

JOINT REGIONAL PLANNING PANEL (Sydney West)

JRPP No	2015SYW123
DA Number	DA0578/14
Local Government Area	Ku-ring-gai
Proposed Development	Demolition of existing structures and construction of a mixed use development consisting of retail and commercial space, 33 residential units, roof top swimming pools, basement parking and stratum subdivision
Street Address	43 Lindfield Avenue, Lindfield and 9 Havilah Lane, Lindfield
Lot & DP	Lot 1 DP 502955 and Lot 2 DP 1198025
Applicant	Wzrm Pty Ltd
Owner	Wzrm Pty Ltd
Number of Submissions	Original proposal: 10 objections Amended proposal: 2 objections
Regional Development Criteria (Schedule 4A of the Act)	The proposal has a capital investment value greater than \$20,000,000.
List of All Relevant s79C(1)(a) Matters	SEPP 55 – Remediation of Land SEPP (Infrastructure) 2007 SEPP (Building Sustainability Index: BASIX) 2004 SEPP 65 (Design Quality of Residential Flat Development) SREP (Sydney Harbour Catchment) 2005 Draft SEPP 65 Ku-ring-gai LEP (Local Centres) 2012 Local Centres DCP Development Contributions Plan 2010
List all documents submitted with this report for the panel's consideration	Attachment A – Pre DA Report Attachment B – Letter to applicant Attachment C – Sydney Trains Concurrence Attachment D – Clause 4.6 variation Attachment E – Plans and elevations
Recommendation	Deferred Commencement Consent
Report By	Kimberley Kavwenje – Executive Assessment Officer

Assessment Report and Recommendation Cover Sheet

Legislative requirements

Zoning	B2 Local Centres under Ku-ring-gai LEP (Local Centres) 2012
Permissible Under	Ku-ring-gai LEP (Local Centres) 2012
Relevant legislation	Environmental Planning and Assessment Act 1979 Contaminated Lands Management Act 1997 SEPP 55 – Remediation of land SEPP (Infrastructure) 2007 SEPP (Building Sustainability Index: BASIX) 2004 SEPP 65 (Design Quality of Residential Flat Development) SREP (Sydney Harbour Catchment) 2005 Ku-ring-gai LEP (Local Centres) 2012 Local Centres DCP Development Contributions Plan 2010
Integrated Development	No

PURPOSE FOR REPORT

To determine Development Application No. 578/14 for the demolition of existing structures and construction of a mixed use development consisting of retail and commercial space, 33 residential units, roof top swimming pools, basement parking and stratum subdivision.

The Joint Regional Planning Panel (JRPP) is the consent authority as the proposed development has a CIV exceeding \$20 million.

HISTORY

Site

DA0246/13

Development Application proposing demolition of all buildings and trees on site. Construction of an 8 storey mixed used development over three levels of basement parking accessed from Havilah Lane. The development included 62 apartments, 147 car spaces and 2 retail tenancies. The retail component included a 100m² neighbourhood shop and a 1105m² gourmet grocer was lodged on 9 July 2013. The proposal was amended through the assessment process.

On 19 November 2013 the applicant lodged a deemed refusal with the Land and Environment Court as 10865 of 2013. The proposal was amended following a Section 34 conference.

The appeal was dismissed as the Court was not satisfied that the development could not be designed, sited and managed to avoid the adverse environmental impact of removing 3 Turpentine and consent could not be issued pursuant to Clause 6.3(4) of the LEP.

Pre DA Meeting

Pre0138/14

A Pre DA meeting was held on 6 November 2014. The proposal was for demolition of existing service station and carpark and construction of a 7 storey mixed use development with 4 levels of basement car parking at 43 Lindfield Avenue and 9 Halivah Lane, Lindfield.

The purpose of the meeting was to discuss two questions regarding vehicular access and the creation of a pedestrian laneway.

In this regard, Council officers advised that the commercial delivery vehicles are not required to be separated from the commercial (retail parking) and the advice provided during the Land and Environment Court Mediation that the pedestrian laneway was not required also represents Council's position with respect to the revised development proposal.

The applicant was also advised that not providing the required 5 metres setback does influence the built form of the development and may result in impacts on the existing residential flat building to the north.

The applicant was advised that a nil setback from the northern boundary for the ground floor level is considered acceptable, providing that the visual impacts of the northern elevation are appropriately ameliorated through appropriate treatment. Concern was raised that the achievement of an appropriate treatment may be difficult as the northern face of the side wall cannot be accessed during construction. Precast panels were suggested.

The building separation provisions of Part 8A.2 will need to be satisfied.

The Pre DA report is **Attachment A**.

Current Development Application

19 December 2014
16 January

The application was lodged.
The application was advertised.

1 April 2015	<p>Council sent a letter identifying fundamental concerns, requesting design changes and further information including:</p> <ul style="list-style-type: none"> - Lindfield avenue setback - street elevation DA8.01 to be updated - northern setback - southern setback - relationship with Halivah Lane - calculation plans for FSR - basement design and allocation of parking - ESD report for retail component - Design Verification Statement - design changes for solar access, cross ventilation, rooms sizes, balcony sizes, storage, - stormwater plans having insufficient details - stratum plan inconsistent with architectural plans - details on mechanical plant and location of exhaust point - clearance height to basement and details of operation of roller shutters - BASIX non compliance
14 April 2015	The assessment Officer and Team Leader met with the applicant and their town planner and architect.
8 May 2015	Amended plans and further information was submitted.
19 May 2015	The amended proposal was notified.
29 May 2015	The applicant is advised that no amended BASIX Certificate had been received.
24 June 2015	The applicant submits an amended BASIX Certificate. The applicant is advised the BASIX Certificate is unsatisfactory and that an amended Certificate is required.
1 July 2015	An amended BASIX Certificate is submitted.

THE SITE

Site description

The site comprises two allotments located on eastern side of Lindfield Avenue and having a secondary frontage to Havilah Lane. The site details are as follows:

- No. 43 Lindfield Avenue known as Lot 1 within DP502955. The lot has an area of 1427.21m² and presently contains a service station. Vehicular access is provided by a circular driveway from Lindfield Avenue.
- No. 9 Havilah Lane known as Lot 2 in DP 1198025. The lot has an area of 383m². Vehicular access is from Havilah Lane. The site was formerly used as a public carpark.

The site is an irregular shaped allotment, with a site area of 1810.2m². The site has frontages of 31.21 metres to Lindfield Avenue and 15.625 metres to Havilah Lane. The site has a maximum depth of 69 metres. The site has a fall of up to 4 metres (6%) from west to east and a cross fall from north to south of up to 1.4 metres (4%).

Surrounding development

The site is surrounded by Lindfield Avenue and the North Shore Railway Line to the south-west, Havilah Lane to the north-west, Milray Street to the north east and Tryon Road to the south-east. The site is a 110 metres walk from the entrance to Lindfield Station.

The northern part of the site is predominantly residential development, with a business and shop top housing development to the south.

The site is adjoined immediately to the south by 39 and 41 Lindfield Avenue (a pair of commercial terraces) and 7 Havilah Lane (the other half of the former Council car park). Further to the south, the majority of the block (with the exception of 2 Kochia Lane has been amalgamated and is the subject of a Part 3A approval issued by the Department of Planning.

THE PROPOSAL

The application proposes the demolition of existing structures and construction of a mixed use development consisting of retail and commercial spaces, 33 residential units, basement parking and stratum subdivision. The details of the proposed development are as follows:

Basement 04, RL82.600	27 residential car parking spaces (5 adaptable) storage spaces, 3 fire stairs, waste room, and 3 lifts.
Basement 03, RL85.40	25 residential car parking spaces (3 visitor spaces including 1 as accessible, 5 adaptable spaces) storage spaces, 3 fire stairs, waste room, and 3 lifts.
Basement 02, RL88.40	26 retail car parking spaces (including 1 small space and 1 accessible space), 3 fire stairs, plant, public toilet, 2 more plant rooms, 2 lifts, pay machine, 1 motor cycle space.
Basement 01, RL91.40	15 retail car spaces, 2 goods lift, 3 fire stairs, storage, retail delivery dock, retail waste and recycling bins area, kiosk substation, 2 lifts, pay

machine, fire service equipment room, motorcycle parking.

Level 01, RL95.800	906.64m ² of retail floor space, separate entrance and associated lobbies, lifts and fire stairs for the residential and retail components. Ramp access, 2 goods lift, 4 fire stairs in total, pedestrian stairs access to basement 03 and 04, plant room
Level 02, RL99.900	8 residential units comprising (2 x 1 bedroom units, 3 x 1 bedroom + study), 1 x 2 bedroom + study), 2 x 3 bedroom + study). 3 fire stairs, 3 lifts, services, storage
Level 03, RL102.950	8 residential units comprising (2 x 1 bedroom units, 3 x 1 bedroom + study), 1 x 2 bedroom + study), 2 x 3 bedroom + study). 3 fire stairs, 3 lifts, services, storage
Level 04, RL106.00	8 residential units comprising (2 x 1 bedroom units, 3 x 1 bedroom + study), 1 x 2 bedroom + study), 2 x 3 bedroom + study). 3 fire stairs, 3 lifts, services, storage
Level 05, RL109.05	3 residential units comprising (3 x 3 bedroom + study and or library or media rooms) 2 fire stairs, 2 lifts, services, storage
Level 06, RL112.10	3 residential units comprising (3 x 3 bedroom + study and or library or media rooms) 2 fire stairs, 2 lifts, services, storage
Level 07, RL115.15	3 residential units comprising (3 x 3 bedroom + study and or library or media rooms) 2 fire stairs, 2 lifts, services, storage
Level 08, RL118.20	communal open space area with drying facility and accessible WC, two swimming pools and decking associated with Units 7.2 and 7.3 including mezzanine levels with study's and bathrooms. 2 fire stairs, 2 lifts, services.

Vehicular access to the basement carpark is provided from Havilah Lane via two separate (two car) driveway one for the retail component and one for residential access, located adjacent to the southern side boundary. Two pedestrian entrances are located on either end of the Lindfield Avenue frontage. The proposal includes separate entrances to the residential and retail components of the building. The residential access is provided adjacent to the southern corner of the building and the retail entrance is adjacent to the northern side boundary. Direct access from the footpath to the retail space has also been provided.

Amended plans and information submitted on 8 May 2015

- Design Verification Statement prepared by Vic Lake Architect
- revised architectural plans
- revised landscape plans
- revised stormwater management plans
- letter from Ian Baker Consulting regarding stratum subdivision
- letter from Day Design regarding acoustic impacts
- revised assessment of traffic and parking
- waste management advice from Harris Farm Markets
- Clause 4.6 Variation

CONSULTATION

Community

In accordance with the requirements of Part 5, Volume 3 of the Ku-ring-gai Local Centres Development Control Plan, owners of surrounding properties were given notice of the application. In response, Council received submissions from the following:

1. Philip & Glenda Longley
25/2b Havilah Road
2. Colin John Anness
PO Box 263 Lindfield NSW 2070
3. Wendy Allen
PO BOX 398 Roseville NSW 2069
4. Aqualand Lindfield Projects Pty Ltd
5. AustGrid
6. Cheryl Thomas
2/51 Lindfield Avenue, Lindfield NSW 2070
7. Rhian and Don Reade
Po Box 424 Lindfield NSW 2070
8. Cracknell & Lonergan Architects Pty Ltd (on behalf of 51 Lindfield Avenue Lindfield NSW)
156A Church Street, Camperdown
9. ST Dumbrell
3/2B Halivah Road, Lindfield NSW 2070
10. Kathy Cowley
Convenor, Friends of Lindfield
PO Box 302 Killara NSW 2071

In accordance with the requirements of Part 5, Volume 3 of the Ku-ring-gai Local Centres Development Control Plan, owners of surrounding properties were given notice of the amended application. In response, Council received submissions from the following:

1. Philip & Glenda Longley
25/2b Havilah Road

2. Cracknell & Lonergan Architects Pty Ltd(on behalf of 51 Lindfield Avenue
Lindfield NSW)
156A Church Street, Camperdown

The submission raised the following issues:

Traffic impacts on Havilah Lane and surrounding roads

Council's Development Engineer provided the following comments in relation to traffic impacts:

"The site has been zoned for this type of development and improvements to the road network have been programmed by Council as part of the contributions plan, to accommodate the expected increase in traffic in this part of the Lindfield Local Centre. The development itself is expected to generate an additional vehicle movement every 1-2 minutes in peak periods."

The proposal is satisfactory in relation to traffic impacts.

Another 33 apartments will overcrowd and overshadow the whole of Lindfield Avenue and Havilah Lane

The proposal is consistent with the zoning of the site which allows for shop top housing. The proposal is compliant with the development standard for height and the resultant shadow impacts upon Lindfield Avenue and Havilah Lane are consistent with the anticipated development of the site.

Apartments will bring lower socio-economic people into this area

This is not a town planning consideration under Section 79C of the Environmental Planning and Assessment Act 1979.

The store at the south-eastern corner should be relocated further north with a minimum 3 metres setback from the common boundary

The store has been relocated from the southern boundary. Units 2.1, 3.1, 4.1, 5.1 and 6.1 have been reconfigured providing the ensuite, laundry, powder room and study along the southern boundary with a nil setback. The clerestory windows have been deleted. Bedroom 1 of these Units is set back 3.0 metres from the southern boundary.

Bedroom 1 as well as the ensuite should be set back off the boundary all levels 2-7 for these rooms can be regained by bringing the wall of the walk in robe/laundry/study and bathroom to the common boundary without the clerestory windows

The amended proposal relocates Bedroom 1 within Units 2.1, 3.1, 4.1, 5.1, 6.1 to be set back 3.0 metres from the southern boundary by creating a void area. The

ensuites/walk in robe/laundry and study has a nil setback with no openings within the southern elevation.

The glazing/louvres of the walkways in the southern façade should be fixed at a 45 degrees upward angle and consist of coloured or patterned translucent glazing to preclude downward viewing of the adjoining property

The proposal uses coloured glass louvres and privacy screens to prevent downward looking upon the property the south.

The sandstone cladding used on the front façade frame should be returned around the corner to face south for the same width as the frame on the front façade

The remainder of the wall should be treated using a honed or polished finish with expressed horizontal joints or similar

The amended plans show the sandstone cladding continuing along the southern elevation. The remainder of the wall also contains a sandstone cladding element, rendered masonry, coloured glass balustrade and a vertical green wall garden. This is considered an appropriate mix of materials.

The plant area at Level 5 should be enclosed with a maximum ceiling height of 2 metres and the southern wall should be set back a minimum of 1100mm from the boundary

The roof and walls of the Plant room should be treated for sound attenuation so as not to exceed the ambient noise level as measured at the southern boundary by 5dB(A)

The plant room at the south western corner of Level 5 is an enclosed room which has a nil setback from the southern boundary. The development is subject to noise level requirements in **Conditions 18, 36, 37, 86, and 106** to ensure that any mechanical equipment approved as part of this development does not adversely affect the amenity of the adjoining property.

