

<b>CONDITIONS WITHOUT PREJUDICE</b>
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<b>Application No.:</b>	DA0134/18
<b>Proposed Development:</b>	Demolish existing structures (including Roseville RSL Club and retail tenancy) and construct mixed-use building comprising new ground floor RSL Club, shop-top housing of 33 residential dwellings, basement parking, associated works and subdivision
<b>Property:</b>	64 Pacific Highway ROSEVILLE NSW 2069 62 Pacific Highway ROSEVILLE NSW 2069 66 Pacific Highway ROSEVILLE NSW 2069

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

**SCHEDULE A: Deferred Commencement – Term to be satisfied prior to the consent becoming operable**

**The following deferred commencement term(s) must be complied with to the satisfaction of Council within 24 months of the date of issue of this deferred commencement development consent:**

**1. Voluntary Planning Agreement**

A Voluntary Planning Agreement is to be entered into with Council (at no cost to Council) and executed, for the divestment of the 6.095 metres wide strip of land fronting Larkin Lane, as shown as 'Lot 3' on 'Plan of Subdivision of Lot 2 in DP202148', dated 8 July 2019 and prepared by DSP Surveyors and Engineers, in accordance with the offer made to Council in the letter from Mills Oakley titled "Letter of offer: Development of land at 62-66 Pacific Highway, Roseville under DA0134/18" dated 12 March 2019.

**Reason:** Statutory requirement.

**This consent will lapse if the deferred commencement term is not satisfied within this timeframe.**

**Once the consent becomes operable, the conditions in Schedule B will apply. Upon written receipt from the Council that the deferred commencement terms in Schedule A have been satisfied, the following conditions will apply:**

**SCHEDULE B - The standard conditions of consent are set 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 plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this Development Consent:

Plan no.	Drawn by	Dated
<i>Architectural Plans</i>		
DA003 Issue C DA100 Issue C DA101 Issue C DA102 Issue C DA103 Issue C DA104 Issue C DA105 Issue C DA106 Issue C DA107 Issue C DA108 Issue C DA109 Issue C DA201 Issue C DA202 Issue C DA203 Issue C DA204 Issue C DA301 Issue C DA302 Issue C DA303 Issue C DA530 Issue C DA540 Issue C DA570 Issue C	PBD Architects	13.09.2019
<i>Subdivision plan</i>		
Plan of consolidation of Lot 1 in DP202148, Lot 2 in DP505371 and Lot 3 in the proposed subdivision of Lot 2 in DP202148	Pro Position Surveyors	7 April 2018
<i>Landscape Plans</i>		
09.19(18)/014'A' 09.19(18)/015'A'	Iscape	12.09.19
<i>Stormwater Management Plans</i>		
C001 3 C050 3 C051 3 C075 3 C100 3 C110 3 C120 3 C200 3 ESM1 4 ESM2 4 ESM3 (Sheet 1 and Sheet 2)	Jones Nicholson Consulting Engineers	10.09.2019

Document(s)	Dated
Construction Management Plan prepared by SBMG Planning	16 September 2019
Section J Report prepared by Efficient Living	13.09.19
Accessibility Report prepared by Accessible Building Solutions	1 March 2018
Acoustic Report prepared by Noise and Sound Services	September 2019
Arborist Report prepared by Margot Blues	10 September 2019
BASIX certificate No. 908539M_03	13 September 2019
Building Code of Australia Assessment Report prepared by Steve Watson and Partners	5 April 2018
Site contamination report prepared by Network Geotechnics	9 April 2018
Colours and finishes schedule prepared by PBD Architects (DA401 to DA404 B)	5 April 2018
Design Verification Statement prepared by PBD Architects	April 2018
Geotechnical Report prepared by Assetgeo	16 September 2019
Traffic and Car Parking Assessment prepared by Colston Budd Rogers and KafesPty Ltd	30 October 2019
Operational Waste Management Plan	9 April 2018
Waste Management Plan	Undated

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

### **3. No physical works**

No physical works that are provided by or facilitated by this consent are to be commenced until such time that the Principal Certifier has been provided with a copy of the registered plan of subdivision from the Department of Land and Property Information that is authorised by this consent. Where works that are directly incidental to the subdivision or are required to facilitate it (such as the adjustment of services) these works may be undertaken, subject to the supervision and approval of Council and the Principal Certifier. No Construction Certificate(s) are to be issued until the Principal Certifier has a copy of the registered plan of subdivision.

**Reason:** To ensure the orderly development of land.

### **4. 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 Development Consent prevail.

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

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

### **5. Design of works in right of way**

Prior to issue of the Subdivision Certificate, full design engineering plans and specifications prepared by a suitably qualified and experienced civil engineer for the following infrastructure works within the Right of Way required by Condition 7 shall be submitted to Council and approved by Council's Director of Operations on behalf of Council:

- construction of kerb and gutter and associated road pavement restoration for the full frontage of the development in Larkin Lane
- construction of minimum 1.2 metres wide concrete footpath for the full frontage of the development in Larkin Lane. Detailed long section and cross section in 5 metres intervals shall be provided.
- construction of a kerb inlet pit on the western side of Larkin Lane
- construction of a 375mm diameter reinforced concrete pipe (RCP) to link the proposed kerb inlet pit to the existing Council kerb inlet pit in Larkin Lane
- construction of a double width vehicular access crossing in Larkin Lane for access to the development

The required plans and specifications are to be designed in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2014. The drawings must detail existing utility services, (mains and house connections) and trees affected by the works. Construction of the works must proceed only in accordance with any conditions attached to the Roads Act approval issued by Council.

A minimum of three weeks will be required for Council to assess this application including any associated *Roads Act 1993* applications. Early submission is recommended to avoid delays in obtaining a Subdivision Certificate. For the purpose

of inspections carried out by Council Engineers, the corresponding fees set out in Council's current Fees and Charges Schedule are payable to Council prior to issue of any Subdivision Certificate. An engineering plan assessment fee is also applicable.

Approval must be obtained from Ku-ring-gai Council as the road authority under Section 139 Roads Act 1993 for any proposed works in the public road prior to the issue of any Subdivision Certificate.

**Reason:** Compliance.

## **6. General easement/R.O.W. provision and certification**

Prior to issue of a Subdivision Certificate, a registered surveyor is to provide details to Council that all physical structures are fully contained within the proposed allotments or will be fully covered by the proposed burdens upon registration of the final plan of subdivision. Alternatively, where the surveyor is of the opinion that creation of burdens and benefits is not required, then proof to this effect must be submitted to the Principal Certifier.

**Reason:** To ensure that all physical structures are fully contained within the proposed allotments or will be fully covered by the

## **7. Creation of right of way**

Prior to the issue of a Subdivision Certificate, A Right of Way for pedestrian and vehicle access in favour of Ku-ring-gai Council and benefiting the public shall be created over that portion of land that is to be absorbed into Lot 1 DP202148 and described in the Voluntary Planning Agreement listed in Condition 1 of Schedule A of this consent. Ku-ring-gai Council shall be empowered as the sole authority to vary, release or modify this Right of Way.

