

COUNCIL ASSESSMENT REPORT

Panel Reference	2018SNH076
DA Number	DA0570/18
LGA	Ku-ring-gai
Proposed Development	Demolition of existing structures and construction of a mixed use residential development comprising with 130 apartments, a neighbourhood shop, basement car parking (153 spaces) with associated works, tree removal and public domain works, including construction of a new road (to be dedicated in future as public road) linking Pacific Highway to Tryon Lane
Street Address	259 and 265-271 Pacific Highway, Lindfield
Applicant/Owner	Olsson & Associates Architects Pty Ltd / Ku-ring-gai Council
Number of Submissions	18
Recommendation	Deferred commencement consent
Regional Development Criteria (Schedule 7 of SEPP (State and Regional Development) 2011)	CIV>\$5M – Council owned land Part 4 Cl.20(1) states that if development is Council-related (ie Council owns the site) and has a capital investment value of more than \$5M, then it is considered “regionally significant”. The CIV of the proposal is \$66,235,000.
List of all relevant s4.15 (1) (a) matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (State & Regional Development) 2011 • State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy (Building Sustainability Index) 2004 • State Environmental Planning Policy (Affordable Rental Housing) 2009 • State Environmental Planning Policy No. 55 - Remediation of Land • State Environmental Planning Policy (Vegetation in Non-Rural Urban Areas) 2017 • Draft Remediation of Land SEPP • Draft Environment SEPP • Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 • Ku-ring-gai Local Environmental Plan (Local Centres) 2012 • Draft Consolidated LEP • Ku-ring-gai Local Centres Development Control Plan • Ku-ring-gai Contributions Plan 2010 • Ku-ring-gai Community Participation Plan

List all documents submitted with this report for the Panel's consideration	Attachment 1- Architectural Plans and shadow diagrams	Fox Johnston	various
	Attachment 2- BASIX Certificate No. 954322M_03	JHA	11 February 2020
	Attachment 3- Clause 4.6 Variation Request	Urbis	1 June 2020
	Attachment 4- Location Sketch	Ku-ring-gai Council	16 July 2020
	Attachment 5- Zoning Sketch	Ku-ring-gai Council	16 July 2020
	Attachment 6- Applicant's comments on the draft conditions	Olsson & Associates Architects	4 August 2020
	Attachment 7- Height Limit Diagrams (Dwg Nos.A-800-000, Revision D)	Fox Johnston	7 February 2020
	Attachment 8- Statement of Environmental Effects	Urbis	6 December 2018
	Attachment 9- GFA Plans (Dwg. No. A-620-000, 001, 002 and 003, Revision F)	Fox Johnston	7 February 2020
	Attachment 10- Natural Ventilation diagrams (Dwg No. A-800-010, Revision A)	Fox Johnston	11 November 2019
	Attachment 11- Cross Ventilation (Dwg. No. A-640-000, Revision E)	Fox Johnston	7 February 2020
	Attachment 12- Transport Impact Assessment, Stage 3 Report – Issue D	People Trans	18 March 2020
	Attachment 13- Arboricultural Impact Report	Landscape Matrix	30 November 2018
	Attachment 14- Schedule of Finishes (Dwg. No. A-700-000, Revision B)	Fox Johnston	11 November 2019
	Attachment 15- Landscape Plans	360 Degrees	11 February 2020
	Attachment 16- Landscape Area Diagrams (Dwg. No. A-650-000, Revision I)	Fox Johnston	7 February 2020

	Attachment 17- Communal Open Space Diagram (Dwg. No. A-660-000) Revision I)	Fox Johnston	7 February 2020
	Attachment 18- Deep Soil (Dwg. Nos. A-670-000, Revision H)	Fox Johnston	7 February 2020
	Attachment 19- Design Vision Statement (Issue 1)	Olsson & Associates	4 December 2018
	Attachment 20- Acoustic Report (Rev D)	JHA Consulting Engineers	15 July 2019
	Attachment 21- Site Contamination Investigation (Rev 0)	SLR Consulting	14 January 2016
	Attachment 22- Acoustic Sections and Diagrams (Dwg. No. A-800-001,002 Revision D)	Fox Johnston	11 November 2019
	Attachment 23- Civil and Stormwater Plans	Jones Nicholson Consulting Engineers	various
	Attachment 24- BCA and Access Report (MSA1668_REV03)	Matt Shuter & Associates	4 December 2018
	Attachment 25- Heritage Impact Statement	John Oultram Heritage & Design	December 2018
	Attachment 26- Excavation Plan (Dwg. No. A-300-000, Revision C)	Fox Johnston	11 November 2019
	Attachment 27- Site Photographs	Fox Johnston	30 November 2018
	Attachment 28- Photomontages (Artistic Impressions)	Fox Johnston	30 November 2018
	Attachment 29- 3D Model Photographs	Submitted with DA	6 December 2018
	Attachment 30- Survey Plans, Revision C	Degotardi Smith & Partners	March 2020
Is a Clause 4.6 variation request required?	Yes, the proposal seeks to vary the height of building development standard in clause 4.3 'Height of buildings' of Kuring-gai LEP (Local Centres) 2012.		
Summary of key submissions	<ul style="list-style-type: none"> i. overshadowing of adjacent residential flat building to the south ii. loss of privacy iii. bulk and scale iv. loss of community facilities v. traffic 		

	vi. loss of open space vii. loss of affordable housing viii. non-compliance with LEP, ADG and Lindfield Library Precinct Masterplan
Report prepared by	Ursula Lang, Planning Consultant, Transformative Planning
Report date	August 2020

Summary of s4.15 matters Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Yes
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S7.24)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	No
Conditions Have draft conditions been provided to the applicant for comment? <i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>	Yes

PURPOSE OF REPORT

To provide an independent planning assessment of Development Application No. DA0570/18 which proposes the demolition of existing structures on the subject site and the construction of a mixed use residential development comprising 130 apartments, a neighbourhood shop, basement car parking for 153 cars with associated works, tree removal and public domain works including the construction of a new road linking Pacific Highway to Tryon Lane which will be dedicated to the public in the future.

This application is reported to the Sydney North Planning Panel (SNPP) for consideration and determination, as the proposal has a capital investment value of more than \$5 million (\$68,235,000) and the site is owned by Ku-ring-gai Council. Pursuant to Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011, the SNPP is the consent authority.

INTEGRATED PLANNING AND REPORTING

Places, Spaces & Infrastructure

Community Strategic Plan Long Term Objective	Delivery Program Term Achievement	Operational Plan Task
P2.1 A robust planning framework is in place to deliver quality design outcomes and maintain the identity and character of Ku-ring-gai	Applications are assessed in accordance with state and local plans	Assessments are of a high quality, accurate and consider all relevant legislative requirements

EXECUTIVE SUMMARY

Key Issues:

SEPP 65 and ADG compliance; LEP compliance including FSR; Clause 4.6 variation request in relation to height; DCP compliance; overshadowing impact on adjoining 3 storey residential flat building development; setbacks of top storey; 13m width and design of proposed public road; deletion of bio-retention basin in eastern setback area; and permission to discharge stormwater onto the rail corridor.

Legislative clauses requiring consent authority satisfaction:

Part 4 and Schedule 7 of SRD SEPP
Clause 7 of SEPP 55
Clause 4.6 (2); 4.6 (3) (a) and (b);
4.6(4)(a) (i) and (ii) and 4.6 (4)(b); 4.6(8)
of KLEP 2012
Clause 5.10(4) of the KLEP 2012
(heritage impacts)
Clauses 85, 86 and 87; clauses 101,
102, 104 and 105 of SEPP Infrastructure
2007
Clause 3 of SEPP BASIX
Clause 28 and 30(2) of SEPP 65

Land and Environment Court:

Not applicable

HISTORY

Site history:

The site has a history of mixed use, comprising of a range of community facilities and residential use.

Notably, the site has been the subject of detailed planning as part of a wider long-term strategic program by Council called “Activate Lindfield”. This program has had considerable involvement by the community over the last decade, entailing the planning and designing of the future of the Lindfield Town Centre.

The program for Lindfield focuses on 3 “key” sites, including the subject site which is known as the Lindfield Village Living site or LVL site, and includes the current Library and other community facilities. The two other sites are known as “Lindfield Village Green” and “Lindfield Village Hub”.

All existing buildings on the subject site are to be demolished and some of the community facilities being removed will be replaced with new facilities on the other two sites. The cost of the planned relocation of facilities will be partly funded by the sale of the subject site with formal approval for its redevelopment.

The initial Planning Proposal to facilitate the redevelopment of the site was commenced in 2014 by changing the classification of the site under the Local Government Act 1993 from *community land* to *operational land*. In 2017, the site was rezoned from B2 Local Centre to R4 High Density Residential. As well as appropriate LEP amendments with respect to the development standards for building height and floor space ratio, a Precinct Masterplan (the SJB Masterplan) for the area was developed and the Ku-ring-gai DCP was amended in 2016 to provide detailed objectives and controls associated with the redevelopment of the site. This

amendment was based on the SJB Masterplan and involved the site-specific controls which are now contained in Part 14 of the DCP.

A Stage One Design Report preceded the preparation of the current DA, which was also subject to a pre-DA consultation in October 2018 prior to formal DA lodgement on 6 December 2018.

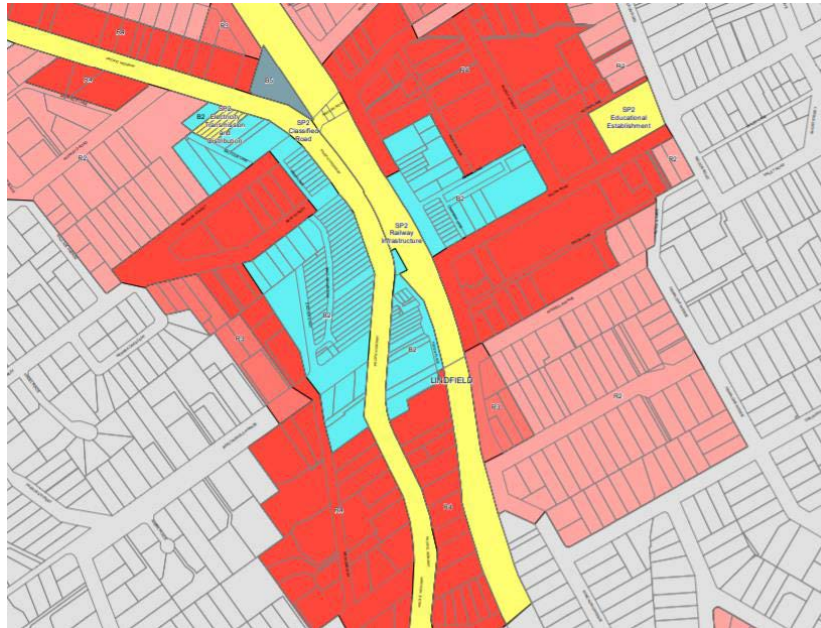


Figure 1 - Extract from KLCLEP (map 015)

As a result of the above process, the proposal has undergone many stages of design evolution. This includes two plan amendments since lodgement of the initial DA in December 2018. The latest submission of amended architectural plans was in February 2020 and amended stormwater plans were submitted in June 2020.

History of previous applications:

Council's records show a history of applications relating to the site, as follows:

Type	Application	Description	Decision	Date
DA	2801/91	CHANGE OF USE FROM BABY HEALTH CENTRE TO SENIOR CITIZENS CENTRE	APPROVED	17/07/1991
CDC	60/03/CK/	MINOR INTERNAL ALTERATIONS & LANDSCAPING.	APPROVED	25/07/2003
DA	1100/03/DK	REFURBISH PART OF LINDFIELD LIBRARY-PROPOSED YOUTH SERVICE HOURS MON TO FRI 10:30 TO 5:30	APPROVED	09/03/2004
CC	03/00905/FK	REFURBISH PART OF LINDFIELD LIBRARY-PROPOSED YOUTH SERVICE HOURS MON TO FRI 10:30 TO 5:30	APPROVED	09/03/2004
DA	1100/03/DKA	AMENDMENT-MINOR ALTERATIONS (DOORS)	WITHDRAWN	16/08/2005
CC	03/00905/FK A	AMENDMENT-MINOR ALTERATIONS (DOORS)	WITHDRAWN	16/08/2005
CC	03/00905/FK B	SECTION 96 - REFURBISH PART OF LINDFIELD LIBRARY - AMEND CONSENT CONDITIONS	APPROVED	02/06/2006
DA	1100/03/DKB	SECTION 96 - REFURBISH PART OF LINDFIELD LIBRARY - AMEND CONSENT CONDITIONS	APPROVED	02/06/2006
DA	DA0315/17	DEMOLITION – BRICK AMENITIES	APPROVED	15/09/2017

Current DA

The current DA has progressed in the following manner:

Date	Action
6 December 2018	Application lodged.
28 December 2018 – 15 February 2019	The application was notified for a period of 49 days and 18 submissions were received.
6 March 2019	Briefing given to members of Sydney North Planning Panel, by Independent Assessment Team.
18 April 2019	Letter sent to the applicant seeking amended plans and additional information.
4 June 2019	Meeting with applicant and applicant design team, with Council's assessment team.
6 August 2019	Amended plans were submitted on 6 August 2019 and the amended plans re-assessed.
16 October 2019	The applicant was further notified of non-compliances and requirements for additional information on 16 October 2019.
5 November 2019	Meeting between independent assessment team and applicant team to discuss remaining non-compliances.
18 February 2020	Submission of further amended plans. This version of plans is the subject of this report.
25 May 2020	Revised stormwater plans were submitted to Council.
1 June 2020	Revised clause 4.6 request was submitted to Council.

Land and Environment Court appeal history:

Not applicable.