Electricity supply arrangements

The applicant will need to make application to Ausgrid for the provision of a substation in accordance with **Condition 66**.

Impacts on existing electrical equipment

There is an existing pole, street light and associated overhead electricity mains situated in the Havilah Lane carpark which will be impacted by the proposed development. **Condition 66** requires the applicant to contact the relevant utility authority in relation to service requirements.

Demolition of the petrol station may impact soil and ground water and asbestos and a detailed risk assessment has not been submitted

A Remediation Action Plan, prepared in accordance with the Contaminated Lands Management Act 1997 and State Environmental Planning Policy 55 – Remediation of Land, has been submitted. A Phase 2 investigation for the entire site has not been submitted but **Condition 10** requires this to be undertaken prior to the commencement of any works on site.

The RAP is questionable and the site has not been fully tested

The Remediation Action Plan is considered to be acceptable and has identified the site as being contaminated and requiring remediation after the removal of existing infrastructure and buildings from the site. The extent of remediation is dependent upon further investigations, which can only be undertaken once structures have been removed from the site and further assessment has been carried out.

The model submitted to Council is misleading and scaled inaccurately

The assessment of the application is based on the architectural plans, survey and expert reports. The model is not solely used for assessment and is not approved as part of the determination of the application. It is a representation of the proposed development, which has been amended throughout the assessment process.

Site isolation of Nos 39 – 41 Lindfield Avenue

The commercial terraces have been amalgamated into the Major Project MP08_0244 MOD 3 which was approved by the Planning Assessment Commission on 29 June 2015. Accordingly, this site is no longer isolated.

Site isolation of Nos 51 – 53 Lindfield Avenue

The site area and street frontage of 51 Lindfield Avenue is compliant with Clause 6.5 of KLEP (Local Centres) 2012 to permit development for the purposes of multi dwelling development or a residential flat building.

The site is considered constrained by the Biodiversity values but, given the site zoning, the existing strata titled residential flat building on site and the adjoining site to the north not being developed for the purposes of the R4 zone, the site is not considered to be isolated.

The built form is inconsistent with the desired future character and heritage character of the area

The proposed built form is consistent with the allowable development envelope envisaged by the B2 zoning. The development is therefore consistent with the desired future character of the Lindfield Town Centre. The site is not located within a heritage conservation area.

The landscape elements are disappointing

The application has been assessed by Council's Landscape Assessment Officer and no concerns have been raised regarding the proposed landscaping.

Within Council

Landscaping

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

"Tree impacts

An arboricultural impact assessment report for T1 Acmena smithii (Lilli Pilli) has been submitted with the application and is considered satisfactory.

There is an existing Jacaranda mimosifolia (Jacaranda) street tree planting in front of the site. The tree canopy conflicts with the proposed awning. The required pruning will significantly alter the form and structure of the tree detrimentally. Although shown to be retained, it is conditioned for the tree to be removed. Preference has been given to the provision of an awning over the nature strip within the urban context.

Landscape plan/tree replenishment

The proposed landscape work for the site is acceptable. Tree replenishment is not required due to the sites B2 zoning.

Stormwater plan

Proposed drainage works for the site is acceptable on landscape grounds.

BASIX

The landscape areas are consistent with the BASIX certificate 597802M_06 dated 01/07/2015.

Deep soil

Not applicable for B2 zoning

Conclusion

The application is acceptable on landscape grounds, subject to conditions (Conditions 4, 70 - 78 and 87).

Engineering

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

"Water management

The Stream Flow and Water Quality Report are satisfactory, as are the water management plans, subject to the on site detention volume being increased

to take into account the almost 100% site coverage (which is conditioned), and all these may be stamped and listed in **Condition 1** if approval is to be recommended.

Traffic and parking

The basement layout and parking arrangements are satisfactory. Showers are now shown adjacent to the bike lockers.

An arrangement of bollards is shown on the architectural plans to control the two traffic streams. Sight triangles are indicated for pedestrian safety.

Submissions raise traffic generation as an issue for this development. The site has been zoned for this type of development, and improvements to the road network have been programmed by Council as part of the contributions plan, to accommodate the expected increase in traffic in this part of the Lindfield Local Centre. The development itself is expected to generate an additional vehicle movement every 1-2 minutes in peak periods.

Waste management

The waste management information provided by Harris Farm is accepted. A condition is recommended that evidence of a suitable commercial arrangement be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

The recommended conditions also include consideration of hours for deliveries, given the residential development over the road. Because of the internal nature of the loading dock, a specific loading dock management plan is not considered to be necessary.

Council infrastructure

There are no works required in Havilah Lane as a result of the proposed development, and Public Domain works will be carried out by Council using contributions at a later date. Other projects in the area include the Aqualand development and Council's Lindfield Village Green, so the preparation of a detailed dilapidation report on Council's assets is considered unnecessary. A photographic survey of the site frontages will suffice and this is conditioned.

Geotechnical investigation

The documentation submitted includes a Remediation Action Plan but not a geotechnical report. However, the requirements for Sydney Trains in granting concurrence to the development are similar to what would be required as part of a post-demolition geotechnical report, so no additional conditions are recommended in this regard." (**Conditions 12-17, 26, 27, 38 – 43, 45, 50, 53 -61, 64 – 67, 79 – 83, 89 – 94, 98 – 103, 105, 107 – 109**)

Building

Council's Building Surveyor commented on the revised proposal as follows:

"The proposal is satisfactory subject to conditions." (**Conditions 33, 69, 98 and 112**)

Health

Council's Environmental Health Officer commented on the revised proposal as follows:

"I have reviewed the information supplied with the application in relation to the proposed demolition of a service station and construction of a mixed commercial/residential flat building with underground parking. The proposal is acceptable subject to conditions." (Conditions 18, 36, 48, 86, and 106)

Urban Design

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

"Principle 1: Context

The issue of the street setback to Lindfield Avenue has been resolved. The planter box has been removed and the shopfront glazing line has been brought forward to the street edge with bifold windows incorporated to open into the retail area (DA6.03B). This arrangement and detail is more conducive to 'the presence or movement of people' and 'encourages interaction between the inside of the building and the external public areas adjoining the building.' This aspect is now considered acceptable.

The issue of access via the proposed through site link has been addressed. An additional tall privacy wall has been included (DA8.00B), as well as an awning (DA7.00B), along the majority of the through site link. This will ensure that the retail component of the proposal does not impact existing or future residential development to the immediate north at 51 Lindfield Avenue. These additional elements also change the nature of the pedestrian through site link such that it is a more enclosed space which is less conducive to being a publicly accessible link between Lindfield Avenue and Havilah Lane. The provisions of gates to either end of this space is probably a suitable inclusion now. This aspect is now considered acceptable from an urban design perspective.

The issue of the setback above street wall height has been resolved. The setback of 1.8 metres has been increased to 2 metres as required by the controls (DA6.05B). This aspect is now considered acceptable.

The issue of the street wall height has been addressed. Whilst the proposed four storey street wall to Lindfield Avenue does not meet the three storey requirement of the controls, the height of this wall is considered to relate to, and sit comfortably alongside, the form of the proposed Major Project at 23-41 Lindfield Avenue and 7 and 11 Havilah Lane to the immediate south (DA8.01B). The Major Project is a much larger development (dramatically changing the previous scale and grain of the streetscape) and includes a five storey street wall element to Lindfield Avenue. The stepping down of the street wall height from five storeys to four storeys will assist to successfully transition the scale of development along Lindfield Avenue towards the R4 zoned land to the north. A three storey street wall height would not be as successful in achieving this built form transition. This aspect is now considered acceptable from an urban design perspective.

The issue of whether the proposal provides for the widening of Havilah Lane remains unclear. The proposal is set back from the lane at Basement 01 to match the Major Project setback (DA6.02B), however residential balconies at the upper levels appear to remain built hard to the boundary line. This aspect should be referred to Council's urban design section to verify the desired width of Havilah Lane and whether the widening (if any) is required to be dedicated to Council. If a dedication is required, the proposal should be reduced to stay within the future site boundary. The issue of providing a Design Verification Statement has been addressed.

Principle 2: Scale

The proposed floor-to-floor height for first floor residential uses is 3.05 metres which will permit a 2.7 metres floor-to-ceiling height. This does not meet the 3 metres floor-to-ceiling height required by the controls. The stated intention of this control is to provide adaptability from residential to commercial over time. As this level will be strata subdivided for apartments, it is unlikely that they will convert to commercial at a later date. This aspect is considered acceptable from an urban design perspective.

Principle 3: Built Form

The issue of building separation to the northern boundary remains. The proposal provides for 3 metres building separation to the northern boundary from the balconies of Units 3.1, 4.1, 5.1, 6.1 and 7.1. Using the principle of sharing building separation equitably across the boundary, this setback does not meet the 6 metres required by the controls or the RFDC Rule of Thumb (p28 via p59) for habitable rooms and balconies. The reduced 3 metres setback will impose on the future development of 51 Lindfield Avenue which is zoned for residential flat buildings to a height of 6 storeys. It is agreed that further setbacks to higher storeys are not required as there will not be 'an opposing built form upon the adjoining site' (Planning Letter dated 7 April 2015 p3). It is not agreed, however that the 'Turpentine' tree located closest to the boundary will restrict development as a residential flat building on 51 Lindfield Avenue with a 6 metres setback to its southern boundary will have the same relationship with the tree as the proposal currently does. It is considered that Units 3.1, 4.1, 5.1, 6.1 and 7.1 should be redesigned to achieve a 6m setback where habitable rooms or balconies face the boundary from the Level 03 plan up. This aspect should be addressed.

The issue of building separation to the southern boundary has been resolved. The proposal is now built hard to the southern boundary adjacent to the Major Project on Havilah Lane and has redesigned the layouts of Unit 2.1 and typicals above to remove any separation issue DA6.04B). The relationship of the habitable room windows and terraces to Level 06, 07 and 08 to the southern boundary have not been amended, however the relationship to the proposed layout of the Major Project adjacent has now been clarified (DA6.06B). This shows that there will be no significant visual and acoustic privacy issues across the southern boundary. The windows to the library and study to Unit 6.2 (approximately 8 metres from the boundary) have privacy screens, and the study balconies to Units 6.03 and 7.03 (approximately 7.5 metres from the boundary) have coloured glass louvres (DA8.00B). It is suggested that the southern edge of the roof top communal open space, and

the southern and eastern edge of the Unit 7.2 roof top terrace be screened for the privacy of residents on adjoining sites. If this screening were to be included, this aspect is considered acceptable from an urban design perspective.

The issue of clearance height for the service access areas appears to remain. The proposal shows a clearance of approximately 4.2 metres high which does not meet the 4.5 metres required by the controls. This aspect should be referred to Council's traffic section for comment.

The issue of excess retail car spaces has been addressed. The 6 additional car spaces have been included in gross floor area calculations (DA5.02B). This aspect is considered acceptable.

The issue of residential car spaces has been resolved. A total of 55 residential car spaces are provided, including 6 visitor spaces. This is within the range specified by the controls (when Unit 2.3, 3.3 and 4.3 are counted as 3 bedroom apartments). A car wash bay has been provided at Basement 03 (DA6.01B). These aspects are now considered acceptable.

The issue of the public bathroom location has been satisfactorily addressed. The bathroom and showers are now located with the bicycle parking at Basement 02 (DA6.02B). Whilst the location remains inconvenient to the lifts, it is a sensible location in terms of utilising the narrow space available adjacent to the car park ramp. This aspect is now considered acceptable from an urban design perspective.

The issue of bicycle parking provision has been resolved. A total of 15 bicycle spaces have been provided at Basement 02 for retail uses (DA6.02B). This meets the 3 required by the controls. An additional 15 bicycle spaces have been provided at Basement 04 for residential use (DA6.01B). This meets the 10 required by the controls. This aspect is now considered acceptable.

Principle 4: Density

The floor space ratio is stated as 3.04:1 (DA5.02B) and 3.05:1 (Clause 4.6 variation p1). This aspect should be verified for accuracy. Areas to check include: the inclusion of one residential car space at Basement 03; letterboxes in the residential foyer; the thickness of internal walls at all levels (they do not appear to be coloured in floor area diagram); and semi enclosed residential corridors and lobbies. With recalculation of gross floor area and the adjustment of plans to address the setback of the building to the northern boundary (see Principle 3: Built form), it may be that the maximum floor space ratio for the site is not exceeded.

Principle 5: Resource, energy and water efficiency

The issue of providing a communal external air clothes drying facility has been resolved. A communal external air clothes drying facility has been provided within the primary communal open space at Level 08. This facility will service the units connected to the western lift core. The units connected to the eastern lift core each have sufficient balcony dimensions and areas to provide individual external clothes drying facilities. This aspect is now considered acceptable.

Principle 6: Landscape

The issue of communal open space appears to have been resolved. The proposal provides approximately 335m² of communal space at a minimum dimension of 5 metres which meets the requirement for 10m² per apartment (330m²). This aspect is now considered acceptable.

Principle 7: Amenity

Some 24 of 33 (73%) apartments appear to have at least 2 hours of direct sunlight to living rooms and private open spaces between 9am and 3pm on 21st June. This aspect is considered acceptable. The internal layouts of Units 2.3, 3.3 and 4.3 have been amended to relocate the kitchen and improve solar access to the living room area. This aspect is considered acceptable.

The communal open space provided at Level 8 appears to be provided with adequate solar access between 9am and 3pm on 21st June (DA 10.01). This aspect is considered acceptable.

It is difficult to assess from the information provided whether the proposal will compromise the solar access of the Major Project located to the immediate south of the site. However, from what can be ascertained, it appears that the western building of the Major Project, with its increase in length to the north under MP08_0244 MOD 3, will have greater impact on solar access than the proposal will. It is suspected that this aspect is likely to be acceptable, however it cannot be confirmed without further information.

Some 21 of 33 (64%) apartments are naturally cross ventilated. The size of the corner windows of Units 2.5, 3.5 and 4.5 have been increased and will improve natural cross ventilation of these apartments. This aspect is considered acceptable.

Some 15 of 33 (45%) kitchens are immediately adjacent to an operable window. This aspect is considered acceptable.

The issue of unit sizes has been resolved. Units 2.5, 3.5 and 4.5 have been increased in area to 50m². This meets the RFDC Rule of Thumb (p69) for the minimum size of 1 bedroom units. This aspect is now considered acceptable.

The issue of living rooms widths has been resolved. The apartment plans for all of the west facing 1 bedroom apartments have been adjusted such that the bedrooms have been pushed in to allow the living room to widen slightly into the balcony space. These living rooms all are now 3.5 metres wide which meets the controls. This aspect is now considered acceptable.

The issue of bedroom widths has been resolved. The apartment plans for Units 2.3, 3.3 and 4.3 have been amended such that the second bedrooms are 3 metres wide which meets the controls. This aspect is now considered acceptable.

The issue of balcony areas and dimensions has been resolved. The apartment plans for all west facing 1 bedroom apartments have been adjusted such that the balconies all achieve a minimum area of 10m² at a

minimum dimension of 2.4 metres wide which meets the controls. This aspect is now considered acceptable.

The issue of storage volumes has been resolved. Storage to Unit 2.5 has been increased such that it achieves a volume of greater than 3m³ which meets the controls. Storage to Units 3.5 and 4.5 has been increased such that it achieve a volume of greater than 4m³ which meets the controls. This aspect is now considered acceptable.

Principle 8: Safety and security

The provision of the second, northern lift core appears to be unnecessary for building circulation and could be removed to simplify circulation and increase safety. This aspect could be given further design consideration.

Principle 9: Social dimensions and housing affordability

The proposal nominates 8 apartments as adaptable. An adaption plan is provided for typical Units 2.3, 3.3 and 4.3, however no adaption plan is provided for Units 5.1, 5.2, 6.1, 6.2 and 7.1. This aspect should be verified, however it is likely that these apartments can be easily adapted given their size. Eight adaptable residential car spaces are provided however their allocation does not appear to match the units requiring them. This aspect should be addressed.

The issue of visitable apartments has been resolved. 23 of 33 (70%) apartments have been provided as visitable including allowing for adequate clearance in front of the toilet pans in bathrooms. This meets the 70% required by the controls. This aspect is now considered acceptable.

Principle 10: Aesthetics

The issue of fire egress doors facing directly onto Lindfield Avenue has been resolved. These doors have been treated with vertical timber battens which will better integrate the doors into the streetscape. This aspect is now considered acceptable.

Conclusion

The only major outstanding issue is the setback from the northern boundary. This issue only relates to typical Units 3.1, 4.1, 5.1, 6.1 and 7.1. It is considered that these apartments, given their ample size should and can be redesigned to achieve a suitable building separation relationship from 51 Lindfield to the immediate north.

Minor issues include: verification of the Havilah Lane setback from the urban design section; provision of screening to roof top terraces; verification of service vehicle clearances; verification of gross floor area and floor space ratio calculations; verification of adaptable unit layouts; and allocation of accessible car spaces."

Planner's comment: Concern has been raised regarding the setback from the northern boundary. The development proposes non compliant setbacks which are discussed below in detail in the planning assessment. The issue relates to Units 3.1, 4.1, 5.1 6.1 and 7.1.

Concern has been raised regarding the privacy from the communal open space to the southern property and the south and eastern elevations of the private open space of unit 7.2. **Condition 25** requires an appropriate privacy screen.

Longitudinal sections through the driveway have been provided confirming that adequate headroom will be available for a small waste collection vehicle. **Condition 40** relates to the basement car parking details.

There are no works required in Havilah Lane as a result of the proposed development. Public domain works will be carried out by Council using contributions at a later date. The setback from Havilah Lane is acceptable.

The proposal results in a technically non complaint FSR and a Clause 4.6 variation has been submitted in this regard which is considered below.

The level of solar access achieved is considered acceptable. Details of the proposed development were provided to the Department of Planning during their assessment of the adjoining development to south, in which the shadow information was available and the application was approved with the proposed shadow impact resulting from the development under consideration. No concerns were raised by the Department regarding solar amenity.

The proposal includes a compliant number of adaptable units. **Condition 42** requires the allocation of accessible parking spaces to correspond with the adaptable units.

Strategy

Council's Urban Design Project's Officer commented on the proposal as follows:

"The variation to the 3 storey street wall height in line with the KDCP Local Centres Volume B Part 1E.4 should be justified with elevations along Lindfield Avenue showing the future context of the streetscape elevations to demonstrate that the proposed variation will be in character.

The shop windows onto Lindfield Avenue elevation (at street level) are currently set back around a metre from the footpath/property boundary. It would be preferable for the windows not to be set back as KDCP Local Centres Volume A Part 8C.14 Clause 3 the current arrangement creates a potential hidden alcove off the footpath

The architectural treatment of both ends of the through site link should be prominent to ensure that it is evident to the public that the pedestrian link is available for use and is a high level of amenity.

The through site link currently appears to have glazing to the boundary. This has the potential to severely compromise the amenity of the adjoining property. Access to natural light is imperative, however this should be done through the use of obscure glazing or skylight to ensure that the privacy and amenity of the adjoining development is not compromised.

An internal layout should be provided if possible for the retail floor plate to demonstrate use and activation of through site link/ secondary entry.

The public works are fully funded through the s94 Contributions plan and all works to the Lindfield Avenue footpath area and Havilah Lane should be constructed in a temporary manner to enable demolition and reconstruction of the public domain by Council in the future.”

Planner’s comment: The proposal has a four storey street wall height to Lindfield Avenue which exceeds the three storey requirement. It is considered this wall height relates to the wall height approved as part of the Major Project approved to the south at 23 – 41 Lindfield Avenue. The major project has a five storey wall height element to Lindfield Avenue and the proposed four storey element is considered an appropriate transition in scale along Lindfield Avenue. Council’s Urban Design Consultant is of the opinion, that the four storey element achieves a better outcome than the three storey control in the DCP.

The amended plans provide for a nil setback to Lindfield Avenue, removing the previously proposed planter boxes and providing operable windows.

The proposal has been amended to provide a solid privacy screen and awning along the site link to ensure that the privacy of the adjoining property is maintained.

An internal layout plan of the retail space is not required as part of this development application.

Outside Council

Sydney Trains

The proposal includes excavation within 25 metres of the rail corridor. Accordingly, the application was referred Sydney Trains pursuant to Clause 86(1) of State Environmental Planning Policy (Infrastructure) 2007 seeking concurrence.

Sydney Trains issued concurrence to the proposed development, subject to a deferred commencement condition requiring the submission of a geotechnical report and drawings and details of the construction methodology. (**Condition 1A and Conditions 6 and 19 - 24**).

STATUTORY PROVISIONS

Environmental Planning and Assessment Act 1979

This proposal is ‘Local Development’ under Part 4 of the Environmental Planning and Assessment Act 1979 and requires development consent pursuant to the Ku-ring-gai Local Environmental Plan (Local Centres) 2012.

The Objects of the Act are:

- (a) *to encourage:*
 - (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*

- (ii) the promotion and co-ordination of the orderly and economic use and development of land,*
- (iii) the protection, provision and co-ordination of communication and utility services,*
- (iv) the provision of land for public purposes,*
- (v) the provision and co-ordination of community services and facilities, and*
- (vi) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
- (vii) ecologically sustainable development, and*
- (viii) the provision and maintenance of affordable housing, and*
- (b) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and*
- (c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.*

The proposal is consistent with the Objects of the Act in that it promotes and coordinates an orderly and economic use and development of the land which is consistent with the objectives of the zone. The proposal provides for a mixed use development which includes a variety of housing types.

Contaminated Lands Management Act 1997

The site contains a petrol station, mechanical workshop and carpark and is identified as contaminated land. It is proposed to decommission and remove all infrastructure (valve pits, pipe, waste oil tanks, oil/water interceptor traps and unknown tanks). A Remediation Action Plan has been prepared by Environmental Investigations Australia which details how the site will be remediated for the purposes of the new development proposed in accordance with the provisions of this Act. The proposal is satisfactory in this regard. **Conditions 9 and 10** deals with site remediation.

State Environmental Planning Policies

Sydney Regional Environmental Planning Policy (Sydney Harbour Catchment) 2005

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

State Environmental Planning Policy (Infrastructure) 2007

As outlined above, the application has been referred to Railcorp for concurrence as the subject site is immediately adjacent to a rail corridor. Council were advised that the property functions of Railcorp had been transferred to Sydney Trains. The proposal would be assessed in accordance with the requirements of Clause 86(4) being:

- (4) *In deciding whether to provide concurrence, the chief executive officer must take into account:*
- (a) *the potential effects of the development (whether alone or cumulatively with other development or proposed development) on:*
 - (i) *the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor, and*
 - (ii) *the safe and effective operation of existing or proposed rail infrastructure facilities in the rail corridor, and*
 - (b) *what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects.*

In this regard, Sydney Trains has taken the above provisions into consideration and has granted its concurrence, subject to Council imposing the deferred commencement condition provided (**Condition 1A and conditions 6 and 19 - 24**).

The proposal is subject to consideration under the provisions of Clause 87 Impact of rail noise or vibration on non-rail development. The proposal includes a residential use. Subclause (3) requires the consent authority to be satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- (a) *in any bedroom in the building—35 dB(A) at any time between 10.00 pm and 7.00 am,*
- (b) *anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

A Rail Noise Intrusion Report has been submitted with the application. It indicates the inside noise levels will be within the acceptable limits as detailed in the NSW Department of Planning document “Development Near Rail Corridors and Busy Roads – Interim Guideline (2008) and (SEPP Infrastructure) 2007.

State Environmental Planning Policy No. 55 - Remediation of Land

The provisions of SEPP 55 require consideration of the potential for a site to be contaminated. The site contains a petrol station, mechanical workshop and carpark and is identified as contaminated land. The application proposes demolition and remediation of the site.

Clause 7 states the consent authority must not consent to the carrying out any development on land unless:

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

The land is considered to be contaminated given the history of its use as a petrol station. The application proposes to decommission the site, remove existing infrastructure and to remediate the site. The application relies upon a Remediation Action Plan prepared by Environmental Investigations Australia which details how the site will be remediated for the purposes of the new development. A Phase 2

investigation has been undertaken for 9 Havilah Lane. The report relies upon previous investigations including:

- i) Environmental Earth Sciences NSW (2007), Limited Environmental Site Investigation of 43 Lindfield Avenue, Lindfield, NSW (Report No: 107123, dated November 2007)
- ii) Environmental Investigation Services (2012) Phase 1 Environmental Site Assessment, 9 Havilah Lane, Lindfield NSW 2070 (Report Ref: E26122KGrpt, dated November 2012)
- iii) Environmental Investigation Services (2013) Phase 2 Environmental Site Assessment, 9 Havilah Lane, Lindfield NSW 2070 (Report Ref: E26122KGrpt, dated 15 August 2013)

The report has been prepared in accordance with the contaminated land planning guidelines in accordance with subclause (2). Subclause (3) states:

(3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.

The Remediation Action Plan is submitted for consideration in accordance with subclause (3). A Phase 2 investigation for 43 Lindfield Avenue has not been undertaken and the proposal relies upon previous investigations to part of the site. Subclause (3) indicates the consent authority may require a Phase 2 investigation report. In this circumstance the report is not considered necessary, given a Phase 2 investigation having been undertaken on 9 Havilah Lane, the history of use of the site and the preparation of the Remediation Action Plan. It is considered **Condition 10**, which requires borehole testing across the entire development site and the preparation of an updated Remediation Action Plan (RAP) and Site Audit Statement (SAS) confirming the site is satisfactory to address this matter.

Subject to this condition, the proposal would be consistent with State Environmental Planning Policy No. 55 - Remediation of Land.

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

An amended BASIX certificate was submitted with the amended plans. The application documentation is now consistent with the commitments identified in the BASIX certificate. **(Condition 84)**

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

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

Clause 50(1A) of the EPA Regulation 2000 requires the submission of a Design Verification Statement from the building designer at lodgement of the development application. A Design Verification Statement has been provided by Victor Robert

Bryce Lake (Registered Architect No. 4475) who submits that the application has been designed in accordance with the design quality principles under Part 2 of SEPP 65.

The SEPP requires the assessment of any development application for residential flat development against 10 principles contained in Clauses 9-18 which was undertaken by Council's Urban Design Consultant. Council is also required to consider the matters contained in the publication "Residential Flat Design Code".

As such, the following consideration has been given to the requirements of the Residential Flat Design Code.

Residential Flat Design Code Compliance Table

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

	Guideline	Consistency with Guideline
PART 02 SITE DESIGN		
Site Configuration		
<i>Visual Privacy</i>	<p>The minimum separation between residential buildings on the development sites and the adjoining sites must be:</p> <p>Up to 4th storey 12m between habitable rooms/balconies 9m between habitable rooms/balconies and non-habitable rooms 6m between non-habitable rooms</p> <p>5 to 8 storeys/ up to 25 metres 18m between habitable rooms/balconies 13 metres between habitable rooms/balconies and non habitable rooms 9 metres between habitable rooms</p>	<p>NO</p> <p>Refer to discussion below.</p>
<i>Pedestrian Access</i>	Identify the access requirements from the street or car parking area to the apartment entrance.	YES
	<p>Follow the accessibility standard set out in Australian Standard AS 1428 (parts 1 and 2), as a minimum.</p> <p>Provide barrier free access to at least 20 percent of dwellings in the development.</p>	<p>YES</p> <p>A lift has been provided from the basement to each level of the development.</p>
<i>Vehicle Access</i>	Generally limit the width of driveways to a maximum of six metres.	<p>YES</p> <p>No concerns are raised regarding the driveway width by Council's engineers.</p>

	Locate vehicle entries away from main pedestrian entries and on secondary frontages.	YES The driveway entrance is located to the rear of the site from Halivah Lane with the main pedestrian entrance from Lindfield Avenue.
PART 03 BUILDING DESIGN		
Building Configuration		
<i>Apartment layout</i>	The back of a kitchen should be no more than 8 metres from a window	YES
	- 2 bedroom corner apartment 80m ² + 11m ² external area - 3 bedroom apartment 124m ² + 24m ² external area	YES
<i>Apartment Mix</i>	Include a mixture of unit types for increased housing choice.	YES 15x1br, 3x2br and 15x3br
<i>Balconies</i>	Provide primary balconies for all apartments with a minimum depth of 2 metres. Developments which seek to vary from the minimum standards must demonstrate that negative impacts from the context-noise, wind – can be satisfactorily mitigated with design solutions.	YES
<i>Ceiling Heights</i>	2.7 metres minimum for all habitable rooms on all floors, 2.4 metres is the preferred minimum for all non-habitable rooms, however 2.25m is permitted.	YES
<i>Internal Circulation</i>	In general, where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to eight.	YES Lift provides access to a maximum of 4 units.
<i>Storage</i>	In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: - two-bedroom apartments 8m ³ - three plus bedroom apartments 10m ³	YES DA5.04B demonstrates compliance
Building Amenity		
<i>Daylight Access</i>	Living rooms and private open spaces for at least 70 percent of apartments in a development should receive a minimum of three hours direct sunlight between 9 am and 3 pm in mid winter.	YES 73%
<i>Natural Ventilation</i>	Building depths, which support natural ventilation typically range from 10 to 18 metres.	YES
	Sixty percent (60%) of residential units should be naturally cross ventilated.	YES 64%
Building Performance		

<i>Waste Management</i>	Supply waste management plans as part of the development application submission as per the NSW Waste Board.	YES
<i>Water Conservation</i>	Rainwater is not to be collected from roofs coated with lead- or bitumen-based paints, or from asbestos- cement roofs. Normal guttering is sufficient for water collections provided that it is kept clear of leaves and debris.	YES

Site configuration

Visual privacy and building separation

The control requires the following separation between residential buildings and the adjoining sites:

Up to the fourth storey

- 12 metres between habitable rooms and balconies
- 9 metres between habitable rooms/ balconies and non habitable rooms
- 6 metres between non habitable rooms

Five to eight storeys

- 18 metres between habitable rooms and balconies
- 13 metres between habitable rooms/ balconies and non habitable rooms
- 9 metres between non habitable rooms

The proposal provides for the following separation:

- Level 2 the balconies are set back between 1.8 metres – 3.1 metres and the habitable rooms are set back between 5.4 metres and 6.0 metres from the northern side boundary
- Level 2 the communal open space has a nil setback from the southern side boundary
- Level 2 the habitable rooms are set back 12.6 metres from the southern side boundary
- Level 3 and 4 the balconies are set back 10.7 metres from the southern side boundary
- Levels 3 and 4 the habitable rooms are set back 12.6 metres from the southern side boundary
- Levels 3 and 4 the balconies are set back between 3.1 – 6.0 metres from the northern side boundary.
- Levels 3 and 4 the habitable rooms are set back between 3.45 metres and 9.0 metres from the northern side boundary and 3.0 metres from the western (front) boundary.
- Levels 5 – 7 the habitable rooms are set back a minimum of 7.65 metres from the southern side boundary. At the rear of the site, the proposal is set back 0 to 1.6 metres from the southern boundary.
- Level 5 – 7 balconies are set back between 3.1 metres and 9.15 metres from the northern side boundary
- Level 5 – 7 habitable rooms are set back between 4.35 metres, 6.0 metres

- and 9.0 metres from the northern side boundary
- Level 8 is set back 13 metres from the northern side boundary
- Level 8 the fire stair 3 is set back 1 metre and the balcony is set back 5.8 metres from the southern side boundary

The proposal does provide in part for a nil setback to the southern side boundary. In these locations, the apartments do not contain openings in the side elevation and therefore do not result in any loss of visual privacy.

The site is adjoined to a north by 51 – 53 Lindfield Avenue which is zoned R4 High Density Residential, to which a 20.5 metre height limit is applicable (6 storeys). The site presently contains a residential flat building and has a 3.0 metres setback to the southern side boundary.

The control anticipates to achieve the reasonable separation between buildings, the overall required setback is attained by sharing the required separation equally between adjoining properties.

The proposal results in a non compliance with the required setbacks from the northern boundary at all levels. The setbacks of the balconies range between 1.8 metres – 6.0 metres between Levels 2 – 4. At Levels 5 – 7 the balconies are set back between 3.1 metres and 9.15 metres. The habitable rooms at level 2 are set back between 5.4 metres – 6.0 metres, which is considered a minor non compliance. The habitable rooms at Levels 3 and 4 are set back between 3.45 metres and 9.0 metres and at Levels 5 – 7 the habitable rooms are set back between 4.35 metres, 6.0 metres and 9.0 metres.

Concern has been raised by Council's Urban Design Consultant regarding the proposed 3 metres building separation to the northern boundary from the balconies of Units 3.1, 4.1, 5.1, 6.1 and 7.1. The concerns relate to the potential impacts of the reduced 3 metres setback on the future development of 51 Lindfield Avenue. The reduced setbacks occur at the rear of the building, extending to Havilah Lane which do not align with the existing building at 51 Lindfield Avenue but the rear of the property.

The habitable rooms which have the reduced setback include Bedroom 2 which is set back 4.35 metres, the dining and kitchen which are set back 5.4 metres and the living room which is set back 6.0 metres. These rooms have been orientated to the north to capture the solar amenity required by SEPP 65 and KDCP (Local Centres).

Given the use of the room, there is no concern regarding privacy impacts from Bedroom 2. The kitchens are orientated with the sinks facing the western wall and it is not considered to create on going privacy issues from the window in the northern elevation which is setback 5.4 metre from the side boundary. The dining room and living rooms are located to the south of the existing Turpentine Tree at 51 Lindfield Avenue.

The significant Turpentines at 51 Lindfield Avenue, preclude any future a building footprint being located towards the rear southern side boundary, where the reduced setback is proposed by the development. It is also considered more likely that, any future development on 51 Lindfield Avenue would locate habitable rooms to the north (such is proposed by the subject application) to capture northern light and provide non habitable rooms to the south. This would require less separation and would be less likely to result in privacy impacts.

At Levels 7 and 8, the proposed development will be higher than any future development of the adjoining property. Therefore, the reduced setbacks would achieve the required spatial separation due to the height restrictions of the adjacent property. The rear of the development is limited to 7 storeys only and does not impact the rear of 51 Lindfield Avenue.

In relation to the communal open space and private open space of Unit 7.2 a horizontal privacy screen with an overall height of 1.6 metres above the finished floor level of the balconies is required by **Condition 25**. This will ensure that the privacy of the adjoining property is maintained.

Fire stair 3 is set back 1.0 metre from the southern side boundary. The structure does not result in any loss of visual privacy to the adjoining property and is considered acceptable.

Draft State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development

The draft SEPP was on exhibition from the 23 September 2014 to the 31 October 2014. The SEPP 2015 was gazetted on the 19 June 2015 and takes effect on the 17 July 2015. The development application was lodged in December 2014 and the transitional arrangements of the SEPP indicate applications lodged before 19 June 2015 are subject to the version of the SEPP in force prior to 19 June 2015. The development has been considered under the provisions of SEPP 65 above.

Local Content

Ku-ring-gai Local Environmental Plan (Local Centres) 2012

Zoning and permissibility:

The site is zoned B2 Mixed Use. The proposed development is defined as a commercial premises and shop top housing which are permissible within the zone.

The objectives for the B2 Local Centre Zone are:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To provide for residential housing close to public transport, services and employment opportunities.*
- *To encourage mixed use buildings that effectively integrate suitable business, office, residential, retail and other development.*

The proposal provides for a retail use which will serve the needs of the community and will provide employment opportunities. The development includes 33 residential units within 110 metres walking distance of Lindfield Station. The proposal is a mixed use development which will integrate into the changing built form landscape within the Lindfield Town Centre.

Development standards:

Development standard	Proposed	Complies
Building height: 26.5m (Area T)	26.1m	YES
Floor space ratio: 3:1(Area V)	3.05:1	NO
Minimum site requirements: 1200m ² and 30m frontage	1810.2m ² and 31.21m	YES
Ground floor development in business zones: no residential and no parking	Commercial use and vehicular access from Havilah Lane	YES
Minimum street frontage in business zones: 20m min	31.21 metres	YES

Clause 4.4 – Floor space ratio

The proposed development marginally exceeds the maximum permitted floor space ratio of 3.0:1. As the floor space ratio is 3.05:1, the applicant has made a submission pursuant of Clause 4.6 “Exceptions to development standards” of the LEP requesting a variation to the standard which is considered below.

Clause 4.6 Exceptions to development standards

The proposed development breaches the FSR development standard contained within the LEP. The applicant has made a submission pursuant of Clause 4.6 to vary this development standard. Clause 4.6 provides flexibility in applying certain development standards on the following grounds:

(1) The objectives of this clause are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Director-General has been obtained.

Whether compliance with the standard is unreasonable and unnecessary in the circumstances of the case

The applicant has provided justification that strict compliance with the floor space ratio standard is unnecessary and unreasonable for the following reasons:

- i) The extent of the departure is relatively minor (1.8%) and would not be discernible from adjoining properties or the street.*
- ii) The proposed additional floor area is attributable to 7 additional car spaces proposed as part of the application which are located within the basement, car park. The subject spaces, being located in the basement do not occupy areas which could otherwise be used for habitable purposes and do not add to the height, bulk or scale of the development.*
- iii) Accordingly, there are no detrimental impacts arising as a result of the non compliance.*
- iv) On this basis, strict compliance with the standard is unreasonable and unnecessary in the circumstances of the case.*

The proposed development will not result in any adverse impacts upon the amenity of adjoining properties or the public domain. The proposed development is of a height, bulk and scale that is envisaged by the Local Centres LEP 2012 and will positively contribute to the revitalisation of the Lindfield local centre.

The proposal is consistent with the B2 Local Centre zone objectives as previously demonstrated and with the FSR development objectives as contained within Local Centres LEP 2012 as demonstrated below.

In this circumstance, insisting on strict compliance with the development standard would be unreasonable and unnecessary.

Environmental planning grounds to justify contravening the development standard

The applicant has provided grounds for the proposed variations to the development standards as follows:

- i) Compliance is unreasonable and unnecessary in the circumstances of the case*
- ii) The non compliance will not result in any unreasonable impacts upon adjoining properties*
- iii) The non compliance will not result in any unreasonable impacts upon the public domain*
- iv) The proposal will provide for a development outcome which satisfies the objectives of the Council for development within this zone*
- v) The proposal satisfies the objectives of Clause 4.4 of the LEP*

The proposed development has a floor space ratio of 3.05:1. This amounts to 98.37m² in excess of the maximum FSR of 3.0:1. The proposal is considered to result in a technical non compliance with the development standard. Gross floor area is defined in the KLEP as follows:

gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes:
 - (d) any area for common vertical circulation, such as lifts and stairs, and
 - (e) any basement:
 - (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and
 - (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
 - (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
 - (h) any space used for the loading or unloading of goods (including access to it), and
 - (i) terraces and balconies with outer walls less than 1.4 metres high, and
 - (j) voids above a floor at the level of a storey or storey above.

Part of the basement, 179m² results in a height greater than 1.0 metre above ground and in accordance with the definition of gross floor area and basement, this area is technically included as gross floor area, despite being by all intensive purposes part of the basement:

basement means the space of a building where the floor level of that space is predominantly below ground level (existing) and where the floor level of the storey immediately above is less than 1 metre above ground level (existing).

The basement protrusion occurs as a result of topography and is confined to a small part of the basement. The design and height have corresponded to the additional storey created within the basement and providing the mezzanine level and communal open space areas towards Lindfield Avenue. The resultant development is as good if not better than a compliant scheme.

The calculation of floor space excludes car parking necessary to meet the demands of the development. The development provides for six (6) additional parking spaces than what is required under the Ku-ring-gai (Local Centres) DCP 2013 and, as result, these additional parking spaces are included in the floor space calculation.

The development does not result in any material difference in terms of apparent bulk and scale when viewed from the public domain or adjoining sites in comparison with the floor space and building envelope of a compliant design. The objectives of the zone and development standard as stated above are considered to have been met despite the non-compliance. The variation would not create significant visual impacts having regard to bulk and scale to the streetscape or neighbouring properties. There is public benefit in maintaining this planning control but, in this instance, requiring compliance would not be reasonable or necessary for the reasons provided.

Public interest – Development consistent with the zone objectives and objectives of the development standard

The zone objectives have already been identified in an earlier section of this report. As previously concluded, the development is consistent with all of the objectives of the zone.

The objectives of the floor space ratio standard are:

- (a) to ensure that development density is appropriate for the scale of the different centres within Ku-ring-gai,*
- (b) to enable development with a built form and density compatible with the size of the land to be developed, its environmental constraints and its contextual relationship,*
- (c) to ensure that development density provides a balanced mix of uses in buildings in the business zones.*

The proposed density of the development results in a building that is consistent with the scale of the Lindfield local centre. The development represents a good urban design outcome that responds well to its context and provides public domain outcomes that are consistent with the stated desired future character of the area. Further, the development largely complies with the relevant development indices of the SEPP 65 Residential Flat Design Code and Ku-ring-gai Local Centres DCP. In this regard, the development is considered to be in the public interest.

Concurrence of the Director General.

Circular PS 08-003 issued on 9 May 2008 informed Council that it may assume the Director-General's concurrence for exceptions to development standards.

Conclusion

The development satisfies the criteria outlined in Clause 4.6. The variation is considered acceptable as the proposal has been designed to comply with provisions and objectives of Ku-ring-gai LEP (Local Centres) 2012 and Ku-ring-gai (Local Centres) DCP 2013.

5.9 Preservation of trees or vegetation:

Clause 5.9 requires that a person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree without the authority conferred by a development consent or permit. The application does not seek to remove any trees from the site. Council's Landscape and Tree Assessment Officer has advised that the proposed is acceptable.

6.1 Earthworks

The objectives of the clause are as follows:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
- (b) to allow earthworks of a minor nature without requiring separate*

development consent.

The application proposes excavation for the purposes of the basement car parking. The proposed excavation is unlikely to disrupt or have any detrimental effect on the drainage patterns and soil stability in the locality. The excavation is to facilitate the redevelopment of the land. The proposed excavation does not result in any adverse impacts upon the amenity of adjoining properties. The proposal is considered satisfactory with respect of Clause 6.1 Earthworks.

Clause 6.2 – Stormwater and water sensitive urban design

The objective of this clause is:

(1) The objective of this clause is to avoid or minimise the adverse impacts of urban stormwater on the land on which development is to be carried out, adjoining properties, native bushland, waterways and groundwater systems.

The proposal has been supported by stormwater management plans which minimise the adverse impacts upon stormwater. The proposal has been considered by Council's Development Engineer and is acceptable in this respect.

Clause 6.6 – Ground floor development in business zones

The objective of this clause is as follows:

(1) The objective of this clause is to ensure that active uses are provided at the street level in business zones to encourage the presence and movement of people.

The proposal provides for a commercial use at the ground floor. The design provides for internal access to the upper levels where the residential component of the development is located. The proposal does not provide for residential accommodation or car parking at the ground floor level. The proposal provides for a nil setback to Lindfield Avenue and an operable window to the street frontage which is consistent in encouraging interaction between the inside of the building and the external public areas adjoining the building.

The rear of the building fronts Havilah Lane which is considered a service lane. The frontage is used for vehicular access which is consistent with the provisions of subclause (4). The proposal is consistent with the objectives and requirements of Clause 6.6.

Clause 6.7 – Minimum street frontages for lots in business zones

Clause 6.7 stipulates that:

“(2) Development consent must not be granted for the erection of a building of more than 2 storeys on land in Zone B2 Local Centre, Zone B4 Mixed Use or Zone B5 Business Development if the land does not have a primary street frontage of at least 20 metres.”

The subject site has a frontage of 31.21 metres to Lindfield Avenue. The site meets the 30 metres minimum frontage requirement for a building within B2 Local Centre zone.

Policy Provisions

Ku-ring-gai Development Control Plan (Local Centres) 2012

COMPLIANCE TABLE		
Development control	Proposed	Complies
Volume A		
Part 8 Mixed use development controls		
8A – Site design		
8A.1 Building setbacks		
Street setback Nil setback to Lindfield Avenue	nil	YES
Side and rear setback Nil required setback	South- nil North – nil	YES YES
8A.2 Building separation		
The minimum separation between residential buildings on the development sites and the adjoining sites must be: Up to 4 th storey 12m between habitable rooms/balconies 9m between habitable rooms/balconies and non-habitable rooms 6m between non-habitable rooms 5 to 8 storeys over the podium 18m between habitable rooms/balconies 13m between habitable rooms/balconies and non-habitable rooms 9m between non-habitable rooms	Refer to discussion below. Condition 25	NO
8A.3 Wind impact		
10m/second at the footpath		YES
8A.4 Site coverage		
In R4 zones - the site coverage must not exceed 35% of the site area	B2 zone	N/A
8A.5 Deep soil landscaping		
For mixed use development in R4 zonings, residential flat development must have a minimum deep soil landscaping area of 40% for a site area less than 1800m ² and 50% for a site area of 1800m ² or more	B2 zone	N/A
8B – Access and parking		

8B.1 Vehicle and Service Access and Loading Facilities					
In accordance with Volume B 1D, being: - All access from Halivah Lane			Access from Halivah Lane. Condition 39 and 93	YES	
Vehicle access Single entry point, and secure and separate parking between residential/commercial & retail parking			Access from Havilah Lane, separation between residential and commercial Condition 40	YES	
Service access Enter and exit in a forward direction Waste access to have 4.5m finished ceiling height for the path of travel of waste vehicle for commercial/retail and 2.6m for residential			4.3m clearance height Conditions 81 - 83	NO	
Loading facilities Internal loading facilities to be provided. Loading docks must not be visible public streets. Access and manoeuvring in accordance with AS2890.2			Loading area provided Conditions 102 and 103	YES	
8B.2 Car parking provision					
Design All parking to be within basement.			All parking is within the basement.	YES	
Car parking shall not project above the finished ground level for active street frontages. <1m for supporting frontages.			Basement carparking protrudes at rear fronting Havilah Lane	NO	
Car parking to comply with AS2890.1			Compliant	YES	
Floor to ceiling heights for any above ground parking must be 3m to allow for change of use.			All parking is below ground basement parking	YES	
Car parking rates Office, business premises and shops, where the development is within 400m of a train station and within a commercial centre:			907m ² of retail space and 33 units (15x1br, 3x2br and 15x3br) The retail component :28 to 35 spaces	YES	
Premises Office and business premises	Parking Space Requirement 1 space per 33m ² GFA to 1 spa per 45m ² GFA Suggested split: 90% employee 10% visitors		residential component: 42 resident, 7 accessible and 6 visitor spaces.		
Shops, restaurants and cafes	1 space per 26m ² GFA to 1 space per 33m ² GFA		Basements 01 and 02 provide 41 retail spaces, two of which are accessible. This is an oversupply and has been included in GFA.	YES	
Residential component within mixed use developments:					
Apartment Size	Minimum number of parking spaces per	Maximum numl parking spaces dwelling			
			Condition 41		

<p>dwelling</p> <p>Studio 0 spaces 0.5 spaces</p> <p>One bedroom 0.6 spaces 1 space</p> <p>Two bedrooms 1 space 1.25 spaces</p> <p>Three or more bedrooms 2 spaces 2 spaces</p> <p>Visitor: 1 per 6 units</p> <p>Accessible spaces provided.</p>		
8B.3 Bicycle parking and support facilities provision		
<p>Commercial</p> <ul style="list-style-type: none"> - A minimum of 1 bicycle space per 600m² for staff - A minimum of 1 bicycle space per 2500 m² for visitors 	<p>Bicycle parking provided basement 02</p> <p>Condition 42</p>	YES
<p>Residential</p> <ul style="list-style-type: none"> - A minimum of 1 bicycle space per 5 units shall be provided within the residential car park area - A minimum of 1 bicycle space per 10 units shall be provided for visitors in the visitor car park area 	<p>Bicycle parking provided basement 04</p> <p>Condition 42</p>	YES
8C – Building design and sustainability		
8C.1 – Solar access		
A minimum of 70% of apartments in each building must receive at least 2 hours direct sunlight to living rooms and adjacent private open space between 9am and 3pm on 21 June	73%	YES
A minimum of 50% of the common open space for residents use must receive direct sunlight for 3 hours between 9m and 3pm on 21 June		YES
The number of single aspect apartments with a southerly aspect (SW to SE) is limited to 10% of the total number of apartments proposed in each building.	<10%	YES
All developments must allow the retention of 3 hours sunlight between 9am and 3pm on 21 June to living areas and the principal portion of the private and communal open space of residential development on adjoining lots.	Adjoining property subject to self shadow and proposal does not result in greater impact.	YES
Developments must allow the retention of a minimum 4 hours direct sunlight to all existing neighbouring solar collectors and solar hot water services	No impact on neighbouring solar collectors and solar hot water services.	YES

All developments must utilise shading and glare control	Shading devices are proposed.	YES
8C.2 – Natural ventilation		
All habitable rooms are to have operable windows or doors	Operable windows and doors provided.	YES
At least 60% of apartments must have natural cross ventilation	64%	YES
At least 25% of kitchens are to be immediately adjacent to an operable window	45% (15/33)	YES
Cross ventilation is not to be dependent on skylights or open corridors where it would impact on privacy	Windows to internal open corridors are highlight windows and do not result in privacy impacts.	YES
Commercial workspaces to have operable windows to 30% of window area	Operable windows are provided.	YES
Dual aspect commercial workspaces to be provided where possible	North east and south east aspects provided.	YES
Where natural ventilation cannot be achieved, mechanical ventilation is to be provided to commercial workspaces	Mechanical ventilation is provided.	YES
8C.3 – Office floor depth		
Internal plan depth for office floors to be 10m from glass to internal face of wall	Large portion of the southern side of the retail space greater than 10m from window	NO
Maximise opportunities for external openings – access to daylight and views	The commercial tenancies are predominantly glazed and are considered satisfactory.	YES
8C.4 – Apartment depth and width		
Dual aspect apartments are to have a maximum internal plan depth of 18m from glass line to glass line	<18m	YES
Single aspect apartments are to have a maximum internal plan depth of 8m from glass line to internal face of wall of habitable area	<8m	YES
The width of dual aspect apartments over 15m deep must be 4m or greater to avoid deep narrow apartment layouts	Apartments >15m are >10m in width	YES
All kitchens must not be located more than 8m to the back wall of the kitchen from an external opening	<8m	YES
8C.5 – Apartment mix and sizes		
A range of apartment sizes and types must be included in the development	A mix of 1 bedroom to 3 bedroom apartments are proposed including studies	YES
One bedroom and studio apartments are to have a minimum floor area of 38.5m ²	1 bedroom = 46m ² - 58m ²	YES
Two bedroom apartments are to have a minimum floor area of 70m ²	2 bedroom = 115m ²	YES
Three bedroom apartments are to have a minimum floor area of 95m ²	3 bedroom = 248m ² - 166m ²	YES
A mix of 1, 2 and 3 bedroom apartments are to be provided on the ground level	A mix of 2 and 1 bedroom apartments are provided at the ground level.	YES

At least one apartments for each ten apartments is to be designed as adaptable housing Class C	Adaptable apartments have been provided (9 apartments) Condition 34	YES
At least 70% of apartments in the development are to be visitable	Visitable apartments 70%	YES
8C.6 – Room sizes		
Living areas in apartments with two or more bedrooms are to have living areas with a minimum internal plan dimension of 4m	>4m	YES
Living areas in one bedroom apartments are to have a minimum internal plan dimension of 3.5m	3.5m	YES
Bedrooms in one and two bedroom apartments must have minimum internal plan dimension of 3m (excluding wardrobes)	3m	YES
In apartments with three or more bedrooms at least two bedrooms are to have minimum internal plan dimension of 3m (excluding wardrobes)	3m min.	YES
Built in wardrobes are to be provided to all studio apartments, to all bedrooms in one and two bedroom apartments and to at least two bedrooms in apartments of three or more bedrooms	Built in wardrobes have been provided.	YES
Living areas in apartments with two or more bedrooms are to have living areas with a minimum internal plan dimension of 4m	>4m	YES
8C.7 – Building entries		
Buildings must address the street either: with main entrances to lift lobbies directly accessible and visible from the street; or with the path to the building entry readily visible from the street where site configuration is conducive to having a side entry.	The entrances to both commercial and residential are via an entry courtyard space, are visible from the street and directly accessible via the pathways to be provided.	YES
Buildings with facades over 18m long must have multiple entries.	The facades of the commercial and residential components together are >18m in length but both provide a separate entry.	YES
Building entry must be integrated with building facade design. At street level, the entry is to be articulated with awnings, porticos, recesses or projecting bays for clear identification.	The entries to the building are identified through separate entries for residential and retail purposes. The Lindfield Avenue has an awning.	YES
All entry areas must be well lit and designed to avoid any concealment or entrapment areas. All light spill is prohibited.	The entry area does not contain concealment or entrapment areas. Light spill will be minimised by the arrangement of building form.	YES
Lockable mail boxes must be provided close to the street. They must be at 90 degrees to the street and to Australia Post standards and	Mailboxes shown on plan.	YES

integrated with front fences or building entries.		
8C.8 – Internal common circulation		
The design of internal common circulation space must comply with the provisions in AS1428.1 and AS1428.2 to provide adequate pedestrian mobility and access.	An access report which demonstrates compliance with the standards has been provided.	YES
<p>All common circulation areas including foyers, lift lobbies and stairways must have:</p> <p>) appropriate levels of lighting with a preference for natural light where possible;</p> <p>i) short corridor lengths that give clear sight lines;</p> <p>ii) clear signage noting apartment numbers, common areas and general direction finding;</p> <p>v) natural ventilation;</p> <p>v) low maintenance and robust materials.</p>	Appropriate lighting, sight lines, way finding, ventilation and materials to be available to lift lobbies and foyers.	YES
Where artificial lighting is required energy efficient lights are to be used in conjunction with timers or daylight controls.	This issue is addressed by the BASIX certificate.	YES
<p>All single common corridors must:</p> <ul style="list-style-type: none"> - serve a maximum of 8 units - >1.5m wide - >1.8m wide at lift lobbies 	1.8m at lobby	YES
8C.9 – Roof forms and podiums		
Upper storey must be articulated with differentiated roof forms	The roof form includes roof top communal open space	YES
Service elements to be integrated into the design of the roof	Service elements integrated into design	YES
Roof design must respond to solar access	The roof design maintains solar access.	YES
Lightweight pergolas may be incorporated on roof or podium where integrated into the design	Roof top terrace includes pergolas and planting.	YES
Podiums and roof terraces may be used for communal open space	168m ² roof top terrace proposed.	YES
8C.10 – Communal open space		
At least 10m ² per dwelling must be provided as communal open space (330m ²)	335m ²	YES
A single parcel of communal open space with a minimum area of 80m ² , minimum dimensions of 8m and 3 hours solar access to 50% of the space on 21 June must be provided	>80m ² adequate solar access	YES
One area of communal open space must be provided for commercial uses	Courtyard provided	YES
Shared facilities such as BBQs, shade structures, play equipment and seating are to be provided in the communal open space	BBQ, shade, swimming pool and seating provided.	YES
Access for people with a disability must be	Access provided to all	YES

provided to communal open space	communal open space areas.	
8C.11 – Private open space		
All apartments not at the ground floor or podium level are to include private open space with a minimum area (internal dimension) of:: - 10m ² – 1 bedroom apartment - 12m ² – 2 bedroom apartment - 15m ² – 3 bedroom or larger apartment	1 bedroom west facing 10m ² 2 bedroom 24.9m ² 3 bedroom 45.31m ² to 52m ²	YES YES YES
The primary outdoor open space must have a minimum dimension of 2.4m	1 bedroom west facing 2.4m	YES
The primary private open space is to have direct access from the main living areas	All outdoor spaces are accessed from the main living area.	YES
Private open space for ground and podium level apartments is to be differentiated from common areas by: A change in level Screen planting, such as hedges and low shrubs A fence wall to a maximum height of 1.8m, any solid wall component is to be a maximum height of 1.2m with 30% transparent component above plus gate to the common area.	Changes in level, planting and fencing are used to differentiate ground level private open space from common areas. Where fencing above 1.2 metres is proposed, transparent elements will be used.	YES
8C.12 Building Façade		
The continuous length of a residential building over the podium facing the street or public domain must not exceed 36m.	<36m	YES
Street, side and rear building facades must be modulated and articulation with wall planes varying in depth by not less than 0.6m. Defined base, middle and top. Expression of varied floor to floor height. Location of openings to reflect the rhythm and expression of uses within the building.	The development is well articulated. Refer to urban design comments.	YES
Buildings must be designed to incorporate solar protection elements, and must be co-ordinated and integrated with façade design.	The building outcome achieves these measures. Refer to urban design comments.	YES
Air conditioning units must not be located on the building façade or with the private open space	Air conditioning units are concealed from view within AC plant rooms.	YES
Balconies that run the full length of the building façade are not permitted	No balconies that run the full length of the building façade are proposed.	YES
Balconies must not project more than 1.2m from the outermost wall of the building facade	<1.2m	YES

Windows to a habitable room are to be situated to encourage opportunities for passive surveillance to the site and on site areas surrounding the building	Windows to a habitable room are located to provide for passive surveillance to the site and on site areas surrounding the building.	YES
8C.14 – Ground commercial uses		
Buildings on principle active street frontages must provide facades that address the street and public domain with appropriate façade treatments at street level	The development is considered to comply, and addresses the street and public domain on all frontages.	YES
8C.15 – Awnings		
Continuous awning must be provided to the full length of the principal active street frontage. Provide awnings along the supporting active street frontages (including mixed use buildings in R4 zones) wherever practical, especially at key pedestrian entrances.	Awnings are provided at building entries.	YES
8C.16 – Colonnades		
All colonnade spaces must be within the property boundary. Colonnades are to have a height/width ratio no less than 1.5:1, a minimum width of 2.4m, and a minimum soffit height of 3.6m.	Colonnades are not proposed as part of the development	N/A
8C.17 – Internal ceiling heights		
The minimum ceiling heights are to be: i) 3.3m for ground floor retail or commercial uses; ii) 3m for first floor commercial or residential uses; iii) 2.7m for residential use or 3m for commercial uses on all other floors	4.1m min ground floor 3.05m first floor 3.05m residential floors	NO
8C.18 – Visual privacy		
Buildings must be designed to ensure privacy for residents of the development and of the neighbouring site. The use of offset balconies, recessed balconies, vertical fins, solid and semi-transparent balustrades, louvres/screen panels and planter boxes is encouraged.	Privacy for residents of the development and neighbouring sites has been considered. Refer to building separation discussion below and Condition 25	YES
Continuous transparent balustrades are not permitted to balconies or terraces for the lower 3 storeys.	No continuous transparent balconies across the facades	YES
Screening between apartments must be integrated with the overall building design.	Screening devices are integrated into the design of the building	YES
Landscaped screening must be provided to adjoining sites.	Landscaped deep soil planter zones are provided to South and North boundaries	YES

8C.19 – Acoustic privacy																				
<p>The maximum LAeq (1 hour) noise levels of any development must not exceed the levels as set out in Table 8C.19-1, when measured at the window of a habitable room within a residential occupancy and in any case not more than 5 dB(A) above the background level during the day and evening and not exceeding the background level at night.</p> <table> <tr> <th><i>Time of day</i></th><th><i>Maximum noise level -Windows open</i></th><th><i>Maximum noise level -Windows closed</i></th></tr> <tr> <td><i>Day</i></td><td>55 dB(A)</td><td>45 dB(A)</td></tr> <tr> <td><i>Evening</i></td><td>50 dB(A)</td><td>40 dB(A)</td></tr> <tr> <td><i>Night</i></td><td>45 dB(A)</td><td>35 dB(A)</td></tr> <tr> <td></td><td>bedrooms only</td><td>bedrooms</td></tr> <tr> <td></td><td>50 dB(A) living areas</td><td>40 dB(A) living areas</td></tr> </table>	<i>Time of day</i>	<i>Maximum noise level -Windows open</i>	<i>Maximum noise level -Windows closed</i>	<i>Day</i>	55 dB(A)	45 dB(A)	<i>Evening</i>	50 dB(A)	40 dB(A)	<i>Night</i>	45 dB(A)	35 dB(A)		bedrooms only	bedrooms		50 dB(A) living areas	40 dB(A) living areas	<p>Updated acoustic report submitted and is acceptable.</p> <p>Conditions 35, 36, 37, 86, 96 and 106.</p>	YES
<i>Time of day</i>	<i>Maximum noise level -Windows open</i>	<i>Maximum noise level -Windows closed</i>																		
<i>Day</i>	55 dB(A)	45 dB(A)																		
<i>Evening</i>	50 dB(A)	40 dB(A)																		
<i>Night</i>	45 dB(A)	35 dB(A)																		
	bedrooms only	bedrooms																		
	50 dB(A) living areas	40 dB(A) living areas																		
8C.20 – Late night trading																				
Development for late night trading premises must be designed to minimise the impacts of noise production on nearby and adjoining premises	No late night trading proposed	YES																		
8C.21 – Apartment storage																				
<p>Storage space shall be provided at the following minimum volumes:</p> <ul style="list-style-type: none"> - 6m³ for studio and one bedroom apartments - 8m³ for two bedroom units - 10m³ for two bedroom units - 12m³ for units with three or more bedrooms <p>At least 50% of the required storage space must be provided inside the apartment.</p>	DA5.04B demonstrates compliance	YES																		
8C.22 – External air clothes drying facilities																				
Each apartment is required to have access to an external air clothes drying area, e.g. a screened balcony, a terrace or common area.	<p>Provided on roof top</p> <p>Condition 30 and 85</p>	YES																		
External air clothes drying areas must be screened from public and common open space areas.	All external clothes drying area are screened from public and common open space areas	YES																		
Volume B Part 1E Lindfield Local Centre																				
For building façade street wall controls for mixed use buildings in urban precincts (precinct L4), refer to Volume B Part 1E.3.	The proposal provides nil setback and provides operable windows to Lindfield Avenue	YES																		
<p>Building setbacks (1E.3)-</p> <p>5m building setback to northern boundary of No. 3 Lindfield Avenue and No. 9 Halivah Lane.</p>	Proposal provides a varied setback with maximum setback of 3 metres	NO																		

Built form (1E.4)- Provide active frontages to Lindfield Avenue and to Havilah Lane where possible.	Proposal provides active frontage to Lindfield Avenue. Havilah Lane is vehicular access point and proposal considered satisfactory in circumstance. Condition 104	YES
Consistent 3 storey (11.5m) street wall that is built parallel to the street alignment of Lindfield Avenue	10metres	NO
All levels above street wall height are to have a 2m setback.	2m	YES
Public domain and pedestrian access (1E.5)- Provide continuous awnings to Lindfield avenue and to Havilah Lane where possible.	Awning proposed along Lindfield Avenue	YES
Provide new pedestrian walkway between Lindfield Avenue and Havilah Lane	Pedestrian walkway is proposed Condition 105	YES
Building entries, parking and service access (1E.6)- All vehicular service and loading access is to be from Havilah Lane. No vehicular access from Lindfield Avenue. Residential lobbies are located from Lindfeld Avenue	All service and vehicular access via Havilah Lane. Residential lobbies are provided from Lindfield Avenue.	YES

Part 1.11 - How to use the DCP design objectives and controls

Part 1A of the DCP provides the following guidance of how the provisions of the local centres DCP are to be applied:

How to use this DCP *The planning framework contained in this DCP adopts a place-based planning approach. This is supported by design and environmental **objectives** and detailed **controls** aimed at achieving a high quality built environment, landscape setting and community spaces. These are supported by diagrams and photos.*

1. Objectives

The objectives contained in this DCP outline the outcomes that proposed developments are required to achieve. In order to gain consent, developments need to demonstrate that they have fulfilled the relevant objectives for each element.

Note: *The numbering of the aims of the plan and the objectives within each part are for convenience only, and do not indicate priority.*

2. Controls

The design controls demonstrate the preferred ways in which the objectives are to be achieved for improving site and building design. The controls focus on building performance/functionality, form, layout, sustainability and residential amenity.

Council may consider alternate solutions to the controls provided in this DCP where:

- the alternate solution is considered to be a reasonable planning outcome; and*
- the alternate solution achieves the aims and objectives of that design element.*

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

3A.1 Land amalgamation

Site isolation is dealt with under Part 3A.1 Land amalgamation of the DCP. The subject property and adjoining site at 51 – 53 Lindfield Avenue have different land use zonings. Control 4 of this part states land amalgamation is to avoid creating:

- I. a primary street frontage less than that required by KLEP (Local Centres) 2012;
- II. a lot size less than the required by KLEP (Local Centres) 2012; and/ or
- III. a high constrained site.

A highly constrained site is identified under control 5 as a lot or lots where heritage, riparian or biodiversity values significantly reduce the development potential of the lot or lots.

In this regard, 51 – 53 Lindfield Avenue has a frontage of 24.995 metres and an area of 1873m². Clause 6.5 of the KLEP (Local Centres) 2012 requires sites not to have an area less than 1200m² and a minimum frontage of 24 metres. This site would meet the minimum size requirements to permit multi dwelling development or a residential flat building. The site is however considered a constrained site due to the biodiversity values (Turpentine's at the rear of the site). However, the site presently contains a strata subdivided residential flat building. Development to the north, at 55 and 55A Lindfield Avenue is also zoned R4 High Density Residential and therefore the adjoining site would not be considered to be isolated.

8A.2 Building Separation

The Building Separation controls in the DCP are identical to those in the RFDC and the proposed departure is considered acceptable for the reasons advanced under the consideration of the relevant RFDC control above.

8B.1 Vehicle and service and access and loading facilities

The control requires service access to allow waste vehicles to have a minimum 4.5 metres finished ceiling height to allow vehicles to enter. The proposal provides for a 4.3 metres clearance height. The proposal has been assessed by Council's Development Engineer and no concerns are raised in this respect.

8B.2 Car parking provision

A component of the basement at the rear, fronting Havilah Lane the basement results in a protrusion above ground of greater than 1 metre (at which point, the basement is considered to be a storey). The area within the basement is equivalent to 179m². The breach occurs at the retail driveway access to the basement and internally within the basement. There is a maximum height of 3.18 metres above natural ground where the basement is approximately 36 metres from the Havilah Lane frontage. The development has corresponded to the additional storey created in the basement, by limiting the 7th storey to the west fronting Lindfield Avenue and away from the east, where the basement protrusion occurs.

The development complies with the overall building height development standard prescribed by KLEP (Local Centres) 2012. The breach occurs largely within the basement which mitigates the bulk and scale impacts upon Havilah Lane due to the breach occurring approximately 36 metres from the street frontage.

The proposal is considered to be acceptable as the building present as a seven storey development, achieving the objectives of the DCP.

8C.3 – Office floor depth

The proposal includes retail space on the ground floor level. The development provides for openings within the northern and western elevations. No openings have been provided within the southern elevation due to a nil setback being proposed which matches the setback approved on the adjoining Major Project site. As a result, portions of the southern side of the retail space are greater than 10 metres from a window. No specific use has been proposed so it is unknown whether this space will be utilised for the offices. Any future use of this space would be subject to a separate development application and the merits of the proposed internal layout will be assessed which such an application is lodged.

8C.17 – Internal ceiling heights

The control requires a 3 metres floor-to-ceiling height. The proposed floor-to-floor height for the first floor residential uses is 3.05 metres which will permit a 2.7 metres floor-to-ceiling height and does not comply with the control. The objective of this control is to provide adaptability from residential to commercial use over time. As this level will be strata subdivided for apartments, it is unlikely that they will convert to commercial at a later date and the non compliance is therefore considered acceptable on merit.

VOLUME B

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

Local centre key community infrastructure - land dedication (1E.2)

The DCP indicates a new pedestrian lane way from Lindfield Avenue to Halivah Road (land for access way dedicated to Council). The site is identified upon the local centre building setback plan (1E.3-1) as being subject to a setback of 5 metres to achieve the pedestrian lane way along the north side boundary of the site as

stipulated under Precinct 4 (ix). The DCP specifies that the land is to be dedicated to Council at no cost.

The application provides for a 3.0 metres width pedestrian access along the northern side boundary which does not satisfy the 5.0 metres requirement. The applicant has also indicated they would not be dedicating this land to Council. Council cannot require this land to be dedicated and cannot require the applicant to enter into a voluntary planning agreement. However, the pedestrian access of 3.0 metres is considered to meet the intention of the control in providing an access area between Lindfield Avenue and Havilah Lane. **Condition 104** requires the access way to be opened during daylight hours to allow pedestrian use of the access way. It is considered unreasonable to require this space to remain open at all times.

Local centre built form (1E.4)

The DCP requires for Precinct L4 the following:

- create a consistent 3 storey (11.5 metres) street wall that is built parallel to the street alignment of Lindfield Avenue
- all levels above the street wall height are to have a 2 metre setback
- provide active street frontages to Kochia Lane, Chapman Lane, Lindfield Avenue, Tryon Road and the proposed town square
- provide active street frontages to Havilah Lane and Milray Street wherever possible
- locate and design buildings to retain adequate solar access to the future town square area

The proposal provides a four storey (14.5 metres) wall height to Lindfield Avenue. The proposed street wall height is considered to be acceptable by Council's Urban Design Consultant who feels it is appropriate in the context as five storeys is approved at the adjoining property to the south and the property to the north is zoned R4. The proposal is an appropriate transition in scale and is acceptable in this circumstance. Levels 5 – 8 provide for the minimum 2.0 metres setback from Lindfield Avenue. The proposal relies on Havilah Lane for vehicle access to the site and therefore opportunity does not exist to provide an active street frontage along Havilah Lane.

Local centre public domain and pedestrian access (1E.5)

The DCP indicates the provision of a new pedestrian through linking Lindfield Avenue and Havilah Lane. The site is identified upon the public domain and pedestrian access plan (1E.5-1) as being subject to a pedestrian through site link, awnings along Lindfield Avenue and awnings wherever possible along Halivah Lane.

The DCP requires for Precinct L4 the following:

- provide continuous awnings to Lindfield Avenue and Kochia Lane
- provide awnings to Chapman Lane and Halivah Lane wherever possible
- provide a new pedestrian walk way between Lindfield Avenue and Havilah Lane and provide awnings wherever possible
- provide new footpaths to Kochia Lane, Chapman Lane and Havilah Lane

The proposal provides a through site link that allows for pedestrian connectivity between Lindfield Avenue and Havilah Lane. The provision of a through site link is considered to result in the desired public domain outcome. The availability of the through site link for public use is ensured by a condition of consent (**Condition 104**).

The proposal provides for awnings along Lindfield Avenue and awning to Havilah Lane. The proposal is subject to Council's Ku-ring-gai Contributions Plan 2010 which will ensure works within the public domain, such as the footpaths within Havilah Lane are provided for.

Local centre building entries, car parking and service access (1E.6)

The DCP states that vehicle and service access is to be via Havilah Lane and vehicle access from Lindfield Avenue is not permissible. Residential and commercial lobbies are to be located off Lindfield Avenue. The proposed vehicle access is from Havilah Lane and the residential and commercial lobbies are provided from Lindfield Avenue in accordance with the control requirements.

Part 2 – Site design for water management

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

VOLUME C

Part 1 – Site Design

This part relates to earthworks and landscape design.

The proposed development incorporates substantial earthworks, particularly those needed to accommodate the basement level parking areas. These works are consistent with the requirements of this part.

Additionally, the landscaping works of the proposed development will complement the character of the surrounding area, while providing functional and practical spaces on-site for the enjoyment of residents. The proposed plantings include a mix of locally occurring and exotic species that are sited in a manner that will retain amenity to the dwellings of the site and neighbouring properties.

Part 3.4 – Waste Management

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

Part 3.5 and 3.6 – Acoustic privacy and visual privacy

The applicant has submitted an acoustic impact report detailing the measures to be implemented to protect resident amenity from noise sources both on and off the site, including vehicular traffic along Lindfield Avenue, and noise generated by plant equipment and vehicles using the proposed driveway. This report is acceptable.

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

Part 3.7 – Materials, finishes and colours

The applicant has submitted a materials and finishes board. The proposed materials

and finishes are acceptable.

Part 4 – Water management

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

Part 5 – Notification

The application has been notified in accordance with the requirements of the DCP. The issues raised in the submissions have been addressed above.

Section 94 Development Contributions Plan 2010

The development attracts a section 94 contribution of **\$899,131.49** which is required to be paid prior to the issue of the Construction Certificate. **(Condition 44)**.

Australian Standard for Demolition - Clause 92(1)(b)

Clause 92(1)(b) of the Environmental Planning & Assessment Regulations 2000 requires the consent authority to consider the provisions of *Australian Standard AS 2601-1991: The demolition of structures*. The demolition of the existing structures will be carried out in accordance with a construction/demolition management plan, and this will be required to be submitted prior to the issue of a Construction Certificate. Conditions to this effect are included in the recommendation section of this report.

LIKELY IMPACTS

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

SUITABILITY OF THE SITE

The proposal is considered to be a reasonable development which does not result in any unreasonable impacts upon adjoining properties or the streetscape. The site is suitable for the proposed development and this has been demonstrated in the above assessment.

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 effects on the surrounding area and the environment are minimised. The proposal has been assessed against the relevant environmental planning instruments and is deemed to be acceptable. Accordingly, the proposal is recommended for approval.

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 is considered to be generally consistent with the relevant Council statutory and policy controls. Where strict compliance has not been achieved, the proposal has been considered with respect of the control outcomes and supported on merit.

The proposal results in a technical non compliance with the FSR development standard and the applicant's Clause 4.6 variation request has been assessed and it is considered unreasonable and unnecessary in the circumstances to require compliance. The basement projects greater than 1,0 metres above ground, where there is a change in topography and the design response is appropriate.

The proposed development results in non compliance with the required building separation with the adjoining properties. The proposal subject to conditions and on merit is acceptable. The proposal, provides for a 3.0 metres pedestrian access way from the northern side boundary which does not comply with the required 5.0 metres setback but is considered to meet the objectives of the control in providing a thorough fare between Lindfield Avenue and Havilah Lane and is considered satisfactory.

The proposal is consistent with the objectives of the zone and provides for a development type which is consistent with the B2 zoning.

RECOMMENDATION:

- A. THAT the Joint Regional Planning Panel, is satisfied that the request under Clause 4.6 of Ku-ring-gai Local Centres LEP 2012 to vary floor space ratio development standard is well founded. Council is also satisfied that the proposed development will be in the public interest and is consistent with the objectives of the development standard and the B2 Local Centres zone.
- B. THAT the Joint Regional Planning Panel, as the consent authority, grant consent to Development Application No. 0578/14 for demolition of existing structures and construction of a mixed use development consisting of retail and commercial spaces, 33 residential units, roof top swimming pools, basement parking and stratum subdivision on land at 9 Havilah Lane, 43 Lindfield Avenue, Lindfield.

SCHEDULE A – Deferred commencement condition

Deferred Commencement Condition

This consent is not to operate until the Applicant satisfies the Council, within 12 months of the date of this consent, that approval/certification from Sydney Trains as to the following matters has been obtained and the approval/certification has been forwarded to Council:

1. Sydney Trains requirements

The applicant shall prepare and provide to Sydney Trains for approval/certificate the following items:

- 1. Geotechnical and Structural report/drawings that meet Sydney Trains requirements. The Geotechnical Report must be based on actual borehole testing conducted on the site closest to the rail corridor.
- 2. Construction methodology with construction details pertaining to the structural

support during excavation. The applicant is to be aware that Sydney Trains will not permit any rock anchors/bolts (whether temporary or permanent) within its land or easements.

3. Cross sections drawings showing the tunnel easement, tunnel location, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the rail tunnel. All measurements are to be verified by a Registered Surveyor.
4. Detailed Survey Plan showing the relationship of the proposed development with respect to the Sydney Trains easement and tunnel location.
5. If required by Sydney Trains, an FE analysis which assessed the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor.

Any conditions issued as part of Sydney Trains approval/certification of the above documents will also form part of the consent conditions that the Applicant is required to comply with.

SCHEDULE B – The standard conditions of consent are out as follows:

CONDITIONS THAT IDENTIFY APPROVED PLANS:

2. Approved architectural plans and documentation (new development)

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

Plan no.	Drawn by	Dated
DA5.00B Setback Diagram Plan	Vic Lake Architect	28/04/2015
DA5.01B Setback Diagram Sections	Vic Lake Architect	28/04/2015
DA5.04B Storage Diagram	Vic Lake Architect	04/05/2015
DA5.05B Adaptable Apartments Plan	Vic Lake Architect	28/04/2015
DA6.00B Site Plan	Vic Lake Architect	28/04/2015
DA6.01B Basement 04-Basement 03 Plans	Vic Lake Architect	28/04/2015
DA6.02B Basement 02-Basement 01 Plans	Vic Lake Architect	28/04/2015
DA6.03B Level 01 Floor Plan	Vic Lake Architect	28/04/2015
DA6.04B Level 02 - Level 03 Floor Plans	Vic Lake Architect	04/05/2015
DA6.05B Level 04 - Level 05 Floor Plans	Vic Lake Architect	04/05/2015
DA6.06B Level 06 - Level 07 Plans	Vic Lake Architect	04/05/2015

DA6.07B Level 08 Plan - Roof Plan	Vic Architect	Lake	28/04/2015
DA7.00B Section AA & Section BB	Vic Architect	Lake	28/04/2015
DA7.01B Section CC & Section DD	Vic Architect	Lake	28/04/2015
DA8.00B North & South Elevations	Vic Architect	Lake	28/04/2015
DA8.01B East & West Elevations	Vic Architect	Lake	28/04/15
DA12.00B Stratum Plan	Vic Architect	Lake	27/04/2015
C1.01 Issue B Stormwater Management and On Site Detention-Retention Tank - Plans	ACOR Consultants Pty Ltd		23.04.2015
C1.02 Issue B Stormwater Management and On Site Detention-Retention Tank - Sections	ACOR Consultants Pty Ltd		23.04.2015
1.01, 1.02, 1.03, 1.04, 1.05, 1.06 and 1.07, all Issue 1	ACOR Consultants Pty Ltd		12/2014
LP01 Issue B Level 1 Landscape Plan	Site Design + Studios		30/04/15
LP02 Issue B Level 2 and Level 3 Landscape Plan	Site Design + Studios		30/04/15
LP03 Issue B Level 4 and 5 Landscape Plan	Site Design + Studios		30/04/15
LP04 Issue B Level 6 and 7 Landscape Plan	Site Design + Studios		30/04/15
LP05 Issue B Level 8 Landscape Plan	Site Design + Studios		30/04/15
LP06 Issue A Southern Elevation Green Wall	Site Design + Studios		29/04/15
LP07 Issue A Northern Elevation Green Wall	Site Design + Studios		29/04/15
LP08 Issue A Vertical Green Wall Details & Notes	Site Design + Studios		29/04/15
DA13.00A Vehicle Ramp Details	Vic Architect	Lake	17/12/2014
DA4.02A Excavation plan	Vic Architect	Lake	12/12/2014
DA4.01A Demolition plan	Vic Architect	Lake	12/12/2014

Document(s)	Dated
Colours and finishes schedule - DA1.01A Mood Board and Finishes Vic Lake Architecture DA0.00A Renders Vic Lake Architecture	11/12/2014 17/12/2014
Basix certificate No. 597802M_06	1 July 2015
Access Report prepared by BCA Access Reference 104511-Acess-r5	18/12/2014
Arborist Report prepared by Jacksons Nature Works	18/12/2014
Acoustic Report prepared by Day Design Pty Ltd	5 May 2015
Waste Management Program prepared by Harris Farm Markets	23 April 2015
Traffic Assessment prepared by Traffic Impact Services Pty Ltd	December 2014 received by Council May 2015
Waste Management Plan prepared by Arkibuild	14/12/14
Rail Noise Intrusion Report prepared by Day Design Pty Ltd	18/12/2014
Environmental Noise Impact Assessment prepared by Day Design Pty Ltd	18/12/2014
BCA Assessment Report prepared by BCA Logic Reference 104511-BCA-r5	17/12/2014
Remediation Action Plan report E22407 AA Rev 0 prepared by Environmental Investigations Australia	19 December 2014
BCA Section J Report prepared by Building & Energy Consultants Australia	May 2015

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

3. 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.

4. 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 B - LP05 A, LP06 A - LP08 A	Site Design Studios	30/04/2015 & 29/04/2015

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

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

5. 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

6. Dilapidation report Sydney Trains infrastructure

If required by Sydney Trains, prior to the commencement of works and prior to the issue of an Occupation Certificate, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by Sydney Trains.

Reason: To satisfy Sydney Trains requirements for concurrence.

7. 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.

8. 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.

9. Notice of proposed work (contaminated land)

A notice of proposed work form must be given to Council's Manager Development Assessment Services, 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.

10. Site contamination and remediation

The Remediation Action Plan for 43 - 47 Lindfield Avenue and 9 Havilah Lane Lindfield, prepared by Environmental Investigations Australia, dated December 2013, is to be updated by an appropriately qualified land contamination expert to include the results of suitable borehole testing across the entire development site.

A Remediation Action Plan (RAP) and Site Audit Statement (SAS) are to be prepared by a suitably qualified person addressing all site contamination and remediation issues identified in the updated report.

The site is to be remediated and validated in accordance with the report/s prior to execution of any works associated with this development except demolition and excavation.

The Site Audit Statement is to be submitted to Council on completion. Conditions of the Site Audit Statement shall form part of this consent. An Accredited Site Auditor is to be appointed to manage all recommended site contamination and remediation measures.

Any variation to the proposed RAP shall be approved in writing by the Accredited Site Auditor and Council prior to the commencement of such work.

Reason: SEPP 55 and environmental safety

11. Dilapidation photos (public infrastructure)

Prior to the commencement of any works on site the applicant must submit to Kuring-gai Council and the Principal Certifying Authority a photographic record on the visible condition of the existing public infrastructure **over the full site frontage** (in colour - preferably saved to cd-rom in 'jpg' format). The photos must include detail of:

- ☐ The existing footpath
- ☐ The existing kerb and gutter
- ☐ The existing full road surface between kerbs
- ☐ The existing verge area
- ☐ The existing driveway and layback where to be retained
- ☐ Any existing drainage infrastructure including pits, lintels, grates.

Particular attention must be paid to accurately recording any pre-developed damaged areas on the aforementioned infrastructure so that Council is fully informed when assessing damage to public infrastructure caused as a result of the development (which is not to be repaired by the Applicant as part of the development). The developer may be held liable to all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded and demonstrated under the requirements of this condition prior to the commencement of any works.

Reason: To protect public infrastructure.

12. 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

- 51 Lindfield Avenue
- 41 Lindfield Avenue and 7 Havilah Lane, recognising that this will most likely be a snapshot of the Aqualand development under construction.

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.

13. 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.

14. Work zone

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

No loading or unloading must be undertaken from the public road or nature strip unless within a Works Zone which has been approved and paid for.

In the event the work zone is required for a period beyond that initially approved by the Traffic Committee, the applicant shall make a payment to Council for the extended period in accordance with Council's schedule of fees and charges for work zones prior to the extended period commencing.

Reason: To ensure that appropriate measures have been made for the operation of the site during the construction phase.

15. Sediment controls

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

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

Reason: To preserve and enhance the natural environment.

16. 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.

17. Construction waste management plan

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

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

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

Reason: To ensure appropriate management of construction waste.

18. 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 Certifying Authority. The management plan is to identify amelioration measures to achieve the best practice objectives of AS 2436-2010 and NSW Environment Protection Authority 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, commercial premises 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 surrounding occupants 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 and commercial occupants during the construction process.

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

19. Acoustic assessment

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 Corridors and Busy Roads - Interim Guidelines."

Reason: To satisfy Sydney Trains requirement.

20. Electrolysis risk assessment

Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.

Reason: To satisfy Sydney Trains requirement.

21. Lights, signs and reflective materials

The design, installation and use of lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of Sydney Trains.

The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this

condition has been satisfied.

Reason: To satisfy Sydney Trains requirement.

22. Risk assessment/management plan

If required by Sydney Trains, prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on the rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming this condition has been satisfied.

Reason: To satisfy Sydney Trains requirement.

23. Aerial operations

Prior to the issuing of a Construction Certificate the Applicant is to submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

Reason: To satisfy Sydney Trains requirement.

24. Track monitoring plan

If required by Sydney Trains, a track monitoring plan (including instrumentation and the monitoring regime during excavation and construction phases) is to be submitted to Sydney Trains for review and endorsement prior to issuing of a Construction Certificate. The Principal Certifying Authority is not to issue a Construction Certificate until written confirmation has been received from Sydney Trains advising of the need to undertake the track monitoring plan, and if required, that it has been endorsed.

Reason: To satisfy Sydney Trains requirement.

25. Privacy screens

Privacy screens with a height of 1.6 metres above the finished floor level (RL118.200) of Level 08 shall be provided in the following locations:

- the southern edge of the roof top communal open space. The screen shall be vertically fixed at a 45° angle.
- the southern and eastern edges of the Unit 7.2 roof top terrace. The screen is to be horizontally fixed and 75% obscure to prevent downward looking.

Plans and specifications shall be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.

Reason: To maintain privacy and visual amenity to adjoining properties.

26. Amendments to approved engineering plans

Prior to the issue of a Construction Certificate, the Certifying Authority shall be satisfied that the approved engineering plan(s), listed below and endorsed with

Council's stamp, have been amended in accordance with the requirements of this condition as well as other conditions of this consent:

Plan no.	Drawn by	Dated
SY140526 C1.01 and C1.02 Issue B	ACOR Consultants	23.04.15

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

The on site detention volume is to be increased taking into account the proposed site coverage.

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

- Ku-ring-gai Local Centres DCP Volume C Part 4B.3-3.

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

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

27. Long service levy

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

Reason: Statutory requirement.

28. 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.

29. 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 effects on public amenity from excessive illumination levels.

30. Air drying facilities

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

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

Reason: Amenity & energy efficiency.

31. 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.

32. 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.

33. 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.

34. 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, [2.3, 3.3, 4.3, 5.1, 5.2, 6.1, 6.2 and 7.1], 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.

35. 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.

36. Noise from plant in residential zone

Prior to the issue of the Construction Certificate an acoustic design report shall be prepared by an appropriately qualified acoustic consultant identifying all mechanical ventilation equipment and other noise generating plant including, but not limited to car park and garbage room exhaust, roller shutter doors, air conditioners and lifts proposed as part of the development. The report shall be submitted to the Certifying Authority and provide acoustic design detailing and recommendations to address any potential noise impacts to ensure that the operation of an individual piece of equipment or operation of equipment in combination will not exceed more than 5dB(A) above the background (LA90, 15 min) level during the day when measured at the nearest adjoining property boundary and shall not be audible within a habitable room in any residential premises between the hours of 10.00pm and 7.00am.

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

37. 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.

38. 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.

39. Driveway grades - basement carpark

Prior to the issue of the Construction Certificate, longitudinal driveway sections are to be prepared by a qualified civil/traffic engineer and be submitted for to and approved by the Certifying Authority. These profiles are to be at 1:100 scale along both edges of the proposed residential driveway, starting from the centreline of the frontage street carriageway to the proposed Basement 03 floor level. The traffic engineer shall provide specific written certification on the plans that:

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

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

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

40. Basement car parking details

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

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

41. Car parking allocation

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

Resident car spaces	55
Visitor spaces	6
Retail spaces	41
Total spaces	102

Each adaptable dwelling must be provided with car parking complying with the dimensional and location requirements of AS2890.1 - parking spaces for people with disabilities. The car parking allocated within the basement must be amended to demonstrate accessible spaces are allocated to units 2.3, 3.3, 4.3, 5.1, 5.2, 6.1, 6.2 and 7.1.

At least one visitor space shall also comply with the dimensional and location requirements of AS2890.1 - parking spaces for people with disabilities.

Consideration must be given to the means of access from disabled car parking spaces to other areas within the building and to footpath and roads and shall be clearly shown on the plans submitted with the Construction Certificate.

Reason: To ensure equity of access and appropriate facilities are available for people with disabilities in accordance with federal legislation.

42. Number of bicycle spaces

The basement car park shall be adapted to provide 13 bicycle spaces in accordance with Ku-ring-gai DCP (Local Centres) 2013. The bicycle parking spaces shall be designed in accordance with AS2890.3. Details shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

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

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

43. 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.

44. 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:

Key Community Infrastructure	Amount
Local parks and local sporting facilities	\$389,788.23
Local recreation and cultural facilities; Local social facilities	\$58,656.49
Local roads, local bus facilities & local drainage facilities (new roads and road modifications)	\$220,391.01
Local roads, local bus facilities & local drainage facilities (townscape, transport & pedestrian facilities)	\$230,295.76
Total:	\$899,131.49

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.

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:

45. 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.

46. Prescribed conditions

The applicant shall comply with any relevant prescribed conditions of development consent under clause 98 of the Environmental Planning and Assessment Regulation. For the purposes of section 80A (11) of the Environmental Planning and Assessment Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:

- ☐ The work must be carried out in accordance with the requirements of the Building Code of Australia
- ☐ In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any works commence.

Reason: Statutory requirement.

47. Hours of work

Demolition, excavation, construction work and deliveries of building material and equipment must not take place outside the hours of 7.00am to 5.00pm Monday to Friday and 8.00am to 12 noon Saturday. No work and no deliveries are to take place on Sundays and public holidays.

Excavation or removal of any materials using machinery of any kind, including compressors and jack hammers, must be limited to between 7.30am and 5.00pm Monday to Friday, with a respite break of 45 minutes between 12 noon 1.00pm.

Where it is necessary for works to occur outside of these hours (ie) placement of concrete for large floor areas on large residential/commercial developments or where building processes require the use of oversized trucks and/or cranes that are restricted by the RTA from travelling during daylight hours to deliver, erect or remove machinery, tower cranes, pre-cast panels, beams, tanks or service equipment to or from the site, approval for such activities will be subject to the issue of an "outside of hours works permit" from Council as well as notification of the surrounding properties likely to be affected by the proposed works.

Note: Failure to obtain a permit to work outside of the approved hours will result in on the spot fines being issued.

Reason: To ensure reasonable standards of amenity for occupants of neighbouring properties.

48. Vibration

Vibration emitted from activities associated with the demolition, excavation, construction and fit-out of buildings and associated infrastructure shall satisfy the values referenced in Table 2.2 of the Environment Protection Authority Assessing Vibration - a Technical Guideline.

Reason: To protect the amenity of surrounding residents and commercial occupants during the construction process.

49. Approved plans to be on site

A copy of all approved and certified plans, specifications and documents incorporating conditions of consent and certification (including the Construction Certificate if required for the work) shall be kept on site at all times during the demolition, excavation and construction phases and must be readily available to any officer of Council or the Principal Certifying Authority.

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

50. Engineering fees

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

Reason: To protect public infrastructure.

51. Statement of compliance with Australian Standards

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

Reason: To ensure compliance with the Australian Standards.

52. Construction noise

During excavation, demolition and construction phases, noise generated from the site shall be controlled in accordance with best practice objectives of AS 2436-2010 and

NSW Environment Protection Authority Interim Construction Noise Guidelines and the recommendations of the approved noise and vibration management plan.

Reason: To protect the amenity of surrounding residents during the construction process.

53. Site notice

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

The site notice must:

- ☐ be prominently displayed at the boundaries of the site for the purposes of informing the public that unauthorised entry to the site is not permitted
- ☐ display project details including, but not limited to the details of the builder, Principal Certifying Authority and structural engineer
- ☐ be durable and weatherproof
- ☐ display the approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice
- ☐ be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted

Reason: To ensure public safety and public information.

54. Dust control

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

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

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

55. 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.

56. 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 submitted prior to commencement of works. 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.

57. 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 submitted prior to commencement of works. Approval must be obtained from all affected property owners, including Ku-ring-gai Council, where rock anchors (both temporary and permanent) are proposed below adjoining property(ies).

Reason: To ensure the safety and protection of property.

58. 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.

59. 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.

60. 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.

61. 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.

62. 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.

63. Construction signage

All construction signs must comply with the following requirements:

- ☐ are not to cover any mechanical ventilation inlet or outlet vent
- ☐ are not illuminated, self-illuminated or flashing at any time
- ☐ are located wholly within a property where construction is being undertaken
- ☐ refer only to the business(es) undertaking the construction and/or the site at which the construction is being undertaken
- ☐ are restricted to one such sign per property
- ☐ do not exceed 2.5m²
- ☐ are removed within 14 days of the completion of all construction works

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

64. 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.

65. Road reserve safety

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

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

66. 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.

67. 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.

68. 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.

69. Sydney Water Section 73 Compliance Certificate

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

Reason: Statutory requirement.

70. Arborist's report

The tree/s to be retained shall be inspected, monitored and treated by a qualified AQF3 Arborist under the direct supervision of an AQF5 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
<i>Acmena smithii</i> (Lillypilly) Adjacent to northern site boundary in neighbouring site	* Immediately prior to the commencement of ANY works on site. * Direct supervision of all pruning works above and below ground. * Direct supervision of excavation within a 10.0m radius for the top 800mm. * Treatment of tree roots when severed. * At four monthly intervals during construction. At the completion of all works on site

Reason: To ensure protection of existing trees.

71. Canopy/root pruning

Canopy and/or root pruning of the following tree/s which is necessary to accommodate the approved building works shall be undertaken by an experienced AQF3 Arborist/Horticulturist under the supervision of an AQF5 arborist. All pruning works shall be undertaken as specified in Australian Standard 4373-2007 - Pruning of amenity trees.

Tree/Location	Tree works
<i>Acmena smithii</i> (Lillypilly) Adjacent to northern site boundary in neighbouring site	Canopy and root pruning as detailed within the arboricultural letter by Jacksons Nature Works dated 18/12/2014

Reason: To protect the environment.

72. Treatment of tree roots

If tree roots are required to be severed for the purposes of constructing the approved works, they shall be cut cleanly by hand, by an experienced AQF3 Arborist/Horticulturist under the supervision of an AQF5 arborist. All pruning works shall be undertaken as specified in Australian Standard 4373-2007 - Pruning of Amenity Trees.

Reason: To protect existing trees.

73. 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
<i>Acmena smithii</i> (Lillypilly) Adjacent to northern site boundary in neighbouring site	4.0m

Reason: To protect existing trees.

74. Approved tree works

Approval is given for the following works to be undertaken to trees on the site:

Tree/Location	Approved tree works
<i>Jacaranda mimosifolia</i> (Jacaranda) Lindfield Ave nature strip adjacent to site frontage	Removal
<i>Acmena smithii</i> (Lillypilly) Adjacent to northern site boundary in neighbouring site	Canopy reduction and root pruning on southern side as detailed within the arboricultural letter dated 18/12/2014 by Jacksons Nature Works

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.

75. 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
<i>Acmena smithii</i> (Lillypilly) Adjacent to northern site boundary in neighbouring site	4.0m

Reason: To protect existing trees.

76. 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.

77. Tree removal on nature strip

Following removal of the *Jacaranda mimosifolia* (Jacaranda) from Council's nature strip, the nature strip shall be rehabilitated to the satisfaction of Council's Landscape and Tree Assessment Officer at no cost to Council.

Reason: To protect the streetscape.

78. 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.

79. 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.

80. 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:

81. Easement for waste collection - residential component

Prior to the issue of the Occupation Certificate, the Principal Certifying Authority is to be satisfied that an easement for residential 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.

82. Waste collection contractor - commercial/ retail

Prior to the issue of an Occupation Certificate for the building, the applicant must submit to Council details of the waste contractor engaged to service the commercial/ retail 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 commercial/retail waste collection for the building.

Reason: To ensure safe traffic movement and neighbourhood amenity.

83. Waste arrangements - commercial/ retail

Prior to the issue of any Occupation Certificate, the Principal Certifying Authority must be satisfied that a contract or contracts is/ are in place for the collection of all commercial/ retail waste from the combined waste and recycling storage area on Basement 01.

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

84. 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.597802M_06 and dated 1 July 2015 have been complied with.

Reason: Statutory requirement.

85. Clotheslines and clothes dryers

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

Reason: To provide access to clothes drying facilities.

86. Mechanical ventilation

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

1. The installation and performance of the mechanical ventilation systems complies with:
 - ☐ The Building Code of Australia
 - ☐ Australian Standard AS1668
 - ☐ Australian Standard AS3666 where applicable
2. The operation of the mechanical ventilation systems and other noise generating plant in isolation or in association with other equipment will not be audible within a habitable room in any residential premises between the hours of 10.00pm and 7.00am. The operation of the equipment outside these restricted hours shall emit a noise level of not greater than 5dB(A) above background when measured at the nearest adjoining residential boundary. The background (LA90, 15 min) level is to be determined without the source noise present.

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

Reason: To protect the amenity of surrounding properties.

87. Completion of landscape works

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

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

88. Accessibility

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

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

Reason: Disabled access & services.

89. 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.

90. 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.

91. 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.

92. 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.

93. 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 residential garbage collection from the basement garbage storage and collection area
- ☐ the vehicular headroom requirements of:
 - Australian Standard 2890.1 - "Off-street car parking",
 - **2.6 metres** height clearance for 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.

94. Reinstatement of redundant crossings and completion of infrastructure works

Prior to issue of the Occupation Certificate, the Principal Certifying Authority must be satisfied that he or she has received a signed inspection form from Council which states that the following works in the road reserve have been completed:

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

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

All works must be completed in accordance with the General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council, dated November 2004. The Occupation Certificate must not be issued until all damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) is fully repaired to the satisfaction of Council. Repair works shall be at no cost to Council.

Reason: To protect the streetscape.

95. Swimming pool (part 1)

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

1. Access to the pool/spa shall be restricted by a child resistant barrier in accordance with the regulations prescribed in the Swimming Pools Act, 1992:
 - (a) The pool shall not be filled with water or be allowed to collect stormwater until the child resistant barrier is installed; and
 - (b) The barrier is to conform to the requirements of AS 1926-1 2012 Fences and Gates for Private Swimming Pools.

Reason: To ensure the safety of children.

2. Any mechanical equipment associated with the swimming pool and/or spa pool shall be located in a sound-attenuating enclosure and positioned so that it is setback a minimum of 2m from the boundary of any adjoining premises. The Principal Certifying Authority shall be satisfied that the sound levels

associated with the swimming pool/spa filtration system and associated mechanical equipment do not exceed 5dB(A) above the background noise level at the boundaries of the site.

Reason: To protect the amenity of surrounding properties.

3. The pool/spa shall not be filled with water or be allowed to collect stormwater until it is registered on the NSW Swimming Pool Register in accordance with the Swimming Pools Act 1992 (www.swimmingpoolregister.nsw.gov.au <<http://www.swimmingpoolregister.nsw.gov.au>>).

Reason: Legislative requirement.

96. Mechanical ventilation

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

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

97. 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 PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE:

98. Submission of plans of subdivision (stratum)

For issue of the subdivision certificate, the applicant shall submit an original plan of subdivision plus 6 copies suitable for endorsement by the consent authority. The following details **must** be submitted with the plan of subdivision and its copies, where Council is the consent authority:

- a) the endorsement fee current at the time of lodgement
- b) the 88B instrument plus 6 copies
- c) all surveyors and/or consulting engineers' certification(s) required under this subdivision consent.
- d) Proof of payment of S94 contributions.

Reason: Statutory requirement.

CONDITIONS TO BE SATISFIED AT ALL TIMES:

99. Garbage and recycling facilities

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

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

100. Deliveries & waste collections

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

Reason: To protect the amenity of the surrounding area.

101. Waste storage and collection

At all times, waste collection from the building must be carried out inside the basement, from the commercial/ retail waste and recycling storage area in Basement 01 or the residential waste collection area in Basement 03.

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

102. 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.

103. Waste collection

At all times, all storage of waste, collection of waste, loading and unloading 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/basement.

Reason: To ensure safe traffic movement and neighbourhood amenity.

104. Pedestrian access way

The 3.0 metres wide pedestrian access way along the northern side boundary is to remain open and accessible (not restricted by gate to prevent public access) during daylight hours.

Reason: To ensure pedestrian access way between Lindfield Avenue and Havilah Lane is open to the public for use.

105. No door restricting internal waste collection in basement

At all times, the basement residential 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 residential 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.

106. Noise control - plant and machinery

All noise generating equipment associated with mechanical ventilation systems, plant and machinery shall be located and/or soundproofed so the equipment is not audible within a habitable room in any residential premises between the hours of 10.00pm and 7am. The operation of the equipment outside these restricted hours shall emit a noise level of not greater than 5dB(A) above the background when measured at the nearest adjoining boundary. The background (LA90, 15 min) level is to be determined without the source noise present.

Reason: To protect the amenity of surrounding residents.

107. Car parking

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

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

Reason: To ensure adequate provision of visitor parking spaces.

108. 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.

109. Unobstructed driveways and parking areas

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

Reason: To ensure safe traffic movement.

110. Swimming pool (part 2)

At all times:

1. Access to the swimming pool must be restricted by fencing or other measures as required by the Swimming Pools Act 1992.
2. Noise levels associated with spa/pool pumping units shall not exceed 5dB(A) above the background noise level at the boundaries of the site.
3. Devices or structures used for heating swimming pool water must not be placed where they are visible from a public place.
4. For the purpose of health and amenity, the disposal of backwash and/or the emptying of a swimming pool into a reserve, watercourse, easement or storm water drainage system is prohibited. These waters are to discharge via a permanent drainage line into Sydney Water's sewer in accordance with Australian Standard AS3500.2 section 10.9. Permission is to be obtained from Sydney Water prior to the emptying of any pool to the sewer.
5. Lighting from the swimming pool and other communal facilities shall not detrimentally impact the amenity of other premises and adjacent dwellings.

Reason: Health and amenity.

111. 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.

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