3. *that at the next Panel hearing the application be either approved or refused, that it, that it not be further deferred or adjourned.*

## **COMMENTS**

The applicant has indicated that they are not willing to undertake valuations and offers in relation to adjoining properties as requested by the JRPP at its meeting of 24 March 2016. The applicant has further requested that a decision be made based on the information that has been submitted to date.

Council has reviewed the advice obtained by the applicant in relation to the Land amalgamation provisions of the DCP and is generally in agreement with it, with the exception of the control not being applicable to the site/development. It is considered that the control is applicable to the development proposal and is therefore required to be assessed with appropriate weighting afforded to the DCP control.

In relation to 900 Pacific Highway, evidence has been provided by the applicant from the purchasers of that property indicating that they have no wish to sell. It is further noted that Council has received a development application which is currently under consideration for that site.

In relation to 854-858 Pacific Highway, the applicant has submitted a statutory declaration from the corporate counsel of Alto Group indicating that contact had been made with the owners of that site in November of 2015. The declaration indicates that the owner of 854-858 Pacific Highway advised that the site was not for sale, that they were not interested in selling the site and they were not prepared to put that in writing. It is noted that no submissions have been received from the property owner of 854-858 Pacific Highway in relation to the development application.

In relation to 860 Pacific Highway, no evidence has been provided in terms of negotiations including an independent valuation and a reasonable offer between property owners. It is noted that the property owner of that site made objections to the proposal based on site isolation at the JRPP meeting of 4 December 2015 and written submissions reflecting this position were also received.

The applicant has submitted building schemes for an amalgamated 854-860 Pacific Highway, Gordon. In the first instance as previously indicated, amalgamation with the subject property is likely to achieve a better planning outcome, however, it is further acknowledged that incorporation of 860 Pacific Highway into the subject site without the inclusion of 854-858 would be counter to the objectives of the DCP as 854-858 would be further compromised in terms of its redevelopment potential (noting the statutory declaration submitted by the applicant). The development as proposed would constitute a more orderly development in this respect.

Whilst not a preferred outcome in terms of land amalgamation, based on the documentation submitted by the applicant and further consideration by Council, it is considered that an acceptable outcome would nonetheless be achieved by the proposed development.

## **CONSULTATION – COMMUNITY**

The information submitted by the applicant was not required to be notified in accordance with Council's notification provisions.

## **CONSULTATION – WITHIN COUNCIL**

Nil.

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

The development would attract a section 94 contribution should it be approved. **(Condition?)**

### **LIKELY IMPACTS**

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

### **SUITABILITY OF THE SITE**

The site is considered to be suitable for a mixed use development.

### **ANY SUBMISSIONS**

The amended application was not notified. The original assessment report contained within **Attachment 6** includes consideration of all previous submissions received.

### **PUBLIC INTEREST**

The public interest is best served by the consistent application of the requirements of the relevant environmental planning instruments and by Council ensuring that any adverse impacts on the surrounding area are minimised. The proposal has been assessed against the relevant environmental planning instruments and policy provisions and is deemed satisfactory in its current form.

The proposed development is considered to be in the public interest.

### **CONCLUSION**

This application has been assessed under the heads of consideration of Section 79C of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies. The proposal would result in a satisfactory development that is anticipated by the controls. Therefore, it is recommended the application be granted development consent, subject to conditions.

### **RECOMMENDATION**

That the Sydney West Joint Regional Planning Panel, as the consent authority, grant development consent to DA0180/14, for the demolition of the existing structures and construction of a mixed use development containing 3 buildings, 144 residential apartments, retail space, basement parking and landscaping works, on land at 870-890 Pacific Highway, Gordon, subject to the following conditions:

**The conditions of consent are as follows:**

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

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

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

<b>Plan no.</b>	<b>Drawn by</b>	<b>Dated</b>
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2838_102D, 2838_103D, 2838_104D, 2838_105D, 2838_106D, 2838_107D, 2838_108D, 2838_109D, 2838_110C, 2838_201D, 2838_202D, 2838_211D, 2838_221D, 2838_231D, 2083_301D, 2838_302D, 2838_303D, 2838_304D, 2838_305D, 2838_701D, 2838_702D, 2838_703D, 2838_704D, 2838_711D, 2838_712D, 2838_801A, 2838_802A	Nettleton Tribe Architects	A - 06.05.2014 C - 30.06.2015 D - 30.06.2015
Stormwater Plans C-01 to C15 (inclusive) Issue D	Warren Smith and Partners Pty Ltd	13.07.15
Landscape Plan LP01 - LP07 Inclusive), Issue B	Site Design Studios	23.06.15

Document(s)	Dated
Basix certificate No. (538100m_04)	15 July 2015
Access Review, prepared by Morris-Goding Accessibility Consulting	17 December 2014
Geotechnical Investigation, prepared by SMEC Testing Services	15 January 2015
Traffic and Parking Assessment, prepared by Colson Budd Hunt and Kafes Pty Ltd	14 July 2015
Waste Management Report, prepared by Elephants Foot recycling solutions	June 2015
Arboricultural Impact Report, prepared by Landscape Matrix Pty Ltd,	18 November 2014
Acoustic Report, prepared by PKA Acoustic Consulting	November 2014
Detailed Site Investigation, report number 13/2084, prepared by SMEC Testing Services	November 2013

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

## 2. Inconsistency between documents

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

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

## 3. Approved landscape plans

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

Plan no.	Drawn by	Dated
LP01 Rev B - Lp07 Rev B	Site Design	30/06/2015

**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. Notice of commencement**

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

**Reason:** Statutory requirement.

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

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

**Reason:** Statutory requirement.

#### **7. Notice of proposed work (contaminated land)**

A notice of proposed work form must be given to Council's Development Assessment Officer, in accordance with SEPP 55, Clause 16. Note: At least 30 days notice is required, except in the case of work required to be carried out immediately under the terms of remediation order (in which case, at least 1 days notice is required).

SEPP 55, Clause 16 requires that the notice must:

- be in writing
- provide the name, address and telephone number of the person who has the duty of ensuring that the notice is given
- briefly describe the remediation work
- show why the person considers that the work is category 2 remediation work by reference to Clause 9, 14 and (if it applies) 15(1)
- specify, by reference to its property description and street address (if any), the land on which the work is to be carried out
- provide a map of the location of the land
- provide estimates of the dates for the commencement and completion of the work

The following additional information must be submitted with the notice to Council:

- copies of any preliminary investigation, detailed investigation and remediation action plan for the site
- contact details for the remediation contractor and any other party responsible for ensuring compliance of remediation work with regulatory requirements

**Reason:** Protection of the environment and compliance with SEPP 55.

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

Prior to the commencement of any development or excavation works on site, the Principal Certifying Authority shall be satisfied that a dilapidation report on the visible and structural



condition of all structures of the following public infrastructure, has been completed and submitted to Council:

#### Public infrastructure

- Full road pavement width, including kerb and gutter, of Pacific Highway northbound and Fitzsimons Lane over the site frontage, and Merriwa Street from Fitzsimons Lane to Pacific Highway northbound, including the full intersections.
- All driveway crossings and laybacks opposite the subject site.

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

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

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

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

### 9. 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

- 860 Pacific Highway
- 900 Pacific Highway

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

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

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

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

### 10. 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:

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

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

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.

## **11. Work zone**

A Works Zone is to be provided in Fitzsimons Lane 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.

## **12. Temporary construction exit**

A temporary construction exit, together with necessary associated temporary fencing, shall be provided prior to commencement of any work on the site and shall be maintained throughout the duration and progress of construction.

**Reason:** To reduce or eliminate the transport of sediment from the construction site onto public roads.

### 13. Sediment controls

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

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

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

### 14. Erosion and drainage management

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

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

### 15. Tree protection fencing

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

Tree/Location	Radius from trunk
T4 <i>Eucalyptus saligna</i> (Sydney Blue Gum) Adjacent to Merriwa St/Fitzsimons Lane site corner	5.0m during demolition works. Post demolition, 7.0m west, Fitzsimons Lane boundary, Top of kerb 12.0m elsewhere
T9 <i>Eucalyptus saligna</i> (Sydney Blue Gum) Adjacent to Merriwa St/Fitzsimons Lane site corner	Post demolition - Top of kerb, 12.0m elsewhere

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

### 16. 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.

### 17. Tree protection signage

Prior to works commencing, tree protection signage is to be attached to each tree protection zone, displayed in a prominent position and the sign repeated at 10 metres intervals or closer where the fence changes direction. Each sign shall contain in a clearly legible form, the following information:

Tree protection zone.

- This fence has been installed to prevent damage to the trees and their growing environment both above and below ground and access is restricted.
- Any encroachment not previously approved within the tree protection zone shall be the subject of an arborist's report.
- The arborist's report shall provide proof that no other alternative is available.
- The Arborist's report shall be submitted to the Principal Certifying Authority for further consultation with Council.
- The name, address, and telephone number of the developer.

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

#### 18. Tree protection mulching

Immediately after the removal of existing hard surface areas within the protective root zone, 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.

#### 19. Tree protection - avoiding soil compaction

To preserve the following tree/s and avoid soil compaction during demolition works, no work shall commence until temporary measures to avoid soil compaction (eg rumble boards) beneath the canopy of the following tree/s is/are installed until the completion of demolition works. Post demolition other required tree protection fencing shall be installed.

Tree/Location	Radius from trunk
T4 <i>Eucalyptus saligna</i> (Sydney Blue Gum) Adjacent to Merriwa St/Fitzsimons Lane site corner	12.0m
T9 <i>Eucalyptus saligna</i> (Sydney Blue Gum) Adjacent to Merriwa St/Fitzsimons Lane site corner	13.6m

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

#### 20. Trunk protection

To preserve the following tree/s, no demolition work shall commence until the trunk/s are protected by the placement of 2.0 metres lengths of 50 x 100mm hardwood timbers spaced at 150mm centres and secured by 2mm wire at 300mm wide spacing over suitable protective padding material. The trunk protection shall be maintained intact until the completion of all demolition work on site.

Any damage to the tree/s shall be treated immediately by an experienced Horticulturist/Arborist, with minimum qualification of Horticulture Certificate or Tree Surgery Certificate and a report detailing the works carried out shall be submitted to the Principal Certifying Authority:

Tree/Location
T9 <i>Eucalyptus saligna</i> (Sydney Blue Gum) Adjacent to Merriwa St site frontage

**NOTE:** Post demolition, the trunk protection shall be removed and tree protective fencing as per other conditions of consent shall be installed.

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

#### 21. Tree fencing inspection

Upon installation of the required tree protection measures, an inspection of the site by the Project Arborist and 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.

## **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. Waste storage**

All waste storage area must be fully enclosed and of sufficient in size to store all garbage and recycling bins from the premises. This area must be provided in an easily accessible location and close to a waste collection point. The enclosed waste storage area must be easily cleanable; graded and drained to a floor waste which is connected to sewer; and have a water tap in close proximity to facilitate cleaning. Full details of the storage area as above are to be provided to the Principal Certifying Authority at the Construction Certificate stage.

**Reason:** To protect public health.

### **24. Design and construction of food premises**

The design and construction of any retail food premises must meet the requirements of the *Food Act 2003* and associated Regulations, Food Safety Standards, Australian Standard 4674 2004, and Australian Standard 1668 Parts 1 and 2. Plans indicating compliance with the above requirements shall be submitted to the Certifying Authority prior to release of the Construction Certificate and 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 food storage areas including coolroom (where required), cold storage areas and dry goods storage areas;
- Location and ducting for any required 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; and
- Location of an internal garbage storage area for commercial waste storage which is separate to residential waste.

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

## **25. Voluntary planning agreement**

The owner of the land shall enter into a voluntary planning agreement for:

- (a) The dedication of the southern part of the site as shown on the approved architectural plans;

In accordance with the terms of the offer made by the owners of the land to Ku-ring-gai Council in their letter to Council, dated 27 October 2014, as further updated by correspondence dated 19 November 2015 received from Alto Group.

**Reason:** To facilitate the dedication of land.

## **26. Kitchen amenity**

The following units are to provide a clerestory window directly above the kitchen: A0903, B0902, B0903, B0904, B0905, B0906, B0907, B0908.

**Reason:** To achieve satisfactory amenity.

## **27. Bicycle parking**

In addition to the residential bicycle spaces shown on the approved plans; provision is to be made within the development for 2 bicycle spaces for staff and 1 bicycle space for visitors associated with the retail/commercial component of the development.

**Reason:** To comply with the DCP.

## **28. 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:

<b>Plan no.</b>	<b>Drawn by</b>	<b>Dated</b>
LP04 Rev B, LP05 Rev B	Site Design	30/06/2015

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

- The planting within the common open space garden beds adjacent to Units B0901 and B908 shall be amended to ensure the planting faces the communal open space eg the screen planting shall be relocated adjacent to the private units, not the communal open space.
- Fencing to delineate private courtyard area for Units B0901 and B0908 shall be deleted.
- Useable and practical fixed bench seating shall be shown for all rooftop communal open spaces.
- External gas bayonets and BBQ areas shall be shown for all rooftop communal open spaces.
- External safety harness anchor points shall be shown for all external communal rooftop terraces
- The roof top terrace for Building C as shown on LP05 Rev B shall be deleted as it has been detailed on LP04 Rev B

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 Certifying Authority.

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

### **29. Amendments to approved erosion and sediment control plan**

Prior to the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that the approved 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:

<b>Plan no.</b>	<b>Drawn by</b>	<b>Dated</b>
C-13 Rev D Erosion and sediment control plan	Warren Smith and Partners	13/07/2015

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

- The retaining wall shown adjacent to the Merriwa St and Fitzsimons Lane corner shall be deleted. It does not exist and is not approved.
- Spot heights RL 111.6 x 3 and RL110.6 shall be deleted as they do not reflect the approved proposal. They shall be replaced with 'retain existing levels'.

Prior to the issue of the Construction Certificate, the Principal Certifying Authority shall be satisfied that the specified plans have been amended as required by this condition.

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

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

### **30. Amendments to approved excavation plan**

Prior to the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that the approved 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:

<b>Plan no.</b>	<b>Drawn by</b>	<b>Dated</b>
C-1213 Rev D Excavation Plan	Warren Smith and Partners	13/07/2015

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

- The proposed battering shall be deleted.
- The proposed shore piling shall be continued for the basement excavation to the eastern side of Building C.
- Proposed RL's within a 12.0m radius of trees to be retained shall be deleted and replaced with 'existing levels to be retained'
- The shore piling shown to extend southwest beyond the basement footprint shall be deleted. Existing levels and grades shall be shown to be retained.

Prior to the issue of the Construction Certificate, the Principal Certifying Authority shall be satisfied that the specified plans have been amended as required by this condition.

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

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

### **31. Amendments to approved storm water plan**

Prior to the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that the approved 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.	Drawn by	Dated
C-04 Issue D Stormwater Drainage Basement 03 Plan	Warren Smith and Partners	13/07/2015

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

- The shore piling shown to extend southwest beyond the basement footprint shall be deleted. Existing levels and grades shall be shown to be retained.
- The proposed shore piling shall be continued for the basement excavation, adjacent to the basement, to the eastern side of Building C.
- Proposed RL's within a 12.0m radius of trees to be retained shall be deleted and replaced with 'existing levels to be retained'.
- The proposed subsoil (SS100) drainage line located adjacent to the eastern site boundary, Merriwa St site boundary and Fitzsimons Lane/southern site corner shall be deleted as it spatially conflicts with retained trees of broader landscape and ecological significance. The pipe shall be relocated immediately adjacent to the eastern end of Building C.
- The two proposed KEP with Class D Grate drains shall be relocated so they have a minimum setback of 8.0m from Tree 4 and Tree 9, where new road works are shown.

Prior to the issue of the Construction Certificate, the Principal Certifying Authority shall be satisfied that the specified plans have been amended as required by this condition.

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

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

### **32. 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.

### **33. 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.

### **34. 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.

### **35. 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.

### **36. 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.

### **37. 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, 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.

### **38. Noise from road and rail (residential only)**

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

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

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

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

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

Where any form of noise generating equipment associated with the use of the premises including but not limited to air conditioning systems, mechanical exhaust and ventilation systems, security gates, lift motors and the like, is proposed as part of the development, the Certifying Authority shall be satisfied prior to the issue of the Construction Certificate, that the operation of an individual piece of equipment and the operation of all of the equipment in combination will not exceed more than 5dB(A) above the background level during the day when measured at the nearest affected residence and property boundaries and when in operation will not be audible within a habitable room in any residential premises before 7am and after 10pm on any day. In addition to the above, all noise generating equipment must also comply with the amenity and intrusive noise criteria stated in the EPA's Industrial Noise Policy (INP).

**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, including but not limited to the noise sources listed above, 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.

#### **40. Location of plant (residential flat buildings)**

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

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

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

#### **41. Driveway crossing levels**

Prior to issue of the Construction Certificate, driveway and associated footpath levels for any new, reconstructed or extended sections of driveway crossings between the property boundary and road alignment must be obtained from Ku-ring-gai Council. Such levels are only able to be issued by Council under the Roads Act 1993. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings".

Specifications are issued with alignment levels after completing the necessary application form at Customer Services and payment of the assessment fee. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant development application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment.

This development consent is for works wholly within the property. Development consent does not imply approval of footpath or driveway levels, materials or location within the road reserve, regardless of whether this information is shown on the development application plans. The grading of such footpaths or driveways outside the property shall comply with Council's standard requirements. The suitability of the grade of such paths or driveways inside the property is the sole responsibility of the applicant and the required alignment levels fixed by Council may impact upon these levels.

The construction of footpaths and driveways outside the property in materials other than those approved by Council is not permitted.

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

#### **42. Basement car parking details**

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

- all parking space dimensions, driveway and aisle widths, driveway grades, transitions, circulation ramps, blind aisle situations and other trafficked areas comply with Australian Standard 2890.1 - 2004 "Off-street car parking"
- a clear height clearance of **2.6 metres** (required for residential waste collection trucks) is provided over the designated residential 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 residential 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.

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

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

- new drainage pits and pipes, including connection of the site water management system to the street drainage system and any lowered or renewed sections of pipe required to achieve gravity drainage.

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

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

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

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

#### **44. Energy Australia requirements**

Prior to issue of the Construction Certificate, the applicant must contact Energy Australia regarding power supply for the subject development. A written response detailing the full requirements of Energy Australia (including any need for underground cabling, substations or similar within or in the vicinity the development) shall be submitted to the Principal Certifying Authority for approval prior to issue of the Construction Certificate.

Any structures or other requirements of Energy Australia shall be indicated on the plans issued with the Construction Certificate, to the satisfaction of the Principal Certifying Authority and Energy Australia. The requirements of Energy Australia must be met in full prior to issue of the Occupation Certificate.

**Reason:** To ensure compliance with the requirements of Energy Australia.

#### **45. Utility provider requirements**

Prior to issue of the Construction Certificate, the applicant must make contact with all relevant utility providers whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifying Authority, must be obtained. All utility services or appropriate conduits for the same must be provided by the developer in accordance with the specifications of the utility providers.

**Reason:** To ensure compliance with the requirements of relevant utility providers.

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

**46. Infrastructure restorations fee**

To ensure that damage to Council Property as a result of construction activity is rectified in a timely matter:

- a) All work or activity taken in furtherance of the development the subject of this approval must be undertaken in a manner to avoid damage to Council Property and must not jeopardise the safety of any person using or occupying the adjacent public areas.
- b) The applicant, builder, developer or any person acting in reliance on this approval shall be responsible for making good any damage to Council Property, and for the removal from Council Property of any waste bin, building materials, sediment, silt, or any other material or article.
- c) The Infrastructure Restoration Fee must be paid to the Council by the applicant prior to both the issue of the Construction Certificate and the commencement of any earthworks or construction.
- d) In consideration of payment of the Infrastructure Restorations Fee, Council will undertake such inspections of Council Property as Council considers necessary and also undertake, on behalf of the applicant, such restoration work to Council Property, if any, that Council considers necessary as a consequence of the development. The provision of such restoration work by the Council does not absolve any person of the responsibilities contained in (a) to (b) above. Restoration work to be undertaken by the Council referred to in this condition is limited to work that can be undertaken by Council at a cost of not more than the Infrastructure Restorations Fee payable pursuant to this condition.

- e) In this condition:

“Council Property” includes any road, footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, letter bins, trees, shrubs, lawns, mounds, bushland, and similar structures or features on any road or public road within the meaning of the Local Government Act 1993 (NSW) or any public place; and

“Infrastructure Restoration Fee” means the Infrastructure Restorations Fee calculated in accordance with the Schedule of Fees & Charges adopted by Council as at the date of payment and the cost of any inspections required by the Council of Council Property associated with this condition.

**Reason:** To maintain public infrastructure.

**47. Section 94 Contributions - Centres.  
(For DAs determined on or after 19 December 2010)**

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	\$0.0
Gordon TC Local Parks & Sporting Facilities	\$1,696,220.58
Gordon TC Townscape Transport & Pedest Fac	\$858,063.80
LGA Wide Local Recreational & Cultural	\$240,096.28
<b>Development Contributions Total</b>	<b>\$2,794,380.66</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:**

##### **48. 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.

##### **49. 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.

##### **50. Hours of work**

Demolition, 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 using machinery must be limited to between 7.00am and 5.00pm Monday to Friday, with a respite break of 45 minutes between 12 noon and 1.00pm. No excavation using machinery is to occur on Saturdays, Sundays or public holidays.

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.

#### **51. 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.

#### **52. 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.

#### **53. 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.

#### **54. 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.

## **55. 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.



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

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

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

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

**Reason:** Management of records.

## **57. 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 **SMEC dated January 2015**. 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.

## **58. 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 **SMEC dated January 2015**. Approval must be obtained from all affected property owners, including Ku-ring-gai Council, where rock anchors (both temporary and permanent) are proposed below adjoining property(ies).

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

## **59. 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.

#### **60. 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.

#### **61. Toilet facilities**

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

**Reason:** Statutory requirement.

#### **62. Protection of public places**

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

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

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

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

**Reason:** To protect public places.

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

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

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

#### **64. Construction signage**

All construction signs must comply with the following requirements:

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

## **65. Approval for rock anchors**

Approval is to be obtained from the property owner for any anchors proposed beneath adjoining private property. If such approval cannot be obtained, then the excavated faces are to be shored or propped in accordance with the recommendations of the geotechnical and structural engineers.

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

## **66. Maintenance period for works in public road**

A maintenance period of six (6) months applies to all work in the public road reserve carried out by the applicant - after the works have been completed to the satisfaction of Ku-ring-gai Council. In that maintenance period, the applicant shall be liable for any section of the public infrastructure work which fails to perform in the designed manner, or as would reasonably be expected under the operating conditions. The maintenance period shall commence once the applicant receives a formal letter from Council stating that the works involving public infrastructure have been completed satisfactorily.

**Reason:** To protect public infrastructure.

## **67. Road reserve safety**

All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials must not be stored in the road reserve. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "Traffic Control Devices for Work on Roads". If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.

**Reason:** To ensure safe public footways and roadways during construction.

## **68. 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.

## **69. 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.

## 70. Erosion control

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

**Reason:** To protect the environment from erosion and sedimentation.

## 71. 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.

## 72. Arborist's report

The tree/s to be retained shall be inspected, monitored and treated by a qualified Arborist during and after completion of development works to ensure their long term survival. Regular inspections and documentation from the Arborist to the Principal Certifying Authority are required at the following times or phases of work:

Tree/Location	Time of inspection
T4 <i>Eucalyptus saligna</i> (Sydney Blue Gum) Adjacent to Merriwa St/Fitzsimons Lane site corner	* Immediately prior to the commencement of any works
T9 <i>Eucalyptus saligna</i> (Sydney Blue Gum) Adjacent to Merriwa St/Fitzsimons Lane site corner	* Certification of tree protection requirements consistent with the consent

	conditions. * Direct supervision of demolition works within 12m radius * At four monthly intervals during construction * At the completion of all works prior to the issue of the Occupation Certificate
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**Reason:** To ensure protection of existing trees.

### 73. Trees on nature strip

Removal/pruning of the following tree/s from Council's nature strip to permit vehicular access shall be undertaken at no cost to Council by an experienced tree removal contractor/arborist holding public liability insurance amounting to a minimum cover of \$20,000,000:

Tree/Location
T1 - T3 <i>Syragus romanzoffianum</i> (Cocos Palm) Pacific Hwy

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

### 74. Treatment of tree roots

If tree roots are severed for the purposes of constructing the approved works, they shall be cut cleanly by hand, by an experienced AQF3 Arborist/Horticulturist. All pruning works shall be undertaken as specified in Australian Standard 4373-2007 - Pruning of Amenity Trees.

**Reason:** To protect existing trees.

### 75. Cutting of tree roots

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

Tree/Location	Radius from trunk
T4 <i>Eucalyptus saligna</i> (Sydney Blue Gum) Adjacent to Merriwa St/Fitzsimons Lane site corner	12.0m
T9 <i>Eucalyptus saligna</i> (Sydney Blue Gum) Adjacent to Merriwa St/Fitzsimons Lane site corner	13.6m

**Reason:** To protect existing trees.

### 76. Approved tree works

Approval is given for the following works to be undertaken to trees on the site. All trees are to be clearly tagged and identified on site by the Project Arborist, consistent with the Arboricultural Impact Assessment Report by Landscape Matrix dated 18/11/2014, prior to the removal of ANY trees on site.

Tree/Location	Approved tree works
T1 <i>Syragus romanzoffianum</i> (Cocos Palm) Pacific Hwy road reserve	Removal
T2 <i>Syragus romanzoffianum</i> (Cocos Palm) Pacific Hwy road reserve	Removal

T3 <i>Syragus romanzoffianum</i> (Cocos Palm) Pacific Hwy road reserve	Removal
T5 <i>Thuja orientalis</i> (Chinese Arborvitae) Adjacent to Merriwa St site frontage	Removal
T6 <i>Angophora floribunda</i> (Rough Barked Apple) Adjacent to Merriwa St site frontage	Removal
T7 <i>Yucca spp</i> (Agave) Adjacent to Merriwa St site frontage	Removal
T8 <i>Pistacia chinensis</i> (Chinese Pistacio) Adjacent to Merriwa St site frontage	Removal
T10 <i>Schefflera actinophylla</i> (Umbrella Tree) Adjacent to Merriwa St site frontage	Removal
T11 <i>Murraya paniculata</i> (Orange Jessamine) Centrally located on site	Removal
T12 <i>Pistacia chinensis</i> (Chinese pistachio) Centrally located on site	Removal
T13 <i>Pistacia chinensis</i> (Chinese Pistacio) Centrally located on site	Removal
T14 <i>Celtis sinensis</i> (Hackberry) Centrally located on site	Removal
T15 <i>Casuarina glauca</i> (Swamp Oak) Adjacent to western site boundary	Removal
T16 <i>Howea forsteriana</i> (Kentia Palm) Adjacent to western site boundary	Removal

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

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

#### 77. Hand excavation

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

Tree/Location	Radius from trunk
T4 <i>Eucalyptus saligna</i> (Sydney Blue Gum) Adjacent to Merriwa St/Fitzsimons Lane site corner	12.0m
T9 <i>Eucalyptus saligna</i> (Sydney Blue Gum) Adjacent to Merriwa St/Fitzsimons Lane site corner	13.6m

**Reason:** To protect existing trees.

#### 78. 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.

#### 79. Tree removal on nature strip

Following removal of T1 - T3 *Syragus romanzoffianum* (Cocos Palm) from Council's nature strip, the nature strip shall be rehabilitated to the satisfaction of Council's Landscape Assessment Officer at no cost to Council.

**Reason:** To protect the streetscape.

#### 80. Removal of refuse

All builders' refuse, spoil and/or material unsuitable for use in landscape areas shall be removed from the site on completion of the building works.

**Reason:** To protect the environment.

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

At the stage when formwork for the ground floor slab is in place and prior to concrete being poured, a registered surveyor is to:

- ascertain the reduced level of the underside of the slab at the driveway entry,
- certify that the level is not lower than the level shown on the approved DA plans; and
- certify that the minimum headroom of 2.6 metres will be available for the full path of travel of the small waste collection vehicle from the street to the collection area.
- This certification is to be provided to Council's Development Engineer prior to any concrete being poured for the ground floor slab.
- No work is to proceed until Council has undertaken an inspection to determine clearance and path of travel.

At the stage when formwork for the ground floor slab is in place and prior to concrete being poured, Council's Development Engineer and Manager Waste Services are to carry out an inspection of the site to confirm the clearance available for the full path of travel of the small waste collection vehicle from the street to the collection area. This inspection may not be carried out by a private certifier because waste management is not a matter listed in Clause 161 of the Environmental Planning and Assessment Regulation 2000.

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

#### **82. 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:**

#### **83. Noise - daytime and evening**

All noise generating equipment associated with the use of the premises including but not limited to air conditioning systems, mechanical exhaust and ventilation systems, security gates, 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 affected residence and property boundary. In addition to the above, all noise generating equipment must also comply with the amenity and intrusive noise criteria stated in the EPA's Industrial Noise Policy.

**Note:** Written confirmation from a suitably qualified 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.

**Reason:** To protect the residential amenity.

#### **84. Noise - Night time**

All noise generating equipment associated with the use of the premises, including but not limited to air conditioning systems, mechanical exhaust and ventilation systems, security gates, lift motors and the like must not be audible between 10pm and 7am within a habitable room in any residential premises.

**Note:** Written confirmation from a suitably qualified 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.

**Reason:** To protect the residential amenity.

#### **85. Noise - rail, road, occupancy**

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; BCA noise requirements between occupancy types; the NSW Planning 'Development Near Rail Corridors and Busy Roads - Interim Guidelines December 2008' (DNRCBR 2008) and noise reduction recommendations of the acoustic consultant report (Reference: PKA Acoustic Consulting Report File: 214 023 R01 v 2-0 Acoustic Report. Doc dated November 2014) prior to the release of the Occupation Certificate.

**Reason:** To protect the residential amenity.

#### **86. Easement for waste collection**

Prior to the issue of the Occupation Certificate, the Principal Certifying Authority must be satisfied that an easement for waste collection has been 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.

#### **87. Waste arrangements**

Prior to the issue of the Occupation Certificate, the Principal Certifying Authority must be satisfied that a contract or contracts is/ are in place for the collection of all retail/ commercial waste from the retail/ commercial waste storage area in Basement 03.

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

#### **88. Waste collection contractor**

Prior to the issue of the Occupation Certificate, the applicant must submit to Council details of the waste contractor engaged to service the retail/ commercial component of the building. These details are to include name, contact phone number, copy of waste collection contract and details of the vehicle that will be used to service retail/ commercial waste collection for the building.

**Reason:** To ensure safe traffic movement and neighbourhood amenity.

#### **89. Compliance with BASIX Certificate**

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall be satisfied that all commitments listed in BASIX Certificate No. 538100m\_04 have been complied with.



**Reason:** Statutory requirement.

#### **90. Mechanical ventilation**

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

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 surrounding properties.

#### **91. Completion of landscape works**

Prior to the release of the Occupation Certificate, the Principal Certifying Authority is to be satisfied that all landscape works, including the removal of all noxious and/or environmental weed species, have been undertaken in accordance with the approved plan(s) and conditions of consent.

**Reason:** To ensure that the landscape works are consistent with the development consent.

#### **92. Accessibility**

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

- the lift design and associated functions are compliant with AS 1735.12 & AS 1428.2
- the level and direction of travel, both in lifts and lift lobbies, is audible and visible
- the controls for lifts are accessible to all persons and control buttons and lettering are raised
- international symbols have been used with specifications relating to signs, symbols and size of lettering complying with AS 1428.2
- the height of lettering on signage is in accordance with AS 1428.1 – 1993
- the signs and other information indicating access and services incorporate tactile communication methods in addition to the visual methods

**Reason:** Disabled access & services.

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

Prior to issue of the Occupation Certificate, the applicant must create a positive covenant and restriction on the use of land under Section 88E of the Conveyancing Act 1919, burdening the property with the requirement to maintain the site stormwater retention and re-use facilities on the property.

The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instruments for protection of retention and re-use facilities" and to the satisfaction of Council (refer to Volume C Part 4R.9 of Ku-ring-gai 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.

#### **94. Certification of drainage works**

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

- the stormwater drainage works have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans
- the minimum retention and on-site detention storage volume requirements of 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.

#### **95. WAE plans for stormwater management and disposal**

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.

#### **96. OSD positive covenant/restriction**

Prior to issue of the Occupation Certificate, the applicant must create a positive covenant and restriction on the use of land under Section 88E of the Conveyancing Act 1919, burdening the owner with the requirement to maintain the on-site stormwater detention facilities on the lot.

The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" and to the satisfaction of Council (refer to Volume C Part 4R.9 of Ku-ring-gai Local Centres DCP). 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.

#### **97. 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.

#### **98. Certification of as-constructed driveway/carpark**

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 residential 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 residential 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.

#### **99. Construction of works in public road - approved plans**

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

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

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

**Reason:** To ensure that works undertaken in the road reserve are to the satisfaction of Council.

#### **100. 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:**

##### **101. Garbage and recycling facilities**

All waste and recycling bins associated with the premises are to be stored within the designated internal waste storage area. All commercial waste must be stored separately to residential waste. The Waste Management Plan developed by 'Elephants Foot Recycling Solutions' dated April 2014 submitted with the application must be adopted and adhered to by Building Management.

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

##### **102. Waste storage and collection**

At all times, all storage of waste, collection of waste and loading and unloading of waste collection vehicles in connection with the use of the premises shall be carried out wholly within the building. Occupiers of the building shall not at any time store waste collection receptacles or any form of waste external to the building.

**Reason:** To prevent pollution of the area, ensure safe traffic movement and to protect the amenity of the area.

##### **103. 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.

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

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

unimpeded access to the garbage collection point is to be provided by other means through written agreement with Council's Waste Collection Services.

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

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

All noise generating equipment associated with the use of the premises including but not limited to air conditioning systems, mechanical exhaust and ventilation systems, security gates, 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 affected residence and property boundary.

All noise generating equipment associated with the use of the premises, including but not limited to air conditioning systems, mechanical exhaust and ventilation systems, security gates and lift motors, garbage truck reversing alarms, ducting and the like must not be audible between 10pm and 7am within a habitable room in any residential premises.

**Reason:** To comply with best practice standards for residential acoustic amenity.

#### **106. 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.

#### **107. Hours of operation**

At all times, the hours of operation for the retail/commercial premises are to be restricted to:

- i) 7:00am to 10:00pm weekdays and Saturdays; and
- ii) 8:00am to 9:00pm Sundays and public holidays.

Loading docks associated with retail/commercial uses are to operate within the following hours:

- i) 6:00am to 8:00pm weekdays; and
- ii) 8:00am to 5:00pm Saturdays;
- iii) 8:00am to 2:00pm Sundays and Public Holidays

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

#### **108. Annual Fire Safety Statement**

Each 12 months after the installation of essential fire or other safety measures, the owner of a building must cause the Council to be given an Annual Fire Safety Statement for the building. In addition a copy of the statement must be given to the NSW Fire Commissioner and a copy displayed prominently in the building.

**Reason:** To ensure statutory maintenance of essential fire safety measures.

### **INTEGRATED REFERRAL CONDITIONS:**

#### **109. Roads and Maritime Services**

1. Roads and Maritime has previously vested a strip of land as road along part of the Pacific Highway frontage of the property. Roads and Maritime has no approved proposal that requires any part of the subject property for road purposes. All buildings and structures are clear of the Highway road reserve (unlimited in height or depth) together with any improvements integral to the future use of the site.

2. The redundant driveway on Pacific Highway shall be removed and replaced with kerb and gutter to match existing.

3. The design and construction of the kerb and gutter works on Pacific Highway shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Project Services Manager, Traffic Projects Section, Parramatta (telephone 8849 2138).

Detailed design plans of the proposed kerb and gutter works are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works.

4. Post development stormwater discharge from the subject site into the Roads and Maritime drainage system is not to exceed the pre-development discharge.

Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to the Roads and Maritime for approval, prior to the commencement of any works. Details should be forwarded to:

The Sydney Asset Management  
Roads and Maritime Services  
PO Box 973 Parramatta CBD 2124.

A plan checking fee will be payable and a performance bond may be required before the Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

5. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of assessment by Roads and Maritime.

The report and any enquiries should be forwarded to:

Project Engineer, External Works  
Sydney Asset Management  
Roads and Maritime Services  
PO Box 973 Parramatta CBD 2124  
Telephone 8849 2114  
Fax 8849 2766

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/ are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

6. The proposed residential component of the development should be designed such that road traffic noise from Pacific Highway is mitigated by durable materials to satisfy requirements under Clause 102(3) of State Environmental Planning Policy (Infrastructure) 2007. The Roads and Maritime's Environmental Noise Management Manual provides practical advice in selecting noise mitigation treatments.

7. A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate.

**Reason:** Roads and Maritime Services requirements.

#### **110. Rail Corp**

An acoustic assessment is to be submitted to Council prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of planning's document titled "Development Near Rail Corridor and Busy Roads - interim Guidelines

**Reason:** To meet Rail Corp requirements.

Grant Walsh  
**Executive Assessment Officer**

Shaun Garland  
**Team Leader Development  
Assessment**

Corrie Swanepoel  
**Manager Development & Assessment  
Services**

Michael Miocic  
**Director Development & Regulation**

- Attachments:**
1. Location sketch
  2. Ku-ring-gai Planning Scheme Zoning Extract
  3. Submission from Addison Lawyers including Memorandum of Opinion from Mr Adrian Galasso SC
  4. Memorandum of Opinion from Addison Lawyers
  5. Supplementary report to JRPP (Meeting of 24 March 2016)
  6. Submission by Addison Lawyers
  7. Original JRPP report (Meeting of 4 December 2015)
  8. Architectural plans
  9. Landscape plans
  10. Stormwater management plans
  11. Basix certificate
  12. Clause 4.6 variation submission