THE SITE

Aerial photograph



Figure 2 – Aerial Photo of Subject Site [Source: Near Maps]

Site description:

The site is known as 259 & 265-271 Pacific Highway, Lindfield and is located at the southern edge of the Lindfield Town Centre. The site is also referred to as the Lindfield Library site and/or the Lindfield Village Living or LVL site.

The site is irregular in shape and comprises 7 separate allotments. The combined site area is 5,865.6m² based on survey. The site has approximate frontages of 68m to Pacific Highway, 99m to the North Shore Railway Rail Corridor and 6m to Tryon Lane. The southern boundary to the adjoining property No. 257 Pacific Highway has a length of 75m.

The site slopes from the north-western corner down to the south-eastern corner by approximately 7m.

The site is located 150m south of the Lindfield Train Station and is bounded by Pacific Highway to the west, residential development to the south, North Shore Rail Corridor to the east and commercial uses to the north (see **Figure 2** above).

The site comprises the following existing buildings and associated services:

1. Lindfield Branch Library (Lot 8 in DP660564)
2. Privately-rented residential studio apartments (Lot 3 in DP 212617)
3. Lindfield Seniors' Centre (Lot 2 in DP212617)
4. Lindfield Seniors' Resources Centre (Lot 8 in DP660564)
5. Ku-ring-gai Youth Development Service (KYDS) (Lot 8 in DP 660564)
6. Lindfield Community Centre Tennis Courts and sun shelter (Lot 8 in DP660564)
7. Car park and access road (Lot 1 in DP212617)

The site contains existing vegetation comprising various trees and bushes around each building and grassed areas mainly associated with the tennis courts. The existing trees are mainly around the perimeter of the site.

A historic well is located in the western portion of the site in front of the existing library building.

The site has driveway access from Pacific Highway to a small carpark area. There is also a small boundary with Tryon Lane but no formal vehicular access from this frontage.

Constraint:	Application:
Visual character study category	1920-1945
Easements/rights of way	No
Heritage Item - Local	No
Heritage Item - State	No
Heritage conservation area	No
Within 100m of a heritage item	Yes
Bush fire prone land	No
Natural Resources Biodiversity	No
Natural Resources Greenweb	No
Natural Resources Riparian	No
Within 25m of Urban Bushland	No
Contaminated land	Yes

Surrounding development:

Directly to the north of the site is a car dealership, located at 283 Pacific Highway, Lindfield. Further north is a commercial arcade, and other small businesses, located opposite the Lindfield Railway station. The station is to the north-east and connected by Tryon Lane which is a lane which runs adjacent to the rail corridor and behind the commercial buildings which front the Highway.

The entire eastern boundary of the site adjoins the North Shore Rail Corridor. Beyond this corridor, to the east, is the eastern half of the Lindfield Town Centre.

Adjoining to the south at No. 257 Pacific Highway is a three-storey residential flat development, of typical 1970's construction, consisting of 15 apartments. Four of these apartments directly face the subject site and are potentially most impacted by the proposed development.

To the west, the site is adjoined by Pacific Highway, with one and two storey mixed residential and commercial developments on the other side of the Highway in the vicinity of the subject site.

THE PROPOSAL

The application proposes the following elements/works:

- demolition of all existing buildings and structures on the site
- excavation, remediation and associated site preparation works

- construction of two basement levels with car parking for 153 vehicles, including 21 accessible spaces, visitor parking for 23 vehicles including one disabled, two car share spaces, and 44 bicycle spaces
- construction of a mixed-use residential development comprising 4 buildings with a total of 130 residential apartments, a 62m² retail tenancy (neighbourhood shop), a communal open space, site landscaping and swimming pool at ground level
- the buildings comprise 6 residential levels to the Pacific Highway frontage, and 7 residential levels at the rear adjacent to the railway corridor
- a variation to the maximum building height of 23.5m within the Ku-ring-gai LEP (Local Centres) 2012, with the proposed maximum height being 26.8m
- removal of 45 trees located on the site
- public domain works and landscaping including a new shared road for both cars and pedestrians to be dedicated to Council as public road and providing a link from Pacific Highway via Tryon Lane to the Lindfield Railway Station. The area of the road is 1364m².

Helpful in the understanding of the proposal is an upfront appreciation of how the current proposal differs in its layout from the SJB Masterplan (see Site History earlier in this report). This is illustrated well by considering the site layout from the Masterplan side-by-side with the proposed layout for the current DA, as shown below in **Figure 3**.



Figure 3 – Comparison of SJB Masterplan Site Layout (left) and Proposed Layout in Current DA designed by Fox Johnston (right)

The key numeric aspects of the current proposal, based on the amended plans submitted to Council on 18 February 2020, are provided in the Table below:

Parameter	Proposed
Land Uses	Residential flat building development with 4 buildings Neighbourhood shop with potential outdoor seating area Future public road
Maximum building height	26.8m (exceeds the control of 23.5m by 3.3m or 14%)
Overall GFA	11,688m ²
Neighbourhood shop GFA	62m ²
Residential GFA	11,626m ²
Proposed FSR	1.99:1
Number of apartments	130
Dwelling mix	52 x 1 bedroom 50 x 2 bedrooms 28 x 3 bedrooms
Deep soil area	1276m ² (22% of site area)
Landscape area	1600 (27% of site area)
Communal open space	1,489m ² (25% of site area) 790m ² at ground level, including 706m ² for the central communal area and 699m ² at the roof top level 06
Car parking	153 spaces including 21 accessible spaces, 23 visitor car spaces including one disabled, 2 car share spaces, and 1 car wash bay which can also be used for visitor parking
Bicycle parking	44 bicycle spaces – comprising 28 for residents and 16 spaces for visitors

Amended plans dated 18 February 2020

The amended plans proposed the following changes to the plans initially lodged in December 2018:

- reduction in yield by the removal of four apartments in the south eastern corner to reduce overshadowing to the adjoining development and reduced extent of excavation
- small increase in the size of the neighbourhood shop and the provision of direct access from the basement to the shop to facilitate loading from the basement and improve serviceability
- modifications to apartment layouts to improve SEPP 65, ISEPP and ADG compliance, with respect to solar access, ventilation and noise attenuation requirements
- modifications to buildings and individual apartments to remove encroachments onto the proposed public road; and
- additional landscaping details.

The primary unresolved issues associated with the subject proposal, based on amended plans submitted 18 February 2020, are identified as follows:

- I. Whether or not the development, as proposed, meets the goals of activation of the area as expressed through the objectives of the LEP and DCP and through the Precinct Masterplan, from which the development varies;
- II. Whether or not the development will improve connectivity and permeability of areas surrounding the Lindfield Railway Station for the benefit of Lindfield residents and visitors;
- III. Whether or not the development will have a detrimental impact on adjoining development by way of overshadowing, and the impacts of its bulk and height;
- IV. Whether or not the proposed development adequately satisfies the development standards and objectives contained within SEPP 65 and the Apartment Design Guide, notwithstanding a number of non-compliances;
- V. Whether or not a number of departures from the DCP are adequately justified;
- VI. Whether or not the development, through its architectural design, will make a positive contribution to the town centre of Lindfield and the streetscape of Pacific Highway;
- VII. Whether or not vehicular access into the site is safe, requiring the potential removal of up to 3 street car parking spaces in Pacific Highway in the approach to the entrance driveway of the proposed development, as was suggested by the Roads and Maritime Services (RMS) and confirmed as of benefit by the applicant's traffic consultant People Trans;
- VIII. Whether or not, if approval is contemplated, the approval can be a Deferred Commencement Consent, subject to the Sydney Trains' requirements that approval for stormwater to be discharged onto railway land must first be obtained and other requirements which primarily relate to managing risks associated with construction adjacent to a rail corridor.

CONSULTATION

Community

In accordance with the notification controls of Council's Development Control Plan, owners of surrounding properties were given notice of the application. In response, a total of 18 submissions were received from the following:

1. Charlotte Lim
2. Martin Cousins
3. Elly Wakeley
4. Yang Wu
5. Ursula Bonzol
6. Owner's Corporation of SP 4225 – 237-237 Pacific Highway
7. Anthony Dupont-Brown
8. Peter Flood
9. Darren Leffler on behalf of Strata Committee for SP 6195 – 257 Pacific Highway Lindfield
10. Vicky Rogut,
11. Linden Crane
12. Jim Donovan
13. Donna Palmer
14. Andrew Burgess
15. Maurene Floyd
16. Roland Beckett

17. Darren Leffler (individual submission)
18. Friends of Ku-ring-gai Environment Inc.

The submissions raised the following issues:

Overshadowing/loss of solar access to adjacent residential flat building comprising 15 dwellings [9 of which are north and east facing]

Amended architectural plans have been prepared which indicate the extent of overshadowing and loss of solar access to the north and east facing units of No. 257 Pacific Highway.

The amended plans dated February 2020 remove a total of 4 apartments from the development as it was originally notified (1 in Building B and 3 in Building C). The resultant reduction in bulk has significantly improved sunlight access to the impacted apartments of No. 257 Pacific Highway.

Currently, the above 9 apartments enjoy a minimum of 4 hours of sunlight to both their living rooms and private open spaces between the hours of 9am and 3pm in midwinter. The preservation of at least 2 hours of solar access during the same hours is the requirement in SEPP 65/ADG and this has now been achieved following modifications to the development.

It is also relevant that the current design, as proposed, overshadows the adjoining development less than would have been the case under the adopted SJB Masterplan.

Overlooking and loss of privacy

The south facing balconies of the proposed development have been set back from the boundary in compliance with the setbacks required under SEPP 65/ADG (i.e. 6m minimum) with minor encroachment of their corners due to an angled design to maximise privacy. An average setback of 6m is achieved.

The adjoining development also has generous setbacks to its northern boundary, such that the separation distance is greater than the 12m separation distance between habitable rooms and balconies required under Part 3D Visual Privacy of the ADG. The achievable separation distance is 14m.

A reduction in the extent of the required excavation for the basement has reduced the impact of the proposed development on the existing trees along the northern boundary of the adjoining property. These trees, along with additional landscaping in the southern setback of the site, will enhance privacy between the two developments.

Excessive height and visual bulk of building – development is an overdevelopment and breaches the LEP height control. Due to its height and scale, it does not transition seamlessly into the local centre

The building marginally exceeds the building height development standard of 23.5m. The variation is 14% in terms of the height measurement but only applies to limited areas of the top storey, involving mainly a skylight, lift overrun and stairs to service the rooftop garden. The areas of the roof (just over half) which breach the height standard are generally away from the southern boundary. There are no significant impacts in terms of overshadowing of the adjoining development or increase in visual

bulk as a result of the breach of the height control in the LEP. The breach has been fully explained and justified by the applicant in the clause 4.6 variation request and is considered not to cause detrimental impacts to the adjoining development.

A setback of the top floor would have further reduced the visual bulk of the development, including its impact on the adjoining development but the development is generally consistent with the built form developed under the original SJB Masterplan in terms of numbers of levels. The proposed FSR complies with the 2:1 limit in the LEP. An increased setback of the top storey was a suggestion made by Council's Urban Design Consultant and is discussed later in this report.

The number of floors of the proposed development, the maximum building height and the concept of a number of component buildings arranged around the site, taking into consideration topography and adjoining development, are matters of design which were fully considered as part of the Planning Proposal to rezone the site and the associated SJB Masterplan and which took into account the existing and future character of the area and the need to transition between different types of land uses. These considerations occurred in the years 2014 to 2017, with the DA being the next stage in the development of the site.

The applicant has justified the proposed design approach and, with the improvements to the application which have occurred over the course of the amendments, it is considered that the development is not excessive for the site. It fully meets the intended planned future character of the area.

Proposed building is out of character with the area

The proposed development, comprising 4 buildings, generally reflects the type of medium to high density envisaged for the site as part of the Activate Lindfield Program, the SJB Masterplan and the associated Planning Proposal which rezoned the site from B2 Local Centre to R4 High Density Residential, with an FSR 2:1 and height limit of 23.5m. This height limit would generally permit a 7 storey development.

Construction impacts upon adjacent residential flat building (access, dust, noise, pedestrian safety, parking)

The control of the above impacts during construction is addressed in specific conditions of development consent relating to the Construction Management Plan, and conditions regarding construction hours and site access which are recommended (**Conditions 12 and 65**).

Loss of established trees, without adequate justification

The proposed development involves the removal of 45 trees from the site. Council's Landscape and Tree Assessment Officer has not objected to the proposed tree removal due to their location within the development footprint and their condition.

Two established Chinese Pistachios trees on the nature strip along the Pacific Highway frontage are to be retained and protected with an extra tree of the same type to be planted to create a theme.

Trees on the adjacent property No. 257 Pacific Highway are to be retained and protected during construction. Conditions to ensure adequate protection of these trees have been recommended.

There will also be new trees and shrubs planted in all setback areas and in the communal open space area, as part of the landscaping of the site.

Inadequate setbacks, deep soil and landscaping

The building setbacks generally meet SEPP 65 and DCP requirements, with some encroachment along the rear boundary of parts of Buildings C & D (achieving 4m rather than 6m) and in the southern side setback of Buildings B & C which are generally supported.

The minimum size requirements, for landscaped area, deep soil and communal space have been satisfied.

Inadequate assessment of traffic impacts

The development, comprising 130 new apartments, is a Traffic Generating Development per SEPP (Infrastructure) 2007. The comments provided by Roads and Maritime Services (now known as Traffic for NSW - TfNSW) are supportive of the proposal and RMS' requirements have been included as an approved document in **Condition 1 of Schedule B**. The People Trans Report dealt with the full range of traffic and parking considerations, as well as access issues, design of the new road and design of the basement parking facilities such that the assessment of these matters has been thorough and is considered adequate.

Impacts on heritage, including the historic well

The application was supported by a Heritage Impact Statement prepared by John Oultram Heritage & Design which concluded that there were no detrimental impacts on any of the heritage items in the vicinity of the subject site or on the nearby heritage conservation areas.