**Reason:** To protect public access.

## **8. Submission of plans of subdivision (Torrens title)**

For endorsement of a Subdivision Certificate, an original plan of subdivision plus 6 copies, suitable for endorsement by Council shall be submitted to Council. The following details must be submitted with the plan of subdivision and its copies:

1. The endorsement fee current at the time of lodgement.
2. The 88B instrument plus 6 copies.
3. All surveyor's and/or consulting engineers' certification(s) required under this subdivision consent.
4. The Section 73 (Sydney Water) Compliance Certificate for the subdivision.

Council will check the conditions on the Development Consent for subdivision. Failure to submit the required information will delay endorsement of the linen plan and may require payment of rechecking fees. **Plans and copies of subdivision must not be folded. Council will not accept bonds in lieu of completing subdivision works.**

**Reason:** Statutory requirement.

## **9. Sydney Water Section 73 compliance certificate**

Prior to the issue of a Subdivision Certificate, the Section 73 Sydney Water compliance certificate which refers to the subdivision application must be obtained and submitted to the Council.

**Reason:** Statutory requirement.

## **10. Consolidation of lots**

Prior to issue of a Subdivision Certificate, the Applicant must, in addition to the subdivision, consolidate the existing lots (being Lot 1 in DP202148 - 64 Pacific Highway, Roseville, Lot 2 in DP505371 - 66 Pacific Highway, Roseville and the area to be excised from Lot 2 in DP202148 - 62 Pacific Highway, Roseville) which will form the development site into a single lot. Evidence of lot consolidation consistent with this condition, in the form of a plan registered with NSW Land Registry Services, must be submitted to the Principal Certifier prior to issue of any Construction Certificate.

**Reason:** To ensure that the legal property description is consistent with the proposed site layout and that continuous structures will not be placed across separate lots.

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

### **11. 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.

### **12. Site contamination and remediation requirements prior to commencement of any work**

The remediation action plan for 62-66 Pacific Highway, Roseville prepared by Network Geotechnics and dated 9 April 2018 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 valuated 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 at the completion of the remediation works. 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 provided to Council prior to the commencement of construction work.

**Reason:** To comply with SEPP 55 and to ensure environmental safety.

### **13. Notice of commencement**

At least 48 hours prior to the commencement of any demolition, excavation or building works, a notice of commencement of building works or subdivision lodgement form and appointment of the Principal Certifier form shall be submitted to Council.

**Reason:** Statutory requirement.

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

Prior to the commencement of any works, the Principal Certifier 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.

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

A notice of commencement must be provided to Council's Development Assessment Officer, in accordance with SEPP 55, Clause 16. Note: At least 30 days notice is required, except in the case of work required to be carried out immediately under the terms of remediation order (in which case, at least 24 hours 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.

### **16. Dilapidation survey and report (private property)**

Prior to the commencement of any works, the Applicant must obtain a dilapidation

report on the identified private property below and the Principal Certifier shall be satisfied that a dilapidation report on the visible and structural condition of all structures on the following properties has been completed and submitted to Council:

Address:

- 68 Pacific Highway Roseville

The dilapidation report must include a photographic record 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 Certifier 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.

A copy of the dilapidation report is to be provided to Council prior to the commencement of any works. The dilapidation report is for record keeping purposes only and may be used by the 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.

### **17. Access through public reserve not permitted**

Access for construction purposes shall not be gained through the adjoining public reserve. Should no alternative access exist, an application for access to the construction site via the public reserve shall be submitted to Council for consideration and approval prior to the commencement of works. Parking of construction vehicles and employee vehicles on public reserves is also not permitted.

**Reason:** To protect public reserves.

### **18. Construction traffic management plan**

A construction traffic management plan (CTMP) is to be submitted to Council and approved prior to the commencement of any works.

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 a 12.5 metres long heavy rigid vehicle and 19.0 metres articulated vehicle.

The swept path analysis plans shall show the existing trees being retained and their tree protective fencing requirements (consistent with this Development Consent). These plans shall be to scale to ensure that truck access and tree fencing requirements do not conflict and are consistent with the approved environmental site management plan.

The plan shall show locations for site offices and materials storage areas to be located outside the tree protection zones.

The traffic control plans are to be prepared by a RMS accredited consultant. One traffic control plan must be provided to Council for each of the following stages of the works:

- demolition
- excavation
- concrete pour
- construction of vehicular crossing and reinstatement of footpath
- traffic control for vehicles reversing into or out of the site

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

When a satisfactory CTMP is received and the relevant fees paid in accordance with Council's adopted fees and charges, 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. No works may be carried out unless Council has approved the CTMP.

**Reason:** To ensure that appropriate measures have been made to minimise impacts upon surrounding roads during the construction phase.

### **19. Trunk and branch protection**

Prior to the commencement of any works, the trunk/s and branches of the listed trees are protected by the placement of 50 x 100mm timbers over suitable protective padding material in accordance with Section 4.5.2 of the current version of AS4970. The trunk and branch protection shall be maintained intact until the completion of all works.

Any damage to the tree/s is to be treated in a timely manner by an experienced arborist, with minimum AQF Level 5 qualification and a report detailing the works carried out shall be submitted to the Principal Certifier:

<b>Tree/Location</b>
Tree 1 Eucalyptus scoparia/ Memorial park adjacent Larkin lane

**Reason:** To protect existing trees.



## **20. Inspection of tree protection measures**

Upon installation of the required tree protection measures, an inspection is to be conducted by the project arborist or the Principal Certifier to verify that tree protection measures comply with all relevant conditions of this Development Consent.

**Reason:** To protect existing trees.

## **21. Project arborist**

Prior to the commencement of any works, a project arborist shall be engaged to ensure all tree protection measures and works are carried out in accordance with the conditions of this Development Consent.

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

**Reason:** To protect of existing trees.

## **22. Construction waste management plan**

Prior to the commencement of any works, the Principal Certifier shall be satisfied that a waste management plan, prepared by a suitably qualified person, has been prepared in accordance with the waste management controls in the Ku-ring-gai Development Control Plan or Ku-ring-gai Local Centre Development Control Plan.

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

The plan shall be provided to the Principal Certifier.

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

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

Prior to the commencement of any works, a noise and vibration management plan is to be prepared by a suitably qualified expert addressing the likely noise and vibration from demolition, excavation and construction of the proposed development and provided to the Principal Certifier. The management plan is to identify amelioration measures to achieve the best practice objectives of Australian Standard 2436-2010 - Guide to noise and vibration control on construction, demolition and maintenance sites and NSW Department of Environment and Climate Change Interim Construction Noise Guidelines. The report shall be prepared in consultation with any geotechnical report that itemises equipment to be used for excavation works.

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

- identification of the specific activities that will be carried out and associated noise sources
- identification of all potentially affected sensitive receivers, including

residences, churches, commercial premises, schools and properties containing noise sensitive equipment

- the construction noise objective specified in the conditions of this consent
- the construction vibration criteria specified in the conditions of this consent
- determination of appropriate noise and vibration objectives for each identified sensitive receiver
- noise and vibration monitoring, reporting and response procedures
- assessment of potential noise and vibration from the proposed demolition, excavation and construction activities, including noise from construction vehicles and any traffic diversions
- description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction
- construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency
- procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration
- contingency plans to be implemented in the event of non-compliances and/or noise complaints

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

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

##### **24. Amended BASIX certificate**

Prior to the issue of any Construction Certificate, the Certifier shall be satisfied that the BASIX Certificate has been prepared be consistent with the approved landscape plan in relation to areas of common garden and lawn and areas of private garden.

**Reason:** To ensure the BASIX Certificate commitments are correct.

##### **25. Smoke-free environment**

Prior to the issue of any Construction Certificate, the Certifier shall be satisfied that the premises can comply with the requirements of the Smoke-free Environment Act 2000 and Smoke-free Environment Regulation 2016.

**Reason:** To protect public health.

##### **26. Gaming machine location**

Prior to the issue of any Construction Certificate, the Certifier shall be satisfied that the location of the gaming machines shall comply with the requirements of the Gaming Machines Act 2001 and Gaming Machines Regulation 2019.

**Reason:** Legislative requirement.

## **27. Electromagnetic assessment- substation room**

Prior to the issue of any Construction Certificate the Certifier shall be satisfied that an electromagnetic assessment has taken place that assesses if the proposed substation room on the ground floor will have detrimental impacts on the health of future occupants. This assessment should be done by a suitably qualified electromagnetic shielding specialist or other suitably qualified individual. This assessment should be based on any relevant information from government organisations such as the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) and should provide recommendations (such as shielding requirements) if applicable to ensure potentially impacted individuals are not exposed to electromagnetic radiation that is likely to exceed recommended daily maximum exposure levels.

**Reason:** To protect public health.

## **28. Basement excavation to be fully tanked**

Prior to issue of any Construction Certificate, the Certifier is to be satisfied that the basement has been designed as a fully tanked structure as per the requirement of Part 24 C.3 (8) of the Ku-ring-gai DCP.

If groundwater is encountered, a referral to the NSW DPI Water is required, due to the need for construction dewatering which would require an aquifer interference approval. All requirements of NSW DPI Water are to be met during design, excavation and construction.

**Reason:** To protect the environment.

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

Prior to the issue of any Construction Certificate, the Certifier shall be satisfied that the approved landscape 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 Development Consent:

<b>Plan no.</b>	<b>Drawn by</b>	<b>Dated</b>
09.19(18)014'A'	Iscape	September 2019

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

- delete the proposed trees adjacent and underneath the awning to Larkin lane.

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

An amended plan, prepared by a landscape architect or qualified landscape designer shall be submitted to the Certifier.

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

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

Prior to the issue of any Construction Certificate, the Principal Certifier 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 Development Consent:

Plan no.	Drawn by	Dated
Civil Plans numbered C001-C300	Jones Nicholson	Rev 3 - 10.09.19

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

- The dimensions of the proposed OSD tank shall be provided on the stormwater plans
- The location and dimensions of the proposed 20m<sup>3</sup> rainwater reuse tank shall be shown on the stormwater plans
- The location of the proposed water quality devices (stormfilter chamber, 4 x PSorb) shall be shown on the stormwater plans

An amended engineering plan, prepared by a qualified engineer shall be submitted to the Certifier.

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

**Reason:** Statutory requirement.

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

The demolition work shall comply with the provisions of Australian Standard AS2601: 2001 *The Demolition of Structures*. The applicant must provide work plans required by AS2601: 2001 and 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 Certifier prior to the commencement of any works.

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

### **32. Long service levy**

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.

### **33. 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 Certifier 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.

### **34. Outdoor lighting**

Prior to the issue of the relevant Construction Certificate, the Certifier shall be satisfied that all outdoor lighting will comply with AS4282-1997 *Control of the obtrusive effects of outdoor lighting* and be mounted, screened and directed in a way that it does not create a nuisance or light spill on to buildings on adjoining lots or public places.

Lighting at vehicle access points to the development must be provided in accordance with AS/NZS 1158 Set:2010 *Lighting for roads and public spaces*.

Details demonstrating compliance with these requirements are to be submitted to the Principal Certifier prior to the issue of a Construction Certificate.

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

### **35. Prohibition of external service pipes and the like**

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 application to modify this Development Consent (S4.55) 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 on the Development Consent plans.

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

### **36. Certification of external materials, colours and finishes - major development**

The Certifier shall not issue any Construction Certificate unless the external materials, colours and finishes specified in the Construction Certificate application are consistent with the approved plans and documents referred to in Condition No. 1 of this Development Consent.

**Reason:** To ensure that the works are carried out in accordance with the Development Consent.

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

Prior to the issue of any Construction Certificate, the Certifier 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 Certifier prior to the issue of a 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.

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

Prior to the issue of any Construction Certificate, the Certifier 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 prior to the issue of any Construction Certificate. All details shall be prepared in consideration of the Disability Discrimination Act, and the relevant provisions of AS1428.1, AS1428.2, AS1428.4 and AS 1735.12.

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

### **39. Liveable housing guidelines- platinum and silver level**

Prior to the issue of any Construction Certificate, detailed plans and construction drawings shall be prepared as follows:

Apartments identified as Silver - showing compliance with the Silver Level requirements of the Livable Housing Australia Livable Housing Guidelines and as detailed in the accessibility report prepared by Code Performance, dated 16 April 2018.

Apartments (101, 201, 301, 401, 503) identified as Platinum - showing compliance with the Platinum Level requirements of the Liveable Housing Australia Liveable Housing Guidelines and as detailed in the accessibility report prepared by Code Performance, dated 16 April 2018.

The detailed plans and construction drawings, showing full compliance with the requirements of each standard within the Liveable Housing Guidelines and as identified within the accessibility report prepared by Accessible Building Solutions,

dated, 1 March 2018, shall be certified by an accredited Liveable Housing Australia assessor and provided to the Certifier for inclusion with the Construction Certificate documentation.

**Reason:** Equitable access.

#### **40. Excavation for services**

Prior to the issue of any Construction Certificate, the Certifier shall be satisfied that no proposed underground services (ie: water, sewerage, drainage, gas or other service) unless previously approved by conditions of consent, are located beneath the canopy of any tree protected under the Ku-ring-gai Development Control Plan, located on the subject allotment and adjoining allotments.

**Reason:** To protect existing trees.

#### **41. Pier footings near trees**

Prior to the issue of any Construction Certificate, the Certifier shall be satisfied that the footings of the approved outdoor terrace will be isolated pier construction within the specified radius of the trunk/s of the following tree/s:

<b>Tree/Location</b>	<b>Radius in metres</b>
Tree 2 Eucalyptus microcorys/ within Memorial park	7m

The piers shall be located such that no roots of a diameter greater than 50mm will be severed or injured during the construction period.

**Reason:** To protect existing trees.

#### **42. Recycling and waste management**

Prior to the issue of any Construction Certificate, the Certifier shall be satisfied that the development provides a common garbage collection/separation area sufficient in size to store all wheelie garbage bins and recycling bins provided by Council for the number of units in the development in accordance with the Ku-ring-gai DCP. Access to the basement and the garbage collection point is to be provided to Council's Waste Collection Services.

The waste management is to identify who has responsibility for:

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

**Reason:** Effective waste management and recycling.

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

Prior to the issue of any Construction Certificate, the Certifier shall be satisfied 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 Certifier prior to the issue of any Construction Certificate.

**Reason:** To minimise the impact of road/rail noise on the occupants of the approved development.

#### **44. Acoustic design report**

Prior to the issue of the relevant 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 coolroom motors, air conditioners, car park exhaust, bathroom/toilet and garbage room exhaust, roller shutter doors and lifts proposed as part of the development. The report shall 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 and shall not exceed the background level at night (10.00pm - 7.00am) when measured at the boundary, balcony or external living area of the nearest potentially affected residential occupancies.

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

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

Prior to the issue of any Construction Certificate, the Certifier shall be satisfied that all plant and equipment (including but not limited to air conditioning equipment) is located within the basement (except for the air conditioning equipment approved to be located elsewhere).

Architectural plans identifying the location of all plant and equipment shall be provided to the Certifier prior to the issue of any Construction Certificate.

**Reason:** To minimise impact on surrounding properties and to improve the appearance of the approved development.

#### **46. Driveway crossing levels**

Prior to issue of any 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 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 Council's Customer Services counter 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 pedestrians and vehicular traffic.

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

Prior to the issue of any Construction Certificate, longitudinal driveway sections are to be prepared by a qualified civil/traffic engineer and be submitted for to and approved by the Certifier. These profiles are to be at 1:100 scale along both edges of the proposed driveway, starting from the centreline of the frontage street carriageway to the proposed basement floor level. The civil/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.

#### **48. Basement car parking details**

Prior to issue of any 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 Certifier. A qualified civil/traffic engineer must review the proposed vehicle access and accommodation layout and provide written certification on the plans that:

- all parking space dimensions, driveway and aisle widths, driveway grades, transitions, circulation ramps, blind aisle situations and other trafficked areas comply with Australian Standard 2890.1 - 2004 "Off-street car parking"
- a clear height clearance of **2.6 metres** (required under Part 23.7 'Waste Management' for waste collection trucks is provided over the designated garbage collection truck manoeuvring areas within the basement and all other areas within the basement required for garbage collection truck manoeuvring
- Council and its contractor requires unimpeded access to the waste storage

facility within the development for the purpose collecting waste and recycling materials.

Security doors or gates installed leading to the waste storage area are to be keyed to Council's master key to allow unimpeded access.

- 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 Development Consent.

#### **49. Car parking allocation**

Car parking within the development shall be allocated as follows:

retail spaces	Minimum 21 spaces and maximum 27 spaces
resident car spaces	Minimum 28 spaces and maximum 45 spaces
visitor spaces	6 spaces
total spaces	Minimum 55 spaces

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 (designated accessible units).

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

The car parking shall be dedicated to the corresponding units based on bedroom numbers as approved and cannot be sold separately.

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 any Construction Certificate.

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

#### **50. Underground services**

All electrical services (existing and proposed) shall be undergrounded from the proposed building on the site to the appropriate power pole(s) or other connection point. Undergrounding of services must not disturb the root system of existing trees and shall be undertaken in accordance with the requirements of the relevant service provided. Documentary evidence that the relevant service provider has been consulted and that their requirements have been met is to be provided to the Certifier prior to the issue of any Construction Certificate. All electrical and telephone services to the subject property must be placed underground and any redundant poles are to be removed.

**Reason:** To provide infrastructure that facilitates the future improvement of the streetscape by location of service lines below ground.

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

Plans and specifications complying with the requirements of the Food Act and Regulations, Australian Standard AS 4674 2004 - Design, construction and fit-out of food premises and National Construction Code Volume 1 Part F4 shall be submitted to and approved by the Certifier prior to the issue of any Construction Certificate. Plans and specifications shall address the following:

- floor plans, showing the layout of the fixtures and fittings, food storage and staff personal effects storage areas
- elevations and sections showing floor, wall and ceiling construction and finishes
- elevations and sections showing the installation of fixtures and fittings
- cool room/freezer construction
- garbage and recycling storage areas
- grease trap area
- all proposed mechanical ventilation systems
- staff, accessible and public toilet facilities

A "Food Premises Design, Construction and Fit-out Guide" is available on Council's website.

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

## **52. Garbage and recycling facilities**

Enclosed garbage storage areas shall be provided on the property that adequately contains all residential and retail garbage and recycled waste bins. The garbage storage area shall be covered and all internal walls rendered and coved at the floor/wall intersection. The floor is to be graded and appropriately drained to the sewer and a tap is to be located in close proximity to facilitate cleaning. Details of the waste storage area demonstrating compliance with this condition shall be provided to the Certifier prior to the issue of any Construction Certificate.

**Reason:** To protect amenity and to prevent environmental pollution.

## **53. Acoustic amenity, natural and cross ventilation in noisy locations**

Prior to the issue of any Construction Certificate, all units must demonstrate a system of natural ventilation that simultaneously satisfies compliant acoustic amenity while achieving sufficient natural air movement for cross ventilation and natural ventilation to the requirements of the Acoustic Engineer and Ventilation Engineer.

**Reason:** To comply with SEPP 65 for natural and cross-ventilation, acoustic amenity and sustainability in noisy locations and the NCC.

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

#### 54. Infrastructure damage security bond and inspection fee

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

- (a) All work or activity undertaken pursuant to this development consent 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 consent 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 damage security bond and infrastructure inspection fee must be paid to 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 damage security bond and infrastructure inspection fee, Council will undertake such inspections of Council Property as Council considers necessary and will 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 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 damage security bond payable pursuant to this condition.
- (e) **Release of the bond** – Upon issue of the Occupation Certificate, Council will undertake an inspection of Councils Infrastructure and release the bond if no damage is found.

For development relating to more than 2 dwellings, there will be a six months holding period after the receipt of the final occupation certificate, after which you may request Council to return any bond monies.

If there is damage found to Council property the bond will not be released until the damage has been rectified to Council's satisfaction.

- (f) 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 damage security bond and infrastructure inspection fee" means the Infrastructure damage security bond and infrastructure inspection fee as 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.

#### **55. Section 7.11 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 Contributions Plan in effect under the Environmental Planning and Assessment Act, as follows:

<b>Key Community Infrastructure</b>	<b>Amount</b>
Local recreation and cultural facilities; Local social facilities	\$65,265.95
Local roads, local bus facilities & local drainage facilities (new roads and road modifications)	\$15,723.31
Local parks and local sporting facilities	\$460,453.12
Local roads, local bus facilities & local drainage facilities (townscape, transport & pedestrian facilities)	\$381,221.15
<b>Total:</b>	<b>\$922,663.53</b>

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

The contributions specified above are subject to indexation and will continue to be indexed to reflect changes in the consumer price index and housing price index until they are paid in accordance with Ku-ring-gai Contributions Plan 2010 to reflect changes in the consumer price index and housing price index. Prior to payment, please contact Council directly to verify the current payable contributions.

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

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

#### **56. Combustibility of external walls and cladding**

External walls, including attachments, must comply with the relevant requirements of the Building Code of Australia (BCA) and the Building Products (Safety) Act 2017.

Prior to the issue of any Construction Certificate the Principal Certifier must:

1. Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls, including finishes and cladding such as synthetic or aluminium composite panels, comply with the relevant requirements of the BCA and the Building Products (Safety) Act 2017; and
2. Ensure that the documentation relied upon in the approval processes includes an appropriate level of detail to demonstrate compliance with the BCA as proposed and as built and does not include a building product listed as unsafe or banned under the Building Products (Safety) Act 2017.

Prior to the issue of any Occupation Certificate the Principal Certifier must:

1. Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls, including finishes and cladding such as synthetic or aluminium composite panels, comply with the relevant requirements of the BCA and the Building Products (Safety) Act 2017; and
2. Ensure that the documentation relied upon in the approval processes includes an appropriate level of detail to demonstrate compliance with the BCA as proposed and as built and does not include a building product listed as unsafe or banned under the Building Products (Safety) Act 2017.

**Reason:** To ensure the safety of occupants.

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

### **57. 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.

### **58. Vibration**

Vibration emitted from activities associated with the demolition, excavation, construction and fitout 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 other properties during the construction process.

### **59. 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 Certifier.

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

### **60. 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 Department of Environment and Climate Change (EPA) Interim Construction Noise Guidelines and the recommendations of the approved noise

and vibration management plan.

**Reason:** To protect the amenity of surrounding residents and other properties during the construction process.

### **61. 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 Certifier 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 height of 1.6 metres above natural ground 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.

### **62. 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 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 at least daily
- no advertising or signage is permitted to be attached to dust cloth material.

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

### **63. 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 the excavation.

Geotechnical aspects of the development work, namely:

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

must be undertaken in accordance with the recommendations of the geotechnical report prepared by Assetgeo, dated 16 September 2019.

Prior approval must be obtained from all affected property owners, including Council, where rock anchors (both temporary and permanent) are proposed below adjoining properties.

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

#### **64. 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 footpath 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.

#### **65. Toilet facilities**

1. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons working at the site.
2. Each toilet must:
  - a. be a standard flushing toilet connected to a public sewer, or
  - b. have an on-site effluent disposal system approved under the Local Government Act 1993 <<https://www.legislation.nsw.gov.au/>>, or
  - c. be a temporary chemical closet approved under the Local Government Act 1993 <<https://www.legislation.nsw.gov.au/>>.

**Reason:** Statutory requirement.

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

During demolition and construction, the Principal Certifier 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.

#### **67. Garbage receptacle**



1. A garbage receptacle must be provided at the work site before works begin and must be maintained until all works are completed.
2. The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.
3. The receptacle lid must be kept closed at all times, other than when garbage is being deposited.

**Reason:** To ensure appropriate construction site waste management and to avoid injury to wildlife.

## **68. Construction signage**

All construction signs must comply with the following requirements:

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

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

## **69. Approval for rock anchors**

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

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

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

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

**Reason:** To protect public infrastructure.

## **71. Road reserve safety**

All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials must not be stored in the road reserve. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the

construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (2009) "Manual for Uniform Traffic Control Devices for Work on Roads". If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.

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

## **72. Services**

Where required, the adjustment or inclusion of any new utility service facilities must be carried out in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the applicant's responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services (including water, phone, gas and the like). Council accepts no responsibility for any matter arising from its approval to this application involving any influence upon utility services provided by another authority.

**Reason:** Provision of utility services.

## **73. Temporary rock anchors**

Where the use of temporary rock anchors extending into the road reserve is required, approval must be obtained from Council and/or the Roads and Maritime Services 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:

1. Details of 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.
2. A copy of the plans and sections showing the location, including level and angle, of the installed anchors is to be provided to Council so that the locations of the rock anchors are registered with "Dial Before You Dig".
3. Evidence confirming 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.
4. Evidence confirming 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.
5. Placement and maintenance of 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 Operations 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 safety and protection of property.

#### **74. 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 Certifier and Council officers.

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

#### **75. Arborist's inspection and reporting**

The tree/s to be retained shall be inspected and monitored by an AQF Level 5 arborist in accordance with the current version of AS4970 - Protection of trees on development sites during and after completion of development works to ensure their long term survival.

The Principal Certifier must be provided with reports by the project arborist within 7 days of the inspection detailing date, trees no, location and species, tree health, compliance with conditions of the Development Consent, description of the works inspected, description of any impacts to trees and any rectification or and mitigation works prescribed and or undertaken.

Regular inspections and documentation from the arborist to the Principal Certifier are required but not limited to the following times or phases of work:

<b>Tree/location</b>	<b>Time of inspection</b>
Tree 2 Eucalyptus microcorys/within Memorial park Tree 3 Liquidambar styraciflua/ within Memorial Park	During excavation within 6m radius of the trunks and during the approved canopy pruning

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

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

#### **76. Canopy pruning**

Canopy pruning of the following tree/s which is necessary to accommodate the approved building works shall be undertaken by a Council approved contractor. All pruning works shall be undertaken as specified in Australian Standard 4373-2007 - Pruning of Amenity Trees.

Pruning of the following tree/s shall be undertaken at no cost to Council.

The extent of pruning is to be no greater than that indicated in the Addendum to Arborist report by Margot Blues dated 17 June 2019.

Council's Co-ordinator Tree Management Operations is to be contacted in relation to Council's approved contractor list and all other approvals prior to pruning commencing.

Tree/location	Tree works
Tree 2 Eucalyptus microcorys/within Memorial Park Tree 3 Liquidambar styraciflua/ within Memorial Park	Prune

**Reason:** To protect existing trees.

#### 77. Cutting of tree roots and branches

Where it is unavoidable, tree roots and branches severed for the purposes of constructing the approved works shall be cut cleanly by hand, by an experienced arborist/horticulturist with a minimum AQF Level 3 qualification. All pruning works shall be undertaken as specified in Australian Standard 4373- Pruning of Amenity Trees. The arborist/horticulturist shall provide a report to the Principal Certifier confirming compliance with this condition.

**Reason:** To protect existing trees.

#### 78. Retention of tree roots

No tree roots of 50mm 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 of roots less than 50mm in diameter shall be undertaken by an experienced arborist/horticulturist, with a minimum AQF Level 3 qualification.

Tree/location	Radius in metres
Tree 2 Eucalyptus microcorys/within Memorial park Tree 3 Liquidambar styraciflua/ within Memorial Park	6m

**Reason:** To protect existing trees.

#### 79. Excavation near trees

No mechanical excavation shall be undertaken within the specified radius of the trunk/s of the following tree/s until root pruning, by hand digging and/or air knife to a depth of 500mm in diameter, is undertaken by an experienced arborist/horticulturist, with a minimum AQF Level 3 qualification. The arborist/horticulturist shall provide a report to the Principal Certifier confirming compliance with this condition:

Tree/location	Radius in metres
Tree3 Liquidambar styraciflua/ Memorial Park	6m

**Reason:** To protect existing trees.

### **80. No storage of materials beneath trees**

No activities, soil compaction, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Development Control Plan at any time unless specified in other conditions of this Development Consent.

**Reason:** To protect existing trees.

### **81. 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.

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

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

1. Ascertain the reduced level of the underside of the slab at the driveway entry.
2. Certify that the level is not lower than the level shown on the approved DA plans.
3. 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 Waste Contract Coordinator 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 Principal Certifier because waste management is not a matter listed in Clause 161 of the Environmental Planning and Assessment Regulation 2000.

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

### **83. On site retention of waste dockets**

All demolition, excavation and construction waste dockets are to be retained on site, or at suitable location, in order to confirm which facility received materials generated from the site for recycling or disposal.

- each docket is to be an official receipt from a facility authorised to accept the material type, for disposal or processing
- this information is to be made available at the request of an authorised Council officer.

**Reason:** To protect the environment.

#### **84. Maintenance of site**

All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.

Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.

Any run-off and erosion control measures required must be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads.

During construction:

- all vehicles entering or leaving the site must have their loads covered, and
- all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.

At the completion of the works, the work site must be left clear of waste and debris.

**Reason:** To ensure the site is appropriately maintained.

#### **85. Vibration**

Vibration emitted from activities associated with the demolition, excavation, construction and fitout 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 residential amenity during construction.

#### **86. Control of construction noise (Australian Standard)**

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.

**Reason:** To protect the amenity of neighbouring properties

#### **87. 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 4.17 (11) (previously s80A (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
- if the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (a) protect and support the building, structure or work from possible damage from the excavation, and
  - (b) where necessary, underpin the building, structure or work to prevent any such damage.

**Reason:** Statutory requirement.

## **88. Hours of work**

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

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

Where it is necessary for works to occur outside of these hours (ie) placement of concrete for large floor areas on large residential/commercial developments or where building processes require the use of oversized trucks and/or cranes that are restricted by Roads and Maritime Services (RMS) 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.

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.

## **89. Site fencing**

The site must be secured and fenced prior to works commencing. 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.

If the work involved in the excavation, 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 (note that separate approval is required prior to the commencement of works to erect a hoarding or temporary fence on public property).

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

The site shall be secured/locked to prevent access at the end of each day.

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

**Reason:** To ensure public safety.

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

An application for a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994* shall be made through an authorised Water Servicing Co-ordinator. The applicant should refer to Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) 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 Co-ordinator, 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.

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

### **91. Construction of food premises**

Prior to the issue of any Occupation Certificate, the Principal Certifier shall be satisfied that the construction of the food premises and all food storage areas are in accordance with the requirements of the Food Act 2003, Food Standards Code 3.2.3 Food Premises and Equipment and Australian Standard 4674-2004 Design, Construction and Fit-out of Food Premises.

If a Principal Certifier is to be used, the final inspection of the food premises fit out shall be carried out by a suitably qualified person. Documentation is to be submitted to the Principal Certifier certifying compliance with all relevant requirements.

Council's Environmental Health Officer may be engaged to carry out this required inspection of the food premises. An inspection fee shall be charged in accordance with Council's current Schedule of Fees and Charges if this inspection is required. This fee must be paid prior to inspection

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

### **92. Trade waste permit/consent - food premises**

Prior to the issue of any Occupation Certificate, evidence of a Sydney Water permit or consent for the discharge of wastewater into the sewer shall be submitted to the Principal Certifier. Where a permit or consent may not be required from Sydney Water, certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.



**Reason:** To ensure compliance with environmental and health standards for food premises

### **93. Outdoor lighting**

Prior to the issue of any Occupation Certificate, the Principal Certifier shall be satisfied that all outdoor lighting will comply with AS4282-1997 *Control of the obtrusive effects of outdoor lighting* and be mounted, screened and directed in a way that it does not create a nuisance or light spill on to buildings on adjoining lots or public places.

Lighting at vehicle access points to the development must be provided in accordance with AS/NZS 1158 Set:2010 *Lighting for roads and public spaces*.

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

### **94. Gaming machine location**

Prior to the issue of any Occupation Certificate, the Principal Certifier shall be satisfied that the location of the gaming machines complies with the requirements of the Gaming Machines Act 2001 and Gaming Machines Regulation 2019.

**Reason:** Legislative requirement.

### **95. Smoke-free environment**

Prior to the issue of any Occupation Certificate, the Principal Certifier shall be satisfied that the premises complies with the requirements of the Smoke-free Environment Act 2000 and Smoke-free Environment Regulation 2016.

**Reason:** To protect public health.

### **96. Electromagnetic assessment- substation room**

Prior to the issue of any Occupation Certificate, the Principal Certifier shall be satisfied that an electromagnetic assessment has taken place in order to assess if the substation room on the ground level will have any detrimental electro-magnetic impacts on the health of future occupants. The Principal Certifier must ensure that any recommendations provided in this assessment have been implemented where required to ensure potentially impacted individuals are not exposed to electromagnetic radiation from the substation room that exceeds recommended daily maximum exposure levels.

**Reason:** To protect public health.

### **97. Acoustic control measures - wall, ceiling, glazing, air conditioner acoustic barriers and doors**

Prior to the issue of any Occupation Certificate, the Principal Certifier shall be satisfied that the wall, ceiling, glazing and door construction recommendations specified by Noise and Sound Services in Road Traffic Noise Assessment Report No.nss22751-Final dated February 2018 have been installed. Additionally air conditioning condensers located on level 4 must have are enclosed by an acoustic barrier that is at least 2m high on all sides of the enclosure. Written confirmation from an acoustic engineer that the acoustic control measures have

been installed and achieved the noise objectives specified in the acoustic assessment is to be submitted to the Principal Certifier.

**Reason:** To protect residential amenity

**98. Acoustic control measures - club operations - ceiling, wall, doors, windows, loading bay**

Prior to the issue of any Occupation Certificate, the Principal Certifier shall be satisfied that the sound insulation measures to the ceiling, walls, doors, windows and loading bay of the Club has been installed as recommended by Noise and Sound Services in Club Noise Assessment Report No.nss22752-Final - Rev A dated April 2018. Additionally both areas of the gaming room are to be fitted out with acoustic absorbent material to prevent reverberant build-up of sound within the area. Gaming rooms are to be designed to have a reverberation time of not more than 0.5 seconds within the 125Hz to 4Hz frequency range and Louvre windows must be high quality with an acoustic designed frame and seals to achieve a weighted sound reduction index (Rw) of 32 dB when closed. Written confirmation from an acoustic engineer that the acoustic control measures have been installed and achieved the noise objectives specified in the acoustic assessment is to be submitted to the Principal Certifier.

**Reason:** To protect residential amenity.

**99. Compliance with BASIX certificate**

Prior to the issue of any Occupation Certificate, the Principal Certifier shall be satisfied that all commitments listed in approved BASIX Certificate have been complied with.

**Reason:** Statutory requirement.

**100. Clotheslines and clothes dryers**

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

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

**101. Mechanical noise control**

Prior to the issue of any Occupation Certificate the Principal Certifier shall be satisfied the mechanical ventilation systems and other plant, including but not limited to coolroom motors, air conditioners, car park exhaust, bathroom/toilet and garbage room exhaust, roller shutter doors and lifts when in operation either as an individual piece of equipment or in combination with other equipment will not exceed more than 5dB(A) above the background noise (LA90, 15 min) level during the day and shall not exceed the background level at night (10.00pm - 7.00am) when measured at the boundary, balcony or external living area of the nearest potentially affected residential occupancies. The background (LA90, 15 min) level is to be determined without the source noise present. Written confirmation from an acoustic engineer that the development achieves the above requirements is to be submitted to the Principal Certifier.

**Reason:** To protect the amenity of the occupants and neighbouring residents

**102. Completion of landscape works**

Prior to the issue of any Occupation Certificate, the Principal Certifier is to be satisfied that all landscape works, including the removal of all environmental weed species as listed in Council's Weed Management Policy and/or species listed within Council's Development Control Plan, 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.

**103. Accessibility**

Prior to the issue of any Occupation Certificate, the Principal Certifier 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 - 2009 and the signs and other information indicating access and services incorporate tactile communication methods in addition to the visual methods

**Reason:** To facilitate disabled access.

**104. Silver and platinum units**

Prior to the issue of any Occupation Certificate, an accredited Liveable Housing Australia assessor shall certify that:

Apartments identified as Silver - comply with the Silver Level requirements of the Liveable Housing Australia Liveable Housing Guidelines and as detailed on the Construction Certificate plans.

Apartments (101, 201, 301, 401, 503) identified as Platinum - comply with the Platinum Level requirements of the Liveable Housing Australia Liveable Housing Guidelines and as detailed on the Construction Certificate plans.

An accredited Liveable Housing Australia assessor shall certify that the development achieves compliance with the requirements of each standard within the Liveable Housing Guidelines and the certification shall be provided to the Principal Certifier prior to the issue of any Occupation Certificate.

**Reason:** To ensure equitable access.

**105. Acoustic design report – certification**

Prior to the issue of any Occupation Certificate, the Principal Certifier is to be satisfied that the recommendations, requirements, construction standards and acoustic measures within the acoustic design report have been implemented during construction of the building and that the required noise criterion has been achieved.

**Reason:** To ensure that the required noise requirements are met.

#### **106. Easement for waste collection**

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

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

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

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

The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instruments for protection of retention and re-use facilities" and to the satisfaction of Council (refer to the Water Management Part 24R.8.2 of the relevant Ku-ring-gai Development Control Plan 2015). For existing titles, the positive covenant and the restriction on the use of land is to be created through an application to the NSW Land Registry Services in the form of a request using forms 13PC and 13RPA. The relative location of the reuse and retention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.

Registered title documents showing the covenants and restrictions must be submitted to and approved by the Principal Certifier prior to issue of an Occupation Certificate.

**Reason:** To ensure appropriate storm-water management.

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

Prior to issue of any Occupation Certificate, the Principal Certifier is to be satisfied that:

1. The stormwater drainage works have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans.
2. The minimum retention and on-site detention storage volume requirements of Ku-ring-gai DCP 2015 Part 24 'Water Management' have been achieved. Council's On-Site Detention And Retention Certification sheet shall be completed.
3. Retained water is connected and available for use.
4. All grates potentially accessible by children are secured.

5. Components of the new drainage system have been installed by a licensed plumbing contractor in accordance with the Plumbing and Drainage Code AS3500.3 2018 and the Building Code of Australia.
6. 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.

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 any Occupation Certificate.

**Reason:** To ensure appropriate stormwater management.

**109. Works as executed plans for stormwater management and disposal (dual occupancy and above)**

Prior to issue of any 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 Certifier prior to issue of any 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 Certifier stamped construction certificate stormwater plans.

**Reason:** To ensure appropriate stormwater management.

**110. Basement pump-out maintenance**

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

A maintenance regime specifying that the system is to be regularly inspected and checked by qualified practitioners is to be prepared by a suitable qualified

professional and provided to the Principal Certifier.

**Reason:** To ensure appropriate stormwater management.

**111. OSD positive covenant/restriction**

Prior to issue of any Occupation Certificate, 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 shall be created.

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 the Water Management Part 24R.8.1 of the relevant Ku-ring-gai Development Control Plan 2015). For existing titles, the positive covenant and the restriction on the use of land is to be created through an application to the NSW Land Registry Services 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 Certifier prior to issue of any Occupation Certificate.

**Reason:** To ensure appropriate stormwater management.

**112. On-site detention system marker plate**

A marker plate is to be permanently attached and displayed within the immediate vicinity of the On-Site Detention System prior to the issue of any Occupation Certificate.

This marker plate can be purchased from Council.

**Reason:** To prevent unlawful alteration.

**113. Separation of parking in mixed use development**

The parking bays proposed for the commercial/retail component of the development shall be clearly identified and distinguished from the parking for the residential component of the development. Parking shall be clearly designated, marked and signed. The parking bays must also be clearly marked or signed to identify the residential unit they have been allocated to. Car spaces that are stacked must be allocated to the same residential unit.

**Reason:** To clearly identify parking for residents and commercial components of the development.

**114. Construction of works in public road - approved plans**

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

drawings, conditions and specifications.

The works must be supervised by the Applicant's engineer and completed to the satisfaction of Council.

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

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

#### **115. Infrastructure repair**

Prior to issue of any Occupation Certificate and upon completion of any works which may cause damage to Council's property, the Principal Certifier must be satisfied that any damaged public infrastructure caused as a result of construction works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete vehicles) is fully repaired to the satisfaction of Council and at no cost to Council.

**Reason:** To protect public infrastructure.

#### **116. Mechanical ventilation**

Prior to the issue of any Occupation Certificate, the Principal Certifier shall be satisfied that all mechanical ventilation systems are installed in accordance with the National Construction Code Part F.

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

#### **117. Fire safety certificate**

Prior to the issue of any Occupation Certificate, the Principal Certifier shall be satisfied that a fire safety certificate for all the essential fire or other safety measures forming part of this Development Consent has been completed and provided to Council.

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

#### **118. Garbage and recycling facilities**

Prior to the issue of any Occupation Certificate, the Principal Certifier shall be satisfied that the waste storage areas are of a sufficient size to contain all residential and retail putrescible and recycling waste bins and have rendered internal walls that are coved at the floor/wall intersection, have a floor that is graded and drained to the sewer and are provided with a taps with hot and cold water to facilitate cleaning.

**Reason:** To protect residential amenity.

#### **119. Garbage and recycling facilities - residential premises**

Prior to the issue of any Occupation Certificate, the Principal Certifier shall be satisfied that the waste storage area has been installed in the basement and adequately contains the waste bins, has rendered internal walls that are coved at the floor/wall intersection, has a floor that is graded and drained to the sewer and is provided with a tap with hot and cold water to facilitate cleaning.

**Reason:** To protect residential amenity and to prevent environmental pollution.

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

**120. Noise Control - Club - outdoor terrace use**

Use of the outdoor terrace is not permitted before 7am or after 9pm on any day or during live music events or activities.

**Reason:** To protect residential amenity.

**121. Noise Control - Club - live music**

No amplification equipment, acoustic drums, bass, brass or woodwind instruments are permitted in association with live music events or activities.

**Reason:** To protect residential amenity.

**122. Noise control- Club- Gaming room**

Maintenance and use of the gaming rooms must comply with the following maintenance and operational conditions

- I. The gaming room must not be used after midnight or before 7.00am on any day; and
- II. Both doors from the internal area of the club to the gaming room and from the gaming room to the smoker's area must remain closed at all times except for access. An auto-close system is required for these doors.

**Reason:** To protect residential amenity.

**123. Outdoor lighting**

All external lighting must:

1. Comply with AS/NZS 4282:2019: *Control of the obtrusive effects of outdoor lighting* and
2. Be mounted, screened and directed in a way that it does not create a nuisance or light spill on to buildings on adjoining lots or public places.

Lighting at vehicle access points to the development must be provided in accordance with AS/NZS 1158 Set: 2010 *Lighting for roads and public spaces*.

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

**124. Screening of air conditioning condenser units**



The air conditioning condenser units located on the roof level are to be adequately screened in order to ensure they cannot be seen from the adjoining properties.

**Reason:** To ensure the air conditioning condenser units are screened.

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

All noise generating equipment associated with mechanical ventilation systems, plant and machinery including but not limited to coolroom motors, air conditioners, car park, bathroom/toilet and garbage room exhaust, roller shutter doors and lifts shall be located and/or soundproofed so the equipment when in operation either as an individual piece of equipment or in combination with other equipment shall not exceed more than 5dB(A) above the background noise (LA90, 15 min) level during the day and not exceed the background level at night (10.00pm - 7.00am) when measured at the boundary, balcony or external living area of the nearest potentially affected residential occupancies. The background (LA90, 15 min) level is to be determined without the source noise present.

**Reason:** To protect the amenity of surrounding residents and occupants of the development.

#### **126. Noise control - rainwater re-use system**

Noise levels associated with any rainwater re-use system/s shall not to exceed more than 5dB(A) above the background noise (LA90, 15 min) level during the day and shall not exceed the background level at night (10.00pm - 7.00am) when measured at the boundary of the nearest potentially affected residential occupancies. The background (LA90, 15 min) level is to be determined without the source noise present.

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

#### **127. Use of car parking**

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 other than by an occupant or tenant of the development. 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 parking spaces are used in accordance with the Development Consent.

#### **128. 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.

**129. Pedestrian access way to be kept accessible**

The pedestrian access way along the Larkin Laneway boundary is to remain open and accessible (not restricted by any gate to prevent public access) at all times.

**Reason:** To ensure pedestrian access between (designate places as identified in Local Centres DCP) is open to the public for use.

**130. Deliveries and waste collections**

All deliveries and waste collection services for the business are to be carried out between 6:00am and 10:00pm only.

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

**131. Hours of operation**

At all times, the hours of operation are restricted to:

Monday to Friday	<b>7:00am to 12:00am</b>
Saturday	<b>7:00am to 12:00am</b>
Sunday and public holidays	<b>7:00am to 10:00pm</b>

The external deck is not to be used past 9:00pm on any night.

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

**132. Shopfronts**

No advertising flags or banners or the like are to be erected on or attached to the shopfront without the Development Consent from Council. Merchandise, stored materials, A frame signs or the like must not be placed on the footway of other public areas without Development Consent from Council. This does not apply to development that is "Exempt Development".

**Reason:** To protect residential amenity.

**133. Annual fire safety statement**

Each 12 months after the installation of essential fire or other safety measures, the Owner of a building must provide the Council with 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 third copy must be displayed prominently in the building.

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

**134. Prohibition of flashing lights**

No flashing, moving or intermittent lighting, visible from any public place may be installed on the premises or any external sign associated with the development.

**Reason:** To protect residential amenity.

**135. Prohibition of signage illumination**

Signage must not be illuminated between the hours of 11:00pm and 7:00am daily. Signage must not flash or have any moving components. Any wiring to approved signage must be concealed within the fabric of the building or contained behind the sign and must not be visible on the façade of the building.

**Reason:** To protect residential amenity.

**136. Conduct of business premises - amenity**

The business shall be conducted and patrons controlled at all times by the business operator so that no interference occurs to the amenity of the area.

**Reason:** To protect residential amenity.

**INTEGRATED REFERRAL CONDITIONS:**

**137. Roads and Maritime Services**

The following conditions of the NSW Roads and Maritime Services apply:

1. All buildings and structures, together with any improvements integral to the future use of the site are to be wholly within the freehold property unlimited in height or depth, along the Pacific Highway boundary.

Any authority issued by Council for temporary occupation of the road reserve in the form of a Hoarding must require the Roads and Maritime & Council to be suitably indemnified against any claim as a result of such occupation.

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

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

Details and any enquiries should be forwarded to Mr Suppiah Thillai at:

Suppiah.Thillai@rms.nsw.gov.au or Phone at 8849 2114.

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

3. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system in Pacific Highway are to be submitted to Roads

and Maritime for approval, prior to the commencement of any works.

Details should be forwarded to: Suppiah.Thillai@rms.nsw.gov.au

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

4. The proposed development should be designed such that road traffic noise from Pacific Highway is mitigated by durable materials in order to satisfy the requirements for habitable rooms under Clause 102 (3) of *State Environmental Planning Policy (Infrastructure) 2007*.
5. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Pacific Highway.
6. A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Pacific Highway during construction activities.

**Reason:** To ensure compliance with the requirements of the NSW Roads and Maritime Services in relation to the function of the Pacific Highway.