Council's Heritage Advisor agrees with the conclusions of the Heritage Impact Report and has provided appropriate conditions in respect of the development. The historic well is to be retained in situ. (**Conditions 60 and 61**)

Loss of functioning community facilities, including affordable housing, and concerns as when the equivalent community facilities will be replaced by Kuring-gai Council – what will happen in the meantime?

Council proposes to sell the development site with a development consent to a developer. The funds obtained from the sale will partly fund replacement community facilities at two key locations in Lindfield known as the Village Green (cafe, public park and parking station) and Village Hub (new community centre and child care centre). This strategy was part of the *Activate Lindfield* Program which was well consulted with the Lindfield community. The timing for delivery of the various facilities is not a relevant matter for consideration with respect to the planning merits of this development application.

Whilst there will be loss of the 14 Arrunga apartments which could be described as housing at the lower end of the rental market, they are not technically "affordable

housing” as defined by the State Policy relating to Affordable Housing and the SEPP does not apply. The apartments were built initially as self-contained aged-persons units which reverted back to Council’s control at the end of their economic life.

Failure of development to incorporate community facilities

The applicant was requested to consider the inclusion of community facilities on the ground level but has declined to do so, for the reason that community facilities are to be provided on other key sites in the Lindfield Town Centre in accordance with the *Activate Lindfield* Program.

Heeding pre DA advice, the applicant has provided a retail tenancy with a floor area of 62m² in the north-western corner of the development which is proposed to be used as a neighbourhood shop. The shop is adjacent to a potential outdoor seating area, which should assist with activating the new extension of Tryon Lane. The provision of this retail space is supported. The actual occupation of the neighbourhood shop will require a separate Development Consent.

Loss of green space

The existing site, which is zoned R4, does not incorporate any open space zonings.

It is considered that the proposed new road will provide a new level of connectivity and amenity, not currently available, which compensates for the loss of existing open area currently provided in the form of tennis courts and garden areas around existing buildings.

The proposed public road has an area of 1364m² which represents 23% of the subject site. This new road will be fully landscaped and will have a small pocket park with seating on its northern side.

The proposed development will also have a substantial communal space at ground level and roof top gardens for the use of residents and their visitors. All the setbacks (front, side and rear) will be landscaped with large trees where possible, such that the overall setting of the development will be a landscaped one.

The proposed development is not in the public interest

Many of the existing facilities on the site are at the end of their economic life and not viable to refurbish. Council’s strategic planning has guided decisions to redevelop this site, with community facilities being relocated to other sites within the Lindfield Town Centre. Council will manage the process of bringing new community facilities into existence, based on the assessed needs and demands of the Lindfield area and financial considerations. As such, the proposal is not considered to be contrary to the public interest.

Amended plans

The first set of amended, submitted on 6 August 2019, addressed many of the issues raised in relation to the initial plans.

In accordance with the requirements of the DCP the amended plans submitted in August 2019 were not required to be notified as the proposed amendments (in particular a reduction of 3 apartments) resulted in a revised proposal which did not result in a greater environmental impact than the original proposal.

Although the amended plans dated 6 August 2019 made some important improvements to the proposed development, including a reduction of impacts on the adjoining residential flat building (No. 257 Pacific Highway), a detailed assessment of these plans identified a number of non-compliances which had not been satisfactorily addressed.

The applicant requested the opportunity to further address the outstanding matters.

The amended plans dated February 2020, the subject of this report, have involved internal changes to increase the level of compliance of the development with SEPP 65, the ADG and the DCP. A further unit was removed from Building C of the development, further reducing the extent of excavation and shadow impacts on the adjoining property.

In accordance with the criteria in Appendix 1, Part 3.2 of Council's Community Participation Plan which came into effect on 12 December 2019, the amended plans were not notified as the revised proposal did not result in a greater environmental impact than the original proposal.

Importantly to neighbours, the extent of overshadowing has been reduced by modifications to Buildings B and C (i.e. the central section closest to No.257) and the overall reduction in apartment numbers by 4. The extent of excavation to accommodate the basement has been reduced, particularly in the vicinity of the southern boundary where existing trees are located on the adjoining property. Protection of these trees will help to maintain amenity for adjoining residents. Changes to drainage pipe locations (closer to building) will also help to facilitate tree survival.

Since February 2020, further amendments have been sought involving the removal of a bio-retention basin proposed initially in the eastern side setback. The applicant has made these changes, providing suitable alternative water treatment solutions in lieu of the bio-retention basin, thus enabling additional planting of large trees in the eastern setback area.

In accordance with the criteria in Appendix 1, Part 3.2 of Council's Community Participation Plan, the amended plans were not notified as the revised proposal did not result in a greater environmental impact than the original proposal.

Internal referrals

Urban design

Council's urban design consultant has provided a detailed analysis of the current amended plans, as well as providing robust urban design guidance over the course of two sets of amended plans which have been submitted by the applicant. The detailed assessment has informed sections of this report relating to SEPP 65, ADG, LEP and DCP compliance. Only those issues not considered fully-resolved are outlined here.

The following matters are brought to the Panel's attention. They are not considered major issues are of a planning nature and have been addressed as follows:

- ***Size of the neighbourhood shop***

The urban design consultant believes that the size of the neighbourhood shop (current plans indicate an area of 62m²) is inadequate.

Under the LEP, a neighbourhood shop is defined as:

“a premises used for the purposes of selling general merchandise such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area, and may include ancillary services such as a post office, bank or dry cleaning”

Further, Clause 5.4 of the LEP limits the size of a neighbourhood shop to 100m². Technically, the development could have provided a number of neighbourhood shop tenancies, say 2 or 3 to create a cluster.

The SJB Masterplan/DCP originally anticipated a community use, such as a childcare centre, on the ground floor of the development. Such a use would have taken up considerably more of the ground level space, with specific requirements for outdoor space, staff and parent parking etc. The applicant has declined to consider the inclusion of such a facility in the development, advising that there are too many site constraints for such a facility to operate effectively and that such a use on the subject site would not be viable.

Whilst the inclusion of a community facility on the subject site has not been pressed given Council's other plans for significant community facilities in the vicinity of the subject site, i.e. as part of the Village Hub and the Village Green, it is important to uphold the original intention of the Masterplan for the site in terms of an active ground level and public domain.

The original pre-DA design did not provide a ground level neighbourhood shop. The applicant incorporated a retail space into the design of the development following the pre-DA consultation. This took the form of a small retail space at the corner of the Tryon Lane extension and Pacific Highway which was considered to be the most appropriate location.

Whilst the proposed 62m² area seems small, it will be satisfactory if suitable storage, loading and waste removal facilities are provided as part of the development as they are unlikely to be provided once the development is built. As pedestrian flow is considered priority for the laneway, servicing activities should not occur from the laneway. All such activities should be designed to occur from the basement and the proposal has been modified to accommodate this.

It is considered that a neighbourhood shop will be important in ensuring activation of the laneway as per the original Master plan objectives.

A coffee shop would be a highly desirable use for the subject space, helping to activate the laneway. However, a coffee shop or café comes within the definition of a “food and drink premises” which are not specifically listed as a permitted use in the R4 zone.

Coffee service could potentially be ancillary to other neighbourhood type uses.

It is noted that Schedule 1 Additional Permitted Uses in the Ku-ring-gai Local Centres LEP already permits business premises and “office premises” with development consent on the site within the R4 zoning, and this could be expanded to include “food and drink premises”. This would facilitate a

desirable outcome in respect of the proposed development.

- **Setbacks of the topmost storey**

The UDC has expressed a preference for the topmost level of the development to be set back 2.4m in accordance with 7C.8 ii of the DCP in order to reduce its visual bulk from the street. However, this control was not incorporated into the SJB Masterplan and is not included within the new Part 14 section of the DCP pertaining to this site. Furthermore, the Part 14 controls which are site specific, override any controls in the earlier part of the DCP which may be inconsistent, including those in Part 7. The SJB Masterplan showed a western elevation for the building facing Pacific Highway without the topmost storey being set back.

- **Private clothes lines**

It is not clear whether all balconies are intended to have private drying facilities. A condition is recommended to ensure that all balconies have private drying facilities (**Condition No. 30(i)**). There is also a communal drying area indicated on the roof top which can be used for the drying of larger items if required.

- **Privacy of CLG05 bedrooms from adjacent stair**

This matter has been addressed via a specific condition in the recommendation that requires additional privacy screening on the relevant stairway (**Condition No. 30(iv)**).

- **Screens between 1-bedroom balconies facing railway**

The UDC is concerned that pairs of 1 bedroom apartments facing the rail line rely on a party wall between their respective balconies to be set back to facilitate sunlight access to meet minimum ADG requirements. To address this situation, the UDC recommends a screen type which provides solar access but still provides security. This matter has been addressed via a specific condition in the draft conditions that requires additional privacy screening (**Condition No. 30(iii)**).

- **Natural cross ventilation plenum solution and wintergarden acoustic solution both to be verified**

The UDC was not fully satisfied in respect of the detail provided for plenum solutions, advising that there is lack of certainty as to whether the proposed plenums will in all cases provide adequate, unobstructed and effective openable area to achieve cross ventilation, whilst also providing the required acoustic attenuation. The UDC recommends that the plenum solutions and wintergarden acoustic solutions be further verified by an Acoustic/Environmental Engineer, prior to the issue of any Construction Certificate. This matter is addressed by **Condition Nos 30(v) and 30(vi)**.

Should the further advice indicate that the proposed plenum solutions and wintergarden acoustic solutions are inadequate, then an alternative performance-based solution, which meets the relevant controls, will need to be identified and implemented by the Certifier. Council's UDC has considered this scenario and believes that a performance-based solution is available which can be implemented.

In this regard, it is important to appreciate the worst-case scenario. In the worst case, 32 (25%) of the total number of apartments which face the rail line and which rely on the 30/70 solution, may need to have a baffled plenum installed requiring further adjustments to the living room and balcony design, if it is found to be necessary. The

Certifier will need to confirm whether or not the baffled plenums are required, based on the further advice required above, during detailed design of construction drawings.

The level of risk to occupant amenity under this scenario is considered low. It is also noted that the current acoustic assessment is based on an open door from the living room to the balcony and occupants will be able to close the door to the balcony, which is double-glazed, and achieve additional attenuation of rail noise.

In respect to natural cross ventilation, only 6 (5%) of the apartments are proposing to use a baffled plenum for natural cross ventilation, which may not be fully compliant with the ADG. Whilst cross ventilation of these 6 units may not be fully competent, they will be able to be ventilated and cross ventilated to an extent. It is noted that Part 4J-1 2 of the ADG allows for a level of flexibility in the application of requirements for sites with multiple site constraints. Therefore, the solutions are considered acceptable.

- **Habitable room depths greater than 8m**

Three apartments were identified by the UDC (BG03 and typical over) as having open plan living rooms which are south facing and excessive in depth (i.e. 9m, as opposed to the 8m maximum under the ADG). The objective of the control is to maximise the environmental performance of the apartment which in this case would relate to access to daylight. It is considered that the 1m variation is acceptable in this situation. The units are 1 BR units and relatively small. The 8m could be achieved by adding an extra wall and storage cupboard behind the kitchen to reduce the depth of the open plan living area to 8m. However, a better layout and more space for these smaller units is achieved by retaining the 9m depth.

- **LHDG Silver bathroom layouts**

The UDC advises that 40 of the 130 apartments (31%) do not meet the Silver Level under the Livable Housing Design Guidelines. The ADG requires 100% compliance. The problem is one which relates to the placement of the toilet pans within bathrooms and the ability to place a future grab rail. This matter is addressed by **Condition 41**.

- **Location of LHDG Platinum apartments in Building D**

The UDC advises that 10 of the 20 Platinum apartments are located in Building D which is not directly accessible from the principal point of pedestrian access at the allotment boundary and will rely on a “performance solution” at CC stage. This matter is addressed by **Condition 42**.

Heritage

The subject site is not a heritage item but is located in the vicinity of 3 heritage items at 270 Pacific Highway, Lindfield (dwelling house), 1-5 Tryon Road, Lindfield (St Alban's Anglican Church) and 9 Middle Harbour Road (dwelling house) in KLEP (Local Centres) 2012.



Figure 4 - Extract from the Oultram Heritage Impact Statement.
Heritage sites from Ku-ring-gai LEP (Local Centres) 2012 Heritage Map, shown shaded.

The site was identified in a Heritage Archaeological Assessment as having potential archaeological significance, based on its history of land use including commercial activity in the early 20th Century.

Clause 5.10(4) of the LEP requires that before granting consent to the proposed works the consent authority must consider the effect of the works on the heritage item, nearby items or conservation area concerned. Clause 5.10(5) allows Council to require a Heritage Impact Statement (HIS) before consent may be granted.

The DA is supported by a Heritage Impact Statement (HIS) by John Oultram Heritage and Design, dated December 2018, and a report titled the Lindfield Library Site, Lindfield, Historical Archaeological Assessment (HAA) by GML, dated 2015.

The Oultram HIS describes the history of each of the buildings on the subject site, as well as addressing the impact of the proposed development on the Heritage Items in the area and nearby Heritage Conservation Areas.

The application with supporting documentation was referred to Council's Heritage Advisor. The matter of the historic well was also referred to the NSW Heritage Council for comments.

Council's Heritage Advisor provided the following comments:

"Heritage status

The site is not a heritage item but is located within vicinity of a Heritage Item at 270 Pacific Highway, Lindfield (Dwelling House) and 1-5 Tryon Road Lindfield (St Alban's Anglican Church) in KLEP (Local Centres) 2012.

Clause 5.10 (4) of the KLEP 2015 requires that before granting consent to the proposed works Council must consider the effect of the works on the heritage item, nearby items or conservation area concerned. Clause 5.10 (5) allows Council to require a HIS before granting consent.

The LCDCP also contains specific provisions for the subject site that has been the subject of a Planning Proposal and Urban Design Report prepared by SJB architects that has set out parameters for the development of the Library site.

Statement of significance

Lindfield Railway Station

“Council is currently in the process of listing Lindfield Railway Station in the next LEP. The station was opened in January 1890 on the opening of the North Shore line. The station retains two, early platform buildings that were built in 1900 and the early 1920s that are single storey in brick with gabled roof and cantilevered platform awnings. The station has a modern overpass and lifts at its southern end.”

270 Pacific Highway, Lindfield

“270 Pacific Highway is a two storey, brick and tile, Edwardian period house set on a large block to the west of Pacific Highway. The house was once the residence of Prime Minister William Morris (Billy) Hughes 1862-1952). The site is directly opposite the development site but has a well-planted garden to the front and the house is set well back from the street.”

St Alban's Anglican Church

“St. Alban's Anglican Church at 1-5 Tryon Road is a single storey, face-brick Inter War building in a modified Gothic style with a castellated, corner tower set on a large site at the corner of Tryon Road and Lindfield Avenue. The church is set to the north-east of the subject site across the North Shore railway. Its curtilage is its own lot boundaries and it is part of the commercial development to the east of the railway.”

9 Middle Harbour Road

“Laurabada at 9 Middle Harbour Road is set to the east of the subject site across the North Shore railway. Its curtilage is its own lot boundaries and it is part of the residential development to the east of the railway that has a low scale and is well landscaped.”

Proposed works include:

- demolition of the current buildings on the site;
- excavation for car parking, service areas, lifts and stairs;
- construction of six/seven levels apartments. The development is divided into four blocks, A, B, C, and D arranged a central court with landscaping all round and a new access/though route road to the north.

Comments on existing buildings on the site (from Heritage Impact Statement by John Oultram Heritage and Design, December 2018) include:

LINDFIELD LIBRARY

The Library is a single storey, Post War Modernist style building set to the front of the site facing Pacific Highway. The building is in painted brick and curtain walling infilled with glazing and fibro panels with a flat roof. The front glazing has angled, vertical timber louvres with a central entrance door with a metal hood over. Internally the Library has two major spaces to the north and south with a central lobby and reception area with offices. Floors are carpeted and walls are in painted face brick or plasterboard. The ceiling has exposed timber joists set on lightweight trusses. The Library has a landscaped forecourt to the front with patterned concrete paths, lawns, tree plantings and shrubs. There is a fenced off to the front area marking the site of the well on the site. The landscaping carries along the passage to the north with a concrete path to the tennis courts. There is a parking area to the south.

The library was constructed in 1954 for Ku-ring-gai Council. The building was designed by architects Davey and Brindley who also likely designed the rear

annexe that was completed in 1958. The building is a modest structure in simple materials with the most striking aspect being the fins to the front elevation to provide shade.

KU-RING-GAI CENTRE FOR SENIORS

To the southwest of the site is the Ku-ring-gai Centre for Seniors, a single storey, late Twentieth Century building in face brick with a low pitched, metal roof. The main entrance is to the front with an asphalt drive and an inset porch with curtain wall style, glazed infill.

ARRUNGA FLATS

To the southwest of the site is Arrunga Flats, a two storey, late Twentieth Century building in painted brick with a hipped, concrete tile roof. The apartments are set around a central court and has a well painted garden to the west. The upper floors are accessed off series of concrete ramps and stairs leading to an open gallery at the first floor.

Arrunga apartments were completed in 1963 for the Ku-ring-gai Old Peoples welfare association, an organisation established by the local community. The building was designed by architect Ellice Maud Nosworthy, one of the first female architects practising in NSW. The building is a modest example of the type and has few design features apart from the planted, central court."

Demolition

All of the current buildings and structures on the site will be demolished. These buildings have not been heritage listed and are not located in an HCA and may be demolished. An Archival recording is to be submitted.

Controls

DEVELOPMENT IN THE VICINITY OF HERITAGE ITEMS OR HERITAGE CONSERVATION AREAS (HCAS)	
Development Controls	Complies
19F.1 Local Character and Streetscape	
General	
1 All development in the vicinity of a Heritage Item or HCA is to include a Heritage Impact Statement.	YES
2 Development on sites that either directly adjoin or are in the vicinity of a Heritage Item or an HCA is to have regard to:	
i) the form of the existing building or buildings including height, roofline, setbacks and building alignment;	N/A
ii) dominant architectural language such as horizontal lines and vertical segmentation;	N/A
iii) proportions including door and window openings, bays, floor-to ceiling heights and coursing levels;	N/A
iv) materials and colours;	
v) siting and orientation;	
vi) setting and context;	N/A
vii) streetscape patterns.	
Views	

4. New development in the vicinity of a Heritage Item or HCA is to demonstrate that it will not reduce or impair important views to and from the Heritage Item from the public domain.	NO
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Items in the vicinity

Impact on St Alban's Anglican Church

St. Alban's Anglican Church at 1-5 Tryon Road is located north-east of the subject site, across the North Shore railway. Its curtilage is its own lot boundaries and it is part of the commercial development to the east of the railway. The site is some way from the development site that will read as part of the commercial centre of Lindfield. Due to the large separation, the proposed development will have no impact on the setting or significance of the item.

Impact on 270 Pacific Highway

No. 270 Pacific Highway is located directly opposite the development site but has a well-planted garden to the front and the house is set well back from the street. It is separated from the development site by Pacific Highway and its curtilage is its own lot boundaries. The house reads as part of the residential development to the west of the Highway that has a low scale and is well landscaped. Due to the Highway separation, the proposed development will have a limited impact on the setting of the item and no impact on its significance.

Impact on the Lindfield Railway Station

The railway station at Lindfield is not identified as a heritage item in the Local Centres. The station is some way from the subject site but there are views to the modern overpass from the lower levels of the site. The development will have no immediate impact on the station group but will be visible in views from the southern end of the railway platforms. The proposed development will not impact on any significant views to and from the station buildings and will have no impact on the setting or significance of the Station.

ARCHAEOLOGY

5.10 Heritage conservation

(7) Archaeological sites

The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the Heritage Act 1977 applies):

- (a) notify the Heritage Council of its intention to grant consent, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

Previous Reports

The site has been the subject of an archaeological assessment:

GML Heritage, Lindfield Library Site, Lindfield, Historical Archaeological Assessment, dated June 2015.

The HAA identified several areas of archaeological potential. See following map.



Figure 5 – Extract from HAA

Excavation and archaeology

The site will be partly excavated for car parking and the building structure. The site has some archaeological potential and excavation will occur in all areas identified as having some potential



Figure 6 – Extract from HAA

The key area identified in the HAA was the area to the front of the site at Pacific Highway that may contain remains associated with Coleman's Corner and that contains the remains of a brick well (noted as AF).

Brick well

The known deposit is the former well that sits to the front of the library. The development will not require the removal of the well and the HAA recommends this and that the well be interpreted in the new development. The well will have a water feature in the vicinity and be marked with at the ground with contrasting steel edging in the pavers with interpretive text on the building adjoining.

The potential for substantial remains in either the moderate or moderate to low areas would seem unlikely considering the Post War development of the site. The portion of the area of moderate potential is outside of the main development area but will be re-landscaped. The areas of archaeological potential can be investigated during the construction phase of the works and the recommendations of the HAA implemented accordingly.

Conclusion

The proposed development will have a minimal impact on the heritage items in the vicinity and is supported on heritage grounds. The existing well is to be retained.

An email has been sent to the Office of Environment and Heritage to the Archaeology Section to determine if the well is a relic or not. Subject to the findings of the archaeological

investigation, the applicant may be required to obtain an excavation permit from the NSW Heritage Council.

Generally, the Heritage Advisor is in agreement with the conclusions and recommendations of the Oultram HIS which supports the proposed development.

All relevant heritage considerations in the LEP (i.e. Clauses 5.10(4) and (7) Archaeological Sites) and the Ku-ring-gai DCP (Controls 19F, 19F.1, 19F.2 19F.3) have been considered in the supporting documentation to the application, on the basis that the site is technically considered “within the vicinity” of the heritage items. However, the separation distances from the subject site to the heritage items, the intervening land uses being the railway corridor and the Pacific Highway and the location of the heritage items on their own sites and existing curtilages, means that the consideration of any consistency in character, setbacks, landscaped features or garden areas on the subject site would have limited relevance in the circumstances. Also, such considerations would not justify any architectural changes to the design of the proposed development.

In terms of Control 19F.1 4 relating to views to and from a heritage item from the public domain, the Heritage Advisor has considered the proposed development non-compliant. The proposed development, having up to 7 storeys, will be prominent in the Lindfield Town Centre. However, the locations of the heritage items in relation to the subject site mean that each of these items will be viewed from the adjoining public road without being impacted by the proposed development.

The existing buildings, whilst having some social significance, may be demolished and it has been determined that there will be minimal impact on the heritage items in the vicinity of the site or nearby Heritage Conservation Areas arising from the proposed development.

The Oultram HIS also states that existing buildings may be removed, subject to archival records being taken of the buildings, their fabric and their significance to the local area and community and subject to the history of their existence being recorded on site in some physical form (i.e. a plaque) as part of an Interpretation Plan.

As part of the pre-DA process, the applicant was requested to ensure that consideration be given to the Lindfield Railway Station, which is listed under Section 170 of the Heritage Act 1977. The report was supplemented by the consideration of the Station, and it was concluded by John Oultram that: *“the proposed development will not impact on any significant views to and from the station buildings and will have no impact on the setting or significance of the Station.”*

Council’s Heritage Advisor, as part of her consideration of the proposed development and the Oultram HIS, has advised that *“Council is in the process of listing Lindfield Railway Station in the next LEP”*. The findings of the Oultram HIS in respect of the Lindfield Railway Station were not disputed.

The recommendations of the Oultram HIS and the GML HAA are incorporated into a set of conditions provided by the Heritage Advisor. These conditions will ensure that archival records of all the existing buildings on the site are prepared, that an interpretation plan is prepared for both the buildings and the historic well via appropriate media, and that appropriate procedures are in place if during excavation

of the site, archaeological remnants of artefacts are unearthed. **(Conditions 9, 11, 60 and 61).**

Landscape and Tree Assessment Officer

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

The proposal is not acceptable in the current form.

Issue/s:

- *Insufficient landscape width along the northern side of the proposed lane*
- *Development encroachment within the eastern and southern setbacks resulting in landscape objectives not being satisfied within the deep soil zone.*
- *Location of the bio-retention basin within the eastern setback and deep soil zone that compromises the ability for the area to accommodate tree and screen planting.*
- *Tree impacts to neighbouring trees (south) due to proposed drainage works*

Amendments that could resolve the issue:

Amend:

- *Relocate proposed drainage works outside of the TPZ of retained trees within the neighbouring site.*
- *Relocate proposed drainage works within the proposed Tryon Lane extension so that they are outside of the soft landscape area*
- *Delete the surface bio detention basin*

Additional information required:

The stormwater plans are to be amended as follows,

- *The bio-retention basin is to be deleted from the eastern setback.*
- *Realign the proposed subsoil pipeline parallel to the southern boundary to run along the southern side of the proposed landscape retaining wall as per arborist recommendation.*

SEPP (Building Sustainability Index: BASIX) 2004		
Part 3 Aims	Proposed	Satisfies
<i>To encourage sustainable residential development</i>	<p><i>Certificate 954322M_03 dated 21/02/20 has been submitted.</i></p> <p><i>It is assessed that the development is generally consistent with the BASIX certificate submitted.</i></p>	YES

SEPP (Vegetation in Non-Rural Areas) 2017		
Aims	Proposed	Satisfies
<i>To protect the biodiversity value of trees and other vegetation and to preserve the amenity</i>	<p>Trees to be removed</p> <p><i>All trees on site are proposed for removal.</i></p> <p><i>The arborist assessment of the removal of several high significance trees due to poor form or</i></p>	YES

of non-rural areas through the preservation of trees and other vegetation.	<p>structural faults is accepted (Trees 21, 22, 24 and 63).</p> <p>There is no landscape objection to the proposed removal of trees of low to moderate significance trees.</p> <p>Trees to be retained Trees 36 and 37 located within the Pacific Hwy road reserve are to be retained with suitable setbacks.</p>	YES
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KDCP (LOCAL CENTRES) COMPLIANCE TABLE		
Control	Proposed	Complies
Part 14E.13 Precinct L6 and 14R.3 Lindfield Library Masterplan		
To ensure development is consistent with the Lindfield Library Precinct Masterplan	The proposed landscape design is inconsistent with the Lindfield Library Precinct Masterplan due to the bio-retention basin location within the eastern deep soil zone setback which prevents the planting of trees and vegetation.	NO
Setbacks proposed between the TSL and the building are to optimise tree planting to assist building separation.	The proposed bio-detention basin adjacent to the eastern site boundary conflicts with required tree plantings within the deep soil setback zone. The bio-detention basin reduces the available area for tree planting with a reasonable setback to buildings and is to be deleted.	NO
Control 2 iii) Provide centrally located landscaped public open spaces adjoining the new road	The proposal indicates a landscaped public open space as a 'pocket park' adjoining the northern side of the new road with paving and seating, opposite the entrance to the residential development.	YES
	No useable public open space as envisaged by the DCP has been provided adjacent to the southern side of the new laneway. <u>To be addressed by Urban Design/Public Domain assessment comments</u>	NO
Control 4 i)- Provide a minimum 6.0 setback to Pacific Highway, increasing to a 10.0m setback at the southern boundary in response to the surrounding residential pattern	The proposed varying basement and building setback of 6.0m to 8.15m to Pacific Highway is inconsistent with the DCP numeric requirement but does provide effective deep soil areas for a landscaped setting including substantial trees.	YES
Control 4 ii)- Provide a minimum 6.0 setback to the southern and eastern boundary for deep soil landscaping	The proposal provides minimum 6 metres setbacks from the basement to the eastern and southern boundaries. However, floors above encroach and includes balconies, elevated planters, fire stairs, Unit LG05 Building C and the bio retention basin. These encroach within the specified setback which compromise the	NO

	<p><i>landscape objectives for tall tree planting within deep soil areas.</i></p> <p><i>The area of particular concern is the north-east corner where the building has a visual height of eight storeys and breaches the height limit.</i></p> <p><i>Encroachments are required to be minimised.</i></p>	
Control 6 iii) to provide 1.5m landscaping with street tree zone planting	The development fails to provide a 1.5m landscape zone to the north of the proposed lane.	NO
Part 7C.2 Communal Open Space		
To provide adequate safe, useable, attractive and accessible communal open space for residents	At least 10% of the site area is to be provided as communal open space (585m ²). The proposal provides communal open space in excess of the minimum requirements.	YES
To provide communal open space that adds to the amenity of the development and facilitates social interaction.	Provided communal open space satisfies the objective.	YES
Part 21 General Site Design		
<p>21.1 Earthworks and Slope</p> <p><i>Landscape cut or fill should not be more than 600mm above or below natural ground line.</i></p> <p><i>A minimum 0.6m width is required between retaining walls.</i></p> <p><i>Existing ground level is to be maintained for a distance of 2m from any boundary.</i></p>	Accepted on merit	YES
<p>21.2 Landscape Design</p> <p><i>To ensure the landscape design and species selection is suitable to the site its context and considers the amenity of residents and neighbours.</i></p>	<p><i>NOTE: The landscape design outcomes are compromised by the proposed drainage works, which cannot otherwise be conditioned as it requires design amendments.</i></p> <p><i>Landscape Plan is unsatisfactory for the following reasons:</i></p> <ul style="list-style-type: none"> <i>Proposed tree species selection within setbacks is inappropriate. For example the planting of Eucalyptus saligna (Sydney Blue Gum) within the site frontage is ill-</i> 	<p>NO</p> <p>YES by condition</p>

	<p><i>advised due to its potential size, tendency to drop limbs when mature and restricted area (the species is capable of heights >25m and canopy spreads >15m). The planting of Eucalyptus paniculata (Grey Ironbark) within a reduced 6.0m setback is likewise considered inappropriate for the same size reasoning. Alternative tree species with reduced crown widths is recommended.</i></p> <ul style="list-style-type: none"> <i>• The use of identified urban weed species is not supported eg Cyathea cooperii.</i> <i>• Proposed inaccessible planters including to roof terraces (behind AC units) shall be deleted. This may be conditioned.</i> <p><i>Changes to the Landscape Plan may be conditioned.</i></p> <p><i>The stormwater plans are to be amended as follows,</i></p> <ul style="list-style-type: none"> <i>• Realign the proposed subsoil pipeline parallel to the southern boundary to run along the southern side of the proposed landscape retaining wall as per arborist recommendation.</i> <i>• Delete bio-retention basin from eastern deep soil landscape zone setback</i> <i>• Realign and relocate the proposed 300mm pipe and associated pits from the southern side of Tryon Place to either beneath the southern pedestrian path or the northern side to avoid and minimise spatial conflict with proposed tree plantings.</i> 	
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Stormwater plans

The stormwater plans are to be amended as follows,

- Realign the proposed subsoil pipeline parallel to the southern boundary to run along the southern side of the proposed landscape retaining wall as per arborist recommendation.*
- Realign and relocate the proposed 300mm pipe and associated pits from the southern side of Tryon Place to either beneath the southern pedestrian path or the northern side to avoid and minimise spatial conflict with proposed tree plantings.*
- Delete bio-retention basin from eastern deep soil landscape zone setback.*

NOTE: The bio-retention basin is designed to be 900mm deep and will therefore be required to be fenced due to its potential ponding depth >300mm and therefore considered a 'pool'.

Eastern path

A formalised permeable pedestrian path is proposed within the eastern setback. The path is for maintenance purposes only. It is recommended the path be deleted and the area returned to soft landscaping. For maintenance access purposes, the access can be informal between plantings.

Deep soil

Deep soil landscape area as per KLCDCP Part 7A.6 does not apply to the site. There is a specific notation (Part 14E.13 C4) stating as such.

14E.13 Objective 18 – To provide deep soil landscaping areas along the eastern, western and southern boundaries. The proposal provides for this with the exception of the bio-retention basin within the eastern setback which is not supported as it compromises the ability of the setback to provide for tree and screen planting as envisaged by the DCP.

No internal deep soil landscape area is proposed. On podium soil depths are adequate for small trees and shrub plantings only, providing landscape amenity to the ground level and lower floor levels.

Excavation

The submitted excavation plan A-300-000 Rev B limits excavation to the basement line. This is acceptable on landscape grounds.

Trees

All trees on site are proposed for removal. This is accepted on merit and arboricultural assessment.

Conclusions

The application has merit but is not supported at this stage on landscape grounds due to:

- Development encroachment within the eastern and southern setbacks eg Unit LG05, Balconies, Bio Detention Basin, Fire Stairs, compromising the ability for landscape objectives to be satisfied (particularly within the sensitive eastern setback to the rail corridor).*
- Location of the bio-retention basin within the eastern setback and deep soil zone that compromises the ability for the area to accommodate tree and screen planting.*
- Tree impacts to neighbouring trees (south) due to proposed drainage works*
- Design conflict between landscape outcomes and stormwater infrastructure*
- Insufficient landscape width to the northern side of proposed roadway (1.5m required within public ownership). Minor inconsistency.*

Further design resolution is required to address the above concerns.

A 6m setback is achieved at ground level and for the basement below. On the eastern boundary there are building encroachments above the ground level intruding into the 6m setback and achieving a minimum of 4m. It is noted that Parts 7A.2 and 7A.3 of the DCP applying generally to RFB development, do allow a 4m setback on a rear boundary although technically the setbacks in Part 14, which require 6m, override Part 7 in relation to this issue. Given that the rear boundary is adjacent to the rail corridor, it is considered that the setbacks on this rear boundary, as proposed, are acceptable.

Further consultation with the applicant's engineer confirmed that it is possible to remove the bio-retention basin from the eastern setback in favour of an alternative water quality treatment system being installed within the basement, called a "Jellyfish 2250" (produced by a Company called Ocean Protect), to perform the same function. Council's Development Engineer has accepted this as a satisfactory solution which

now means that the setback area adjoining the railway can be landscaped with larger trees.

The encroachments on the southern boundary arise mainly from the angled design of the balconies and stairs. Due to the 14m separation distance to adjoining development, these encroachments are considered acceptable.

A drainage pipe adjacent to the southern boundary is proposed to be relocated to reduce impacts on the trees of neighbouring property No. 257 as well as further protective measures to be incorporated into **Conditions 15 to 20 and Condition 33(ii)**.

Drainage pipes and pits in the Tryon Lane extension are also required to have locations adjusted to avoid conflict with proposed tree plantings. (**Condition 33**).

The reduced landscape width alongside the north of the Tryon Lane extension is noted but provision of the full required width of 1.5m under the control is not pressed by the Landscape Section. This landscaping area is considered acceptable.

The lack of useable public space on the southern side of the Tryon Lane extension is considered acceptable, given that there is a pocket park on the northern side with trees and bench seats. The public space on the southern side has not been provided due to the change in building layout and the design of the lane extension as a shared pedestrian-friendly road. The Tryon Lane extension will be activated by the neighbourhood shop with its outdoor courtyard, and there will be views of the landscaping and communal space beyond the entrance into the site for pedestrians walking along the southern pathway of the Tryon Lane extension.

It is considered that the concerns of Council's Landscape & Tree Assessment Officer can be adequately resolved through the proposed conditions. (**Condition 32**).

Engineering

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

“Water management

Sydney Trains have provided their concurrence for the stormwater being conveyed through their land via the channel and in the pipe subject to a deferred commencement condition. The final detail of how the stormwater is conveyed under the railway shall be determined and approved by Sydney Trains as part of the deferred comment.

A water balance calculation has been submitted and has confirmed that a 31m³ rainwater reuse tank, connected to toilet flushing and irrigation, is sufficient to satisfy Council's requirement for a reduction in runoff days.

A pit and pipe system has been proposed to capture stormwater runoff from the new road only. No runoff from Pacific Highway will be collected by this system. This system, and the overflow from the OSD tank is to be diverted into a bioretention basin, then out to the existing drainage system under the railway.

Council's landscape section was not happy with this proposed bio-retention basin and have required its deletion. This has been provided as a deferred commencement condition. The bioretention basin was proposed for water quality purposes. An alternate water quality treatment design, which may include the provision of

proprietary water treatment devices in the OSD tank, shall be provided on the stormwater drawings. Revised MUSIC modelling shall be provided to confirm that this alternate water treatment design satisfies the pollutant load standards set out in Part 24C.6 of the Ku-ring-gai DCP

In accordance with part 24 of Council's DCP where the development is on land that is to be strata titled or community titled, OSD must be located in common areas. Details of 1 access chamber to the tanks has been shown in a common area on the engineer's email.

Details of the overland flow route for the event that a storm higher than the design storm occurs, or the OSD device malfunctions have been shown in an engineer's email supporting the application.

Vehicular access and accommodation arrangements

The car parking requirements section of SEPP 65, prepared by the Department of Planning & Environment, state that for development on sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area, the minimum car parking requirement for residents and visitor is set out in the RMS Guide to Traffic Generating Developments (GTTGD) 2002, or the car parking requirement prescribed by the relevant council, whichever is less. Therefore, the minimum car parking requirements based on the RMS Guide to Traffic Generating Development (GTTGD) 2002 are:

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1br x 52 x 0.6 = 31.2,

2br x 51 x 0.9 = 45.9,

3br x 28 x 1.4 = 39.2.

Total parking required by residents = 116.3 = 117.

Visitor parking (rate as per DCP part 7B) = 1 space for every 6 apartments = 131 / 6 = 21.83 = 22

62m² retail tenancy @ 1 space per 17m² of GFA = 4 retail spaces

The development seeks to provide 148 off-street parking spaces, comprising 121 residents' spaces (including 20 accessible spaces) and 23 visitor spaces (includes 1 accessible visitor). Sufficient numbers of visitor parking spaces have been provided

A temporary service /car wash bay space has been provided within the basement 2 as required in Part 6B.2 of the Ku-ring-gai DCP. This space also doubles up as a visitor space, which is acceptable.

Two car share spaces are provided in the Basement 2 car park.

All disabled parking space width of 2.4m plus 2.4m shared area complies with AS2890.6:2009.

Vehicular access to the car parking facility is to be provided via a two-way ramp from Tryon Lane which satisfies the requirements of Part 22.2 of the DCP. Access between Basement 2 and Basement 3 is provided via a two-way ramp with a width of 5.8m (6.4m wide between walls).

Sight triangles of 2m x 2.5m to allow sight lines for pedestrians and vehicles on Tryon Place have still not been provided in accordance with AS2890, this has been conditioned and shall be provided prior to CC.

Proposed design of 'Tryon Place' (an extension to Tryon Lane)

The entry into Tryon Place from Pacific Highway has been proposed as a vehicular crossing as opposed to an intersection. This will ensure that stormwater from Pacific Highway is satisfactorily excluded from the new street.

The shared area issues are being addressed by Council's Strategy department.

The revised traffic report responds to the RMS comment:

"Council to investigate option to provide a deceleration lane in Pacific Highway to enter into Tryon Place."

The People Trans traffic report provides the following justification why this is unnecessary:

"A dedicated left-turn lane on Pacific Highway for the new road (extension of Tryon Place) is not necessary for the following reasons:

- The left-turn volumes estimated to enter the new road from Pacific Highway will be very low, the levels of turning volumes would have a negligible impact on slowing of through traffic and the overall road network efficiency of Pacific Highway.*
- Safety would not be impaired by left turning traffic from the kerbside lane on Pacific Highway during the AM peak clearway hours as the available sight distance for traffic using the kerbside lane meets the minimum requirements (Stopping Sight Distance and Approach Sight Distance) for an entry only access based on a speed of 60km/h.*

(It is also important to recognise that the speed of southbound traffic on Pacific Highway during a large part of the AM peak period is likely to be lower than 60km/hr due to the sheer volume of traffic during these periods but also as a result of the start of a school zone 40km/hr speed limit which occurs directly after the proposed site access. This would result in traffic slowing before they enter the school zone on Pacific Highway.)

However, outside of the clearway hours, the turning movements would need to occur from the middle lane of Pacific Highway due to the 1P parking restrictions in the kerbside lane. This could result in potential safety risks as traffic slows abruptly in the middle lane before entering the new access road.

This situation could be improved by the implementation of a no stopping restriction for a length of 20m (i.e. removal of 3 x kerbside parking spaces) on the southbound approach to the access creating a de-facto diverge lane for vehicles entering during times when clearways are not in operation."

Council supports these findings and supports the removal of the parking spaces on Pacific Highway, subject to approval being obtained from the Traffic Committee.

Waste collection

The on-street loading bay opposite the basement car parking entrance on Tryon Place has been deleted.

A loading area is proposed in Basement 2 in front of the waste storage room.

Satisfactory driveway long sections along both sides of the path of travel have not been submitted.

Council's engineer has checked the proposed gradients and can confirm they are compliant. By means of confirmation a driveway long section has been conditioned to be submitted at the CC stage.

Construction management

A construction traffic management (CTMP) has still not been provided. It has been conditioned that a CTMP will need to be submitted prior to the issue of any Construction Certificate.

Dewatering

Natural Resources Access Regulator (formerly the Department of Industry - Water) has reviewed documents for the above development application and considers that, for the purposes of the Water Management Act 2000 (WM Act), a controlled activity approval is not required and no further assessment by this agency is necessary."

All issues identified by Council's Development Engineer have been satisfactorily addressed either within the amended plans, confirmation emails from the applicant's engineer or via further conditions requiring the provision of a Construction Management Plan and Longitudinal Section. This includes the removal of the bio-retention basin in the eastern setback and alternative water quality treatment facilities.

With the further reduction of an apartment in amended plans, the requirement for resident parking adjusts to 116. Visitor parking stays at 22 spaces, and disabled parking at 21 spaces whilst 4 commercial car spaces are required. The development, which provides 153 car spaces in total, has more than adequate parking.

The matter of the removal of three spaces in the parking lane on Pacific Highway in the approach to the Tryon Lane extension is to be further considered by Council's Traffic Committee if the development is approved. **(Condition 99).**

Environmental health

Council's Environmental Health Officer has considered the proposal and associated documentation relating to the site's contamination and provided the following comments:

"It is noted that the Statement of Environmental Effects dated 6 December 2018 states in section 5.2.2 "State Environmental Planning Policy No.55- Remediation of Land" that further assessment and management/remediation of potentially contaminated land may be required. Discussion with Council's Planning Team indicated that planning will place a condition on the consent requiring a detailed site investigation and remediation if required prior to the issue of a Construction Certificate to address this matter. It is agreed that planning should apply this condition as it is in line with a condition that was applied to a similar development in the area.

Whilst the proposal is generally acceptable, the following points are observed:

- i. The use of the proposed neighbourhood shop on ground level has not been specified and may include a future development application for a food shop. This food shop may require a grease trap and mechanical ventilation that complies with the requirements of part 23.6 of Ku-ring-gai Council's DCP which could be difficult to retrofit;*
- ii. Final mechanical plant selections have not been made and it is proposed that air conditioning condensers will be placed on the roof of the development;*
- iii. An electromagnetic assessment of the potential health impacts of the substation room located on Basement 2 directly below residential apartments was not provided.*

The following will address the above points:

Recommended conditions at the Construction and Occupation Certificate stages requiring that the proposed neighbourhood shop be supplied with an internal ventilation shaft and that consideration is given to the possible future need to install a grease trap;

*Recommended conditions at the Construction Certificate and Occupation Certificate stages requiring that air conditioning condensers are suitably acoustically enclosed, well screened and integrated into the building form
conditions at the Construction Certificate and Occupation Certificate stages requiring that electromagnetic radiation from the substation room is assessed and that future occupants will be appropriately shielded."*

The proposed development is considered acceptable with regard to *SEPP55: Remediation of Land* subject to further investigation of a particular area where some uncertainty was identified in the Contamination Report by SLR Consulting due to the constraints of testing in areas where there are existing services in the ground **(Condition 31)**.

Certification will be required to confirm that any remediation work which is necessary, falls within Category 2 work under *SEPP55*, meaning that separate development consent for the remediation work would not be required. A special condition **(Condition 31(vii))** has been recommended to ensure that this occurs.

The conditions recommended the Environmental Health Officer include standard conditions relating to such matters as the air conditioning units, control of demolition, work hours, waste management and management of contaminated materials. The conditions specifically address the requirements of the neighbourhood shop in the event that the proposed future use of the shop involves an element of food preparation and service. The imposition of these conditions is supported as it will ensure that the appropriate infrastructure is present to facilitate a mix of potential uses for the neighbourhood shop. Such infrastructure is often difficult and costly to install after a building is completed and could potentially discourage certain uses from the space.

Public Domain

The public domain comprising the new road, associated footpaths, landscaping and pocket park is an important feature of the proposal which will improve connectivity from Pacific Highway to the station as well as provide a publicly active forecourt to the development. The through-site link has been part of the "vision" for the area

since the initial Planning Proposal and Masterplan.



Figure 7 – Extract from Figure 3.3 Ground Floor in the Urban Design Concepts of the Lindfield Library Masterplan Part 14R3 – Section 3

The current DA provides for a 7.5m wide carriageway with a 3.5m wide vehicular roadway as part of a shared zone. There is no provision for on street parking. There are 2m wide footpaths delineated by a different pavement pattern.

The future property boundary associated with the Tryon Lane extension is indicated on the Draft Future Site Subdivision Plan and Ground/Site Level Plan A-400-003K showing the through-site link to be consistently 13m in width or greater and satisfying the DCP requirement.

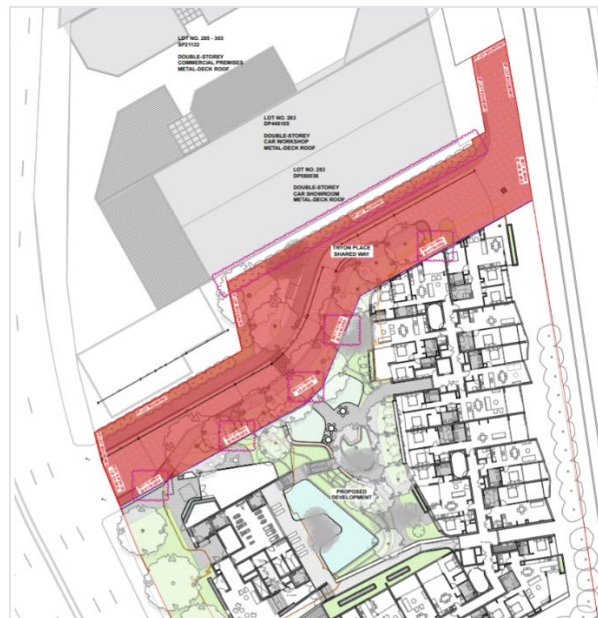


Figure 8 - Extract from Subdivision Concept Plan

The 13m width facilitates a suitable turning path for a 12.5m heavy rigid vehicle such as a removalist truck.

The following comments were received from Council's Public Domain Co-ordinator:



Figure 9 – Extract from People Trans Traffic Impact Report Page 23, Section 4.3 Design of Tryon Place

“Shared zone

The removal of the provision for parking in the shared zone has been noted and accepted.

The paving design of the shared zone requires review. The shared zone must be designed in accordance with RMS (TfNSW) Technical Direction (TTD) 2016/001 February 2016 - Design and implementation of shared zones including provision for parking – Category 1

The TTD states:

“A **Category 1** (Cat 1) shared zone is provided on a road related area, has clearly different coloured and textured surface treatments from the surrounding roads, and typically does not have kerbs. The road environment in a shared zone must be changed to ensure that it does not look like a normal road”

With reference to street space/ kerb and gutter/ delineation, the TTD states:

“Any delineation and kerbs shall be removed to enhance the sense of pedestrian priority (Cat 1).”

With regard to pavement surface, the TTD states:

“The pavement surface shall be changed to highlight the difference in the street environment from the surrounding road network. It must be clearly distinguishable by colour, texture and/or materials. Any exceptions require RMS approval.”

The proposed brick paving addresses this requirement. However, the “Cobble Strips” in the brick paving are to be removed. There must not be a delineation of a path or carriageway in the shared zone.

General landscape plans

All other amendments to the landscape plans, with regard to the public domain, have been noted and accepted."

The proposed design of the laneway, including a proposed variation in pavement pattern to facilitate pedestrian flow and enhance amenity, is fully explained in Section 4.3 of the People Trans Traffic Impact Assessment Report. The report explains why the applicant seeks a pavement design which is not in accordance with RMS Guidelines for Shared Zones due to site characteristics. Such a variation would require RMS agreement.

Council's Development Engineer has considered the proposal but has determined that there is to be no variation in the pavement design and this is reflected in Condition 51 which requires the removal of the proposed "cobble strips" in the shared zone.

The design of works in the proposed public road must be submitted and approved by Council prior to issue of any Construction Certificate. **(Condition 51).**

External Referrals

Heritage Division (NSW Planning & Environment)

In accordance with Part 5.10(7) of the LEP, Council must notify the Heritage Council about the application and take into consideration any response from the Heritage Council.

The Heritage Council provided comments on 16 July 2019. In response, further information was sent to the Heritage Council on 22 July 2019. As no response to the further information was received, the requirements recommended by the Heritage Council have been included in the recommendation **(Condition 11).**

NSW Roads and Maritime Service (RMS)

The application relates to a site with frontage to Pacific Highway which is a Classified State Road, is a "traffic generating development" as listed in Schedule 3 of the *SEPP (Infrastructure) 2007* and was referred to RMS for comment.

The RMS provided the following comments in relation to the proposal:

"Pacific Highway is a Classified State Road therefore removal to existing driveway(s) and construction of a new road connection with Pacific Highway triggers Roads and Maritime's concurrence in accordance with Section 138 of the Roads Act 1993.

Roads and Maritime has reviewed the submitted information and provides concurrence to the removal of all existing driveways along Pacific Highway and connection of Tryon Place with Pacific Highway, in accordance with Section 138 of the Roads Act 1993 subject to Council's approval and following conditions being included in any consent issued by the Council".

The RMS letter, which includes RMS conditions, has been included in **Condition 1 of Schedule B.**

Rural Fire Service

The subject site is not bushfire prone and accordingly no referral was necessary.

Sydney Trains

Sydney Trains have provided concurrence, subject to Deferred Commencement conditions requiring the applicant to obtain a licence from Sydney Trains to discharge stormwater onto the rail corridor land and other requirements that relate to the management of risks associated with construction adjacent to a rail corridor. These conditions have been included in the recommendation as required by SEPP (Infrastructure) 2007. Standard conditions typically imposed by the Rail Authority have also been included in **Part B of Schedule A**.

Natural Resources Access Regulator

Following the identification of potential interference to high groundwater levels as part of the Geotechnical investigations, the matter was referred to the Natural Resources Access Regulator regarding the potential for the need to obtain an Aquifer Interference Approval under the Water Management Act 2000. Under this scenario, the DA would have constituted Integrated Development. The Regulator confirmed that an Aquifer Interference Approval was not necessary and that there were no additional requirements.

STATUTORY PROVISIONS

State Environmental Planning Policy (State and Regional Development) (SRD SEPP) 2011

Part 4 of *SRD SEPP 2011* requires that certain development specified in Schedule 7 of the Policy be considered regionally significant development. Schedule 7 of the SEPP provides that Council-related development which has a Capital Investment Value (CIV) over \$5 million is regionally-significant development. Section 20.15 of the EP&A Act 1979 provides that the regional panel has the functions of the consent authority under Part 4 for regionally-significant development. The Quantity Surveyors Report submitted with the application confirmed that the CIV is over \$5 million (ie \$68.235M) and therefore, the Sydney North Planning Panel is the consent authority for this development.

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of *SEPP 55* require Council to consider the potential for a site to be contaminated.

Pursuant to section 2 of the SEPP, the object of SEPP55 is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment:

- a) *By specifying when consent is required, and when it is not required, for a remediation work;*
- b) *By specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular; and*

- c) *By requiring that a remediation work meets certain standards and notification requirements.*

Clause 7(1) (a) of *SEPP 55 – Remediation of Land* requires the consent authority to consider whether the land is contaminated.

A Stage 2 Detailed Site Investigation (DSI) completed by SLR, Global Environmental Solutions, in 2016, concluded that:

- *“The detected concentrations of the identified contaminants of potential concern in soils in the areas of environmental concern on the site, are considered unlikely to present an unacceptable direct contact human health exposure risk, with the exception of lead at sampling point TP01 and TP07, and carcinogenic PAH(as benzo(a)pyrene TEQ) at sampling points TP01, TP06, TP07 and HA06;*
- *The potential for unacceptable contamination human health exposure risks to be present in uncharacterised fill soils in the vicinity of sampling point HA01, HA04 and HA06, cannot be precluded;*
- *It is considered that the site could be made suitable for the proposed land use scenario, subject to:*
 - *Further assessment and management/remediation (if warranted) of identified lead and carcinogenic PAH impacts in soil, taking into consideration future detailed design of the proposed development;*
 - *Addressing uncertainty around fill material in the vicinity of sampling points HA01, HA04 and HA06, taking into consideration future detailed design of the proposed development, and the limitations of undertaking further investigations while underground services are still present in the vicinity of HA06;*
- *In the event that management and/or remediation of lead or carcinogenic PAH in soils is required, there are well-established and industry accepted methods available for addressing this form of contamination. Management and/or remediation options could include in-situ containment, ex-situ containment, or offsite disposal;*
- *Hazardous materials including but not limited to asbestos, that may be present in structures on the site, should be appropriately managed/removed, and appropriate clearances obtained from a suitably experienced occupational hygienist or environmental consultant, before demolition of those structures. This will assist in mitigating potential for future land contamination to occur during demolition, which can happen if hazardous materials are not managed appropriately; and*
- *Further contamination assessment works at the site should be undertaken by a suitably-experienced consultant.”*

According to the *Contaminated Land Planning Guidelines*, a consent authority must not consent to the carrying out of any development on land unless:

- (a) *it has considered whether the land is contaminated, and*

- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
 - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*
- (2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.”*

Both a preliminary and Stage 2 Detailed Site Investigation have been undertaken for the subject site. Based on these investigations, SLR formed the view that the site can be made suitable for the proposed development.

The Guidelines require a consent authority to make a preliminary assessment of whether remediation would be acceptable on planning grounds, that is, the potential environmental impact of the works.

The report is not conclusive in that further investigation of some areas which are currently inaccessible due to existing underground services, will be required.

Certification from SLR or other suitably qualified consultant will be required (**Condition 31**) to confirm that the work is deemed to be Category 2 work under the SEPP and may be carried out without consent, prior to construction work commencing.

Conditions may be imposed on the development consent for the use requiring remediation to be carried out and validated before other work commences. **Condition 31** is recommended to address these requirements.

The proposed development is considered to comply with the requirements under *SEPP55*.

Draft State Environmental Planning Policy (Remediation of Land)

The draft SEPP is a relevant matter for consideration as it is an Environmental Planning Instrument that has been placed on exhibition. New provisions will be added in the SEPP to:

- *require all remediation work that is to be carried out without development consent, to be reviewed and certified by a certified contaminated land consultant*
- *categorise remediation work based on the scale, risk and complexity of the work*
- *require environmental management plans relating to post-remediation management of sites or ongoing operation, maintenance and management of on-site remediation measures (such as a containment cell) to be provided to Council*

Additional conditions have been added to the draft consent to ensure that the proposed development is generally consistent with the proposed new provisions of the draft SEPP. The additional conditions serve to provide an added layer of protection and certainty in respect of any contamination which may be found on the

site once excavation is commenced (**Condition 31**).

Draft Environment SEPP

The draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. The consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways and urban bushland areas. Changes proposed include consolidating a number of SEPPs, which include:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2 1997)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The proposal is not inconsistent with the provisions of the draft SEPP.

State Environmental Planning Policy (Affordable Rental Housing) 2009

There are 14 existing studio dwellings on the site and it was necessary to consider whether or not this SEPP applies. Consideration of the known conditional development approval from 1961 was sought from Council.

The Statement of Environment Effects by Urbis on Pages 24 and 25, submitted with the DA, confirmed that Part 3 of the SEPP applies to buildings that were “*low-rental residential buildings*” as at 28 January 2000. The ARHSEPP defines a “*low rental residential flat building*” as follows:

“low-rental residential building means a building used as a residential flat building containing a low-rental dwelling or as a boarding house and includes a building:

- (a) that, at the time of lodgement of a development application to which this Part applies, is lawfully used as a residential flat building containing a low-rental dwelling or as a boarding house, irrespective of the purpose for which the building may have been erected, or*
- (b) that was used as a residential flat building containing a low-rental dwelling or as a boarding house but that use has been changed unlawfully to another use, or*
- (c) that is vacant, but the last significant use of which was as a residential flat building containing a low-rental dwelling or as a boarding house”.*

The Department of Planning *Guidelines for the Retention of Existing Affordable Housing, 2009*, provides further guidance on what types of buildings are excluded from Part 3 of the SEPP.

When the SEPP is read in conjunction with the guidelines, the ARHSEPP follows the standard LEP definitions when determining what would be considered a “*low rental residential building*”. This means that Part 3 of the ARHSEPP only applies to buildings defined as “*residential flat buildings*” or “*boarding houses*”.

The guidelines also state that Part 3 of the ARHSEPP does not apply to other forms of accommodation lawfully characterised as an alternative land use which includes “*seniors housing*”.

Based on documentary evidence provided by Council, it can be confirmed that the former “Arrunga Aged Care Self Contained Units” were built as and lawfully used for

“seniors housing” prior to 28 January 2000. As such, Part 3 of the ARHSEPP does not apply in this instance.

Sydney Regional Environmental Planning Policy (Sydney Harbour Catchment) 2005

Matters for consideration under SREP 2005 include biodiversity, ecology and environmental protection, public access to and scenic qualities of foreshores and waterways, maintenance of views, control of boat facilities and maintenance of a working harbour. The proposal is not subject to the provisions that apply to the assessment of development applications as the site is not located in the Foreshores and Waterways Area.

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

A valid BASIX certificate has been submitted (954322M_03 dated 11/02/2020). The certificate demonstrates compliance with the provisions of the SEPP and adequately reflects all amendments to the application.

State Environmental Planning Policy (Infrastructure) 2007

The property has a frontage to Pacific Highway which is a Classified Road and consideration is required pursuant to Division 17.

Clauses 101, 102, and 104 of the SEPP must be taken into consideration.

For a site with frontage to a Classified Road, Clause 101 requires the consent authority to consider the practicality and safety of vehicular access to the site by a road other than the Classified Road. In this case, Tryon Lane will be extended and connected to Pacific Highway, providing vehicular access to the development via a new section of road to be dedicated. The proposed “shareway” formed part of the Planning Proposal for the site. RMS provided comments in relation to the Planning Proposal and the Lindfield Local Centre Transport Network Model Study Report in 2016, advising that access to the site should be via Tryon Place with the new extension connecting to Pacific Highway, as proposed. A left-turn in from Pacific Highway and one-way movement was to be provided, a matter which was subsequently incorporated into the site-specific DCP.

The design of the new road providing access to the site as part of the current DA and involving the removal of existing access points (full consideration under both Clause 101(1) and (2) was fully assessed by People Trans in the Traffic Impact Assessment and is acceptable to both the RMS and Council’s Engineering Section.

Clause 102 relates to the impact of road noise or vibration on non-road development and applies to residential development adjacent to a road with an average daily traffic volume (AADT) of more than 20,000 vehicles, which includes Pacific Highway. Clause 102(3) establishes noise criteria for bedrooms of the development between 10pm and 7am and other areas of the development at any other time.

Clause 104 of the SEPP relates to traffic-generating development. The proposed development with 130 new dwellings is a Column 1 type development in Table 1 of Schedule 3 in the SEPP, requiring referral to RMS based on the number of apartments being over 75 and the site having access to a Classified Road or to a road that connects with a Classified Road. The clause requires consideration of any matters raised by the RMS as well as the efficiency of movement of people to and

from the site and any potential traffic safety, road congestion or parking implications of the development.

The proposed development is not opposed by the RMS. RMS has provided a range of conditions to be imposed on the development (**Conditions 1 and 4**).

Similarly, SEPP clause 87 applies due to proximity to the rail corridor and requires consideration of rail noise and vibration impacts on bedrooms and other areas of the development.

Compliance with relevant acoustic criteria under both Clauses 87 and 102 has been confirmed by the Acoustic Consultant, subject to a range of noise attenuating measures relating to windows and balcony design.

The application is immediately adjacent to and proposes excavation adjacent to the rail corridor such that consideration is also required pursuant to Division 15 Clause 85 and 86 of the SEPP.

85 1) if the development:

- a) is likely to have an adverse effect on rail safety, or*
- b) involves the placing of a metal finish on a structure and the rail corridor concerned is used by electric trains, or*
- c) involves the use of a crane in air space above any rail corridor.*

86 (1) involves the penetration of ground to a depth of at least 2m below ground level (existing) on land:

- a) within or above a rail corridor, or*
- b) within 25m (measured horizontally) of a rail corridor. or*
- c) within 25m (measured horizontally) of the ground directly above an underground rail corridor.*

The proposed development involves excavation greater than 2m below ground level and is within 25m of the rail corridor.

The application was referred to Sydney Trains for concurrence. Concurrence has been provided conditionally, requiring a Licence to be entered into for the drainage discharging onto the rail corridor and as a requirement of a Deferred Commencement Consent (**Refer Schedule A**). There are also other standard conditions typically imposed by the Rail Authority on developments adjacent to the rail corridor. These conditions have been incorporated into the condition set (**Conditions 1 and 5**)

State Environmental Planning Policy (Vegetation in Non-rural Areas) 2017

SEPP (Vegetation in Non-rural Areas) 2017 applies to all land in the Ku-ring-gai LGA.

The intent of this Policy is to protect the biodiversity values of trees and other vegetation as well as preserve the amenity of non-rural areas of the State by requiring that permits be obtained for the removal of vegetation. For development applications which include tree removal, the merits of that tree removal are required to be considered against the requirements of the relevant planning controls.

The DA seeks development consent for outright tree removal rather than a permit.

The proposed tree removal has been addressed within the following Reports:

- Arboricultural Impact Report by Landscape Matrix

- Tree Survey Report by 360 Degrees

All 45 trees on the site are proposed to be removed. Two trees on the Pacific Highway nature strip are proposed to be retained.

Council's Landscape and Tree Assessment Officer has considered the proposal and the accompanying reports and advises that the proposed removal of trees on the site is acceptable.

Suitable conditions are recommended to ensure the protection of the two street trees and trees on adjoining land, in accordance with Australian Standard AS 4970-2009: Protection of Trees on Development Sites and the Arboricultural Impact Report (dated 30 November 2018 prepared by Landscape Matrix).

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

SEPP 65 aims to improve the design quality of residential flat buildings across NSW and provides an assessment framework, the Apartment Design Guide (ADG), for assessing 'good design'.

The proposed development triggers the application of SEPP 65 under Clause (4)(1).

The proposal is capable of meeting the aims and objectives contained within Section 2 of *SEPP 65: Design Quality of Residential Apartment Development* (SEPP 65).

Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000 requires the submission of a design verification statement from the building designer at lodgement of the development application. This documentation was submitted with the initial plans and an addendum was also provided for the amended plans. It is considered that the requirements of clause 50(1A) have been satisfied.

The SEPP requires the assessment of any development application for residential flat development against the design quality principles contained in the SEPP. The SEPP also requires consideration of the matters contained in the Apartment Design Guide (ADG).

Design principles:

The design principles provided in SEPP 65 were addressed in the Design Verification Statement and Compliance Table prepared by Fox Johnston submitted with the initial application. As part of the further design development of the proposal in the 18 months since lodgement, the level of satisfaction of the 9 design principles has increased with enhancement of safety and amenity and reduction of development impacts. Only one design principle is not fully resolved relating to access and the adherence to standards in the Livable Housing Design Guidelines.

The table below provides comments by the Consultant Planner in addition to those addressed in the Design Statement by Fox Johnston from 2018, with reference to the amended plans.

Design Principle	Objective	Comments	Complies
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<p>Principle 1: Context and Neighbourhood Character</p>	<p><i>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</i></p> <p><i>Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</i></p>	<p>The proposed development responds appropriately to the context by maximising the opportunities of the site close to the railway station and the Lindfield Town Centre, with sensitivity to the need to minimise impacts on the adjoining development at No. 257 Pacific Highway.</p>	<p>YES</p>
<p>Principle 2: Built Form and Scale</p>	<p><i>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</i></p> <p><i>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</i></p>	<p>The proposal, which generally is considered to satisfy the objectives under the SJB Masterplan which informed the Planning Proposal for the subject site, was further amended by the deletion of 4 apartments to reduce its impact on the adjoining development. The proposed height of the development, notwithstanding its proposed non-compliance with the LEP height control of 23.5m mainly in relation to roof infrastructure, is considered acceptable for the subject site. The development is well-articulated as a result of the 4 buildings with a 3-storey section on the southern boundary which helps to reduce its impact on the adjoining</p>	<p>YES</p>

		development. The building arrangement on the site in a U-shape with a central landscaped area opening to the north will provide good solar access to the garden areas and provide amenity. This design also means less walled area adjoining the new road, a better outlook and greater range of elements including entrances to the new development, the neighbourhood shop, fences, gates and landscaping, as viewed from the public domain area, adding interest and greater activation potential to the shared roadway.	
Principle 3: Density	<i>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</i>	The proposed density has been confirmed to comply with the 2:1 maximum FSR.	YES
Principle 4: Sustainability	<i>Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling, reducing reliance on technology and operation costs. Other elements</i>	<ul style="list-style-type: none"> • Sustainable design techniques have been incorporated into the development to encourage resource, energy and water efficiency. • With regard to cross ventilation, Condition 30(v) requires certification that the proposal achieves compliance with the 	YES

	<i>include recycling and reuse of sustainable materials, and deep soil zones for groundwater recharge and vegetation.</i>	60% control under the ADG <ul style="list-style-type: none"> • A revised BASIX Certificate has been submitted which is considered satisfactory • Fifteen apartments have not been provided with clothes drying facilities in their private open spaces. The drying lines will be required for all apartments. This is conditioned (Condition 30(i)) 	
Principle 5: Landscape	<p><i>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</i></p> <p><i>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long-term management.</i></p>	<ul style="list-style-type: none"> • 45 trees are proposed for removal. This plan for removal of trees is supported by Council's Landscape & Tree Assessment Officer • Provision is also made for planting of new trees and shrubs • Communal open space comprises 25% of the site area • Amended landscape plans are required by Condition 32, addressing further requirements of Council's Landscape & Tree Assessment Officer and Public Domain Co-ordinator 	YES
Principle 6: Amenity	<p><i>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living</i></p>	The proposed residential units would provide for acceptable amenity to residents in terms of solar access, natural ventilation, outlook,	YES

	<p><i>environments and resident wellbeing.</i></p> <p><i>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.</i></p>	<p>privacy (visual and aural), and access to private and common open space areas. Conditions are required to ensure that the proposed plenum solutions for the ventilation of some apartments do not compromise their acoustic performance. (Conditions 30(v) and (vi))</p>	
Principle 7: Safety	<p><i>Good design optimises safety and security, with the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</i></p> <p><i>A positive relationship between public and private spaces is achieved through clearly-defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.</i></p>	<ul style="list-style-type: none"> • A CPTED assessment has been undertaken. • The development has balconies overlooking the through-site link and communal areas which will promote passive surveillance of these areas 	YES
Principle 8: Housing Diversity and Social Interaction	<p><i>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</i></p> <p><i>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.</i></p>	<ul style="list-style-type: none"> • The final proposed apartment mix of 52 x 1BR; 50 x 2BR; and 28 x 3BR apartments allows diversity in occupant types and needs • Council's UDC advises that a greater extent of compliance is required in terms of adaptable units designed in accordance with silver level universal design features and visitable units. Full compliance will be enforced by a condition of consent 	<p>YES</p> <p>NO</p>

		(Conditions 41 and 43)	
Principle 9: Aesthetics	<p><i>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</i></p> <p><i>The visual appearance of well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</i></p>	<p>The proposed development presents a visually interesting development comprising 4 buildings. The overall development is well modulated with articulation in each elevation. The Schedule of Colours and Finishes submitted with the application provides for natural materials (brick, stone cladding, timbers for decks, flooring etc) in earthy natural tones. This will assist the delivery of an attractive residential development, in harmony with the existing local environment.</p>	YES

Apartment Design Guide (ADG)

Pursuant to clause 30(2) of SEPP 65, in determining a development application for a residential flat building the consent authority is to take into consideration the Apartment Design Guide (ADG). The following table is an assessment of the proposal against the guidelines provided in the ADG.

Ku-ring-gai does not have a design review panel and engaged Urban Design Consultant (UDC) (Studio Zanardo) to review the proposal. The amended plans submitted in August 2019 and February 2020 were largely a response to the detailed comments provided by the UDC.

The most recent amended plans were reviewed by Studio Zanardo and a number of issues relating to the amended plans are detailed in the Urban Design Section earlier in this report.

The amended proposal is considered to be generally acceptable with regard to the design quality principles and design guidance under the ADG, with the exception of its drainage design and the bio-retention basin in the eastern setback area. The amendments to architectural plans are dealt with in **Condition 30**. The amendments to the landscape plans are dealt with in **Condition 32**.

ADG COMPLIANCE TABLE	
Guideline	Compliance Y/N
<p><i>Objective 3A-1</i> Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context</p>	<p>NO</p> <ul style="list-style-type: none"> • A detailed site analysis was undertaken • The proposal (as amended) responds appropriately to the opportunities and constraints of the site • Insufficient consideration was given to site access, and there are some safety concerns in this regard. A condition requiring referral to the Traffic Committee to consider removal of parking in the kerbside lane of Pacific Highway is to be provided. (Condition 99)
<p><i>Objective 3B-1</i> Building types and layouts respond to the streetscape and site while optimising solar access within the development</p>	<p>YES</p> <ul style="list-style-type: none"> • The proposed GFA in the final plans is considered compliant with the 2:1 FSR under the LEP • The bulk and massing of the development has been designed to respond to the local context and topography. The design optimises solar access to apartments and communal areas within the development
<p><i>Objective 3B-2</i> Overshadowing of neighbouring properties is minimised during mid-winter</p>	<p>YES</p> <p>The proposal has sought to minimise overshadowing to the adjoining property, and a minimum of 2 hours between the hours of 9am and 3pm is available to all apartments on No. 257 Pacific Highway.</p>

ADG COMPLIANCE TABLE	
Guideline	Compliance Y/N
<p><i>Objective 3C-1</i> Transition between private and public domain is achieved without compromising safety and security</p>	<p>YES</p> <ul style="list-style-type: none"> • The proposal has been amended to provide more legible entrances • Public and private spaces are clearly defined and separated • The proposal will provide a positive contribution to the through-site link and the Pacific Highway frontage
<p><i>Objective 3C-2</i> Amenity of the public domain is retained and enhanced</p>	<p>YES</p> <p>The through-site link enhances connectivity to the station. It will be landscaped to ensure amenity (shade and visual attractiveness) for residents of the development, and other users accessing the station. The design of the new road prioritizes pedestrian movement.</p>
<p><i>Objective 3D-1</i> An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping</p>	<p>YES</p> <p>A communal open space is provided in the centre of the site and another on the roof of Buildings C and D. Both areas will have good solar access</p>
Design criteria	
<p>Communal open space has a minimum area equal to 25% of the site</p> <p>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)</p>	<p>YES</p> <p>The proposed communal space is an area of 790m² at ground level (with the central communal area being 706m²) and 699m² on the roof top. The total is 1489m² or 25% of the site.</p>
<p><i>Objective 3D-2</i> Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting</p>	<p>YES</p> <p>The proposed communal space is designed to allow for a variety of uses, including passive seating areas, swimming pool, grassed and landscaped areas. There is also a screened communal drying area.</p>

ADG COMPLIANCE TABLE			
Guideline			Compliance Y/N
<i>Objective 3D-3</i> Communal open space is designed to maximise safety			YES There are no safety issues relating to the communal space.
<i>Objective 3D-4</i> Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood			YES The location and design of the Tryon Lane extension will improve connectivity and pedestrian flow in the area.
<i>Objective 3E-1</i> Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality			YES Adequate tree canopy cover and provision for planting on structures is generally provided in the proposed landscape plan, with additional planting to be provided in the eastern setback area once the bio-retention basin is removed from the plans. (Conditions 32 and 33).
Design criteria			
Deep soil zones are to meet the following minimum requirements:			YES 410.6m ² is required (7%) for deep soil zones. 1276m ² (21.7%) is provided. This exceeds the ADG requirement.
Site area	Minimum dimensions	Deep soil zone (site area)	
greater than 1,500m ²	6m	7%	
<i>Objective 3F-1</i> Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy			YES 14m between the southern proposed buildings (Buildings B and C) and the adjoining RFB.
Design criteria			
Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:			YES
Building height	Habitable rooms and balconies	Non-habitable rooms	Proposal
up to 12m (4 storeys)	6m	3m	
up to 25m (5-8 storeys)	9m	4.5m	
Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2) Gallery access circulation should be treated as habitable space measuring privacy separation distances between neighbouring properties			<ul style="list-style-type: none"> Separation distances are achieved Certain adjacent balconies on the rear elevation require additional privacy screens (Condition 30(iii))

ADG COMPLIANCE TABLE	
Guideline	Compliance Y/N
<p><i>Objective 3F-2</i> Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space</p>	<p>YES The south facing balconies have been set back from the boundary achieving a 6m average with small encroachments due to their angular design. No. 257 already has generous setbacks to its northern boundary. When these setbacks are combined, the resultant building separation is greater than the minimum separation for habitable rooms and balconies up to 4 storeys of 12m. Also, the proposed balconies on the southern elevation have been offset to minimise opportunities for direct overlooking.</p>
<p><i>Objective 3G-1</i> Building entries and pedestrian access connects to and addresses the public domain</p>	<p>YES There are two pedestrian entries, one from Tryon Lane and one from Pacific Highway.</p>
<p><i>Objective 3G-2</i> Access, entries and pathways are accessible and easy to identify</p>	<p>YES Both entries are well-designed and identifiable.</p>
<p><i>Objective 3G-3</i> Large sites provide pedestrian links for access to streets and connection to destinations</p>	<p>YES The connection via existing Tryon Lane is an example of this being achieved.</p>
<p><i>Objective 3H-1</i> Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes</p>	<p>YES The location of the vehicular entry into the basement is in the safest possible location, i.e., in the low point of the site. This location does not detract from the street appeal of the new development and will not be visible from Pacific Highway.</p>

ADG COMPLIANCE TABLE	
Guideline	Compliance Y/N
Design guidance	
Car park access should be integrated with the building's overall facade. Design solutions may include: <ul style="list-style-type: none">the materials and colour palette to minimise visibility from the streetsecurity doors or gates at entries that minimise voids in the facadewhere doors are not provided, the visible interior reflects the facade design and the building services, pipes and ducts are concealed	YES The driveway entrance will be visible to pedestrians in Tryon Place but softened by planting in the landscaped areas in the vicinity of the vehicular entrance.
Objective 3J-1 1. Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas	YES The site is approximately 150m from the Lindfield Railway station with a direct pedestrian connection via Tryon Lane. 153 car spaces are provided within the basement of the development which meets and exceeds the minimum requirements outlined in RMS Guidelines.
153 spaces including 21 accessible spaces, 23 visitor car spaces including one disabled, 2 car share spaces, 4 commercial spaces including one for loading, and 1 car wash bay which can also be used for visitor parking	
44 bicycle spaces – comprising 28 for residents and 16 spaces for visitors	
Design criteria	
1. For development in the following locations: <ul style="list-style-type: none">on sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area; oron land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent, in a nominated regional centre, the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off-street	YES

ADG COMPLIANCE TABLE	
Guideline	Compliance Y/N
<p><i>Objective 3J-2</i> Parking and facilities are provided for other modes of transport</p>	<p>YES 2 car share spaces are provided as well as 44 bicycle spaces, including 28 for residents and 16 for visitors. Electric charge stations can be requested. (Condition 30(viii)).</p>
<p><i>Objective 3J-3</i> Car park design and access is safe and secure</p>	<p>YES The basement design and layout and access is satisfactory.</p>
<p><i>Objective 3J-4</i> Visual and environmental impacts of underground car parking are minimised</p>	<p>YES There are no visual issues with the design of the basement, as seen from public areas. The basement has been designed as a tanked structure to minimise environmental impacts.</p>
<p><i>Objective 3J-5</i> Visual and environmental impacts of on-grade car parking are minimised</p>	<p>N/A (all parking is provided below ground. There is no parking in Tryon Place).</p>
<p><i>Objective 3J-6</i> Visual and environmental impacts of above ground enclosed car parking are minimised</p>	<p>YES The car parking is all basement parking. The basement wall does rise significantly above the natural ground level in the north eastern corner of the site, but is hidden by a wall supporting the balconies of lower ground level units above. Planting is provided in front of this wall. As such visual impacts are acceptable.</p>
<p><i>Objective 4A-1</i> To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space</p>	<p>YES Amendments to plans have ensured compliance with SEPP 65 controls on the required number of apartments receiving 2 hours of sunlight to their balconies and living areas.</p>

ADG COMPLIANCE TABLE	
Guideline	Compliance Y/N
Design criteria	
1 Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas	YES 70% of apartments receive the minimum of 2 hours to living rooms and private open space.
2 N/A	YES 8% of apartments receive no direct sunlight.
3 A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	
Objective 4A-2 Daylight access is maximised where sunlight is limited	YES South-facing balconies have good separation to adjoining development, which optimises daylight access.
Objective 4A-3 Design incorporates shading and glare control, particularly for warmer months	YES All balconies are covered.
Objective 4B-1 All habitable rooms are naturally ventilated	YES
Objective 4B-2 The layout and design of single aspect apartments maximises natural ventilation	YES (subject to Acoustic/Environmental Engineer certification to confirm performance of plenum solutions). (Conditions 30(v) and 30(vi)).
Objective 4B-3 The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents	YES
Design criteria	
1 At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building (Note this development has a maximum of seven levels).	YES (subject to confirmation from the Acoustic/Environmental Engineer that plenum solutions will be effective). Conditions 30(v) and 30(vi)).
2 Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	
Objective 4C-1 Ceiling height achieves sufficient natural ventilation and daylight access	YES

ADG COMPLIANCE TABLE														
Guideline		Compliance Y/N												
Design criteria														
Measured from finished floor level to finished ceiling level, minimum ceiling heights are: Minimum ceiling height for apartment and mixed use buildings Habitable rooms 2.7m Non-habitable 2.4m		YES Proposal 2.7m 2.4m												
Objective 4C-2 Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms		YES												
Objective 4C-3 Ceiling heights contribute to the flexibility of building use over the life of the building		N/A (The building is an RFB with a small retail component being the neighbourhood shop, specifically designed to suit this purpose.												
Objective 4D-1 The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity		YES All apartment layouts are satisfactory.												
Design criteria														
Apartments are required to have the following minimum internal areas: <table><tr><td>Apartment type</td><td>Minimum internal area</td><td>Proposal</td></tr><tr><td>1 bedroom</td><td>50m²</td><td></td></tr><tr><td>2 bedroom</td><td>70m²</td><td></td></tr><tr><td>3 bedroom</td><td>90m²</td><td></td></tr></table> The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m2 each. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms		Apartment type	Minimum internal area	Proposal	1 bedroom	50m ²		2 bedroom	70m ²		3 bedroom	90m ²		YES YES YES
Apartment type	Minimum internal area	Proposal												
1 bedroom	50m ²													
2 bedroom	70m ²													
3 bedroom	90m ²													
Objective 4D-2 Environmental performance of the apartment is maximised		YES												

ADG COMPLIANCE TABLE		
Guideline		Compliance Y/N
Design criteria		
1	Habitable room depths are limited to a maximum of 2.5 x the ceiling height	YES
2	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	NO
Objective 4D-3 Apartment layouts are designed to accommodate a variety of household activities and needs		YES
Design criteria		
1	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space)	YES
2	Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	YES
3	Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> 3.6m for 1-bedroom apartments 4m for 2 and 3 bedroom apartments 	YES
4	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	YES
Objective 4E-1 Apartments provide appropriately sized private open space and balconies to enhance residential amenity		YES
Design criteria		
All apartments are required to have primary balconies as follows:		YES
Dwelling type	Minimum area	Minimum depth
1 bedroom apartments	8m ²	2m
2 bedroom apartments	10m ²	2m
3+ bedroom apartments	12m ²	2.4m
The minimum balcony depth to be counted as contributing to the balcony area is 1m		Balconies width 2m
For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m		
Objective 4E-2 Primary private open space and balconies are appropriately located to enhance liveability for residents		YES

ADG COMPLIANCE TABLE		
Guideline		Compliance Y/N
Objective 4E-3 Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building		YES
Objective 4E-4 Private open space and balcony design maximises safety		YES
Objective 4F-1 Common circulation spaces achieve good amenity and properly service the number of apartments		YES
Design criteria		
1. The maximum number of apartments off a circulation core on a single level is eight		YES
2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40		N/A
Objective 4F-2 Common circulation spaces promote safety and provide for social interaction between residents		YES
Objective 4G-1 Adequate, well designed storage is provided in each apartment		YES
Design criteria		
In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:		YES
Dwelling type	Storage size volume	Proposal
Studio apartments	4m ³	
1 bedroom apartments	6m ³	
2 bedroom apartments	8m ³	
3+ bedroom apartments	10m ³	
At least 50% of the required storage is to be located within the apartment		
Objective 4G-2 Additional storage is conveniently located, accessible and nominated for individual apartments		YES
Objective 4H-1 Noise transfer is minimised through the siting of buildings and building layout		YES

ADG COMPLIANCE TABLE	
Guideline	Compliance Y/N
<p><i>Objective 4H-2</i> Noise impacts are mitigated within apartments through layout and acoustic treatments</p>	<p>YES (subject to Acoustic Engineers Certificate for plenum and wintergarden glazing solutions, where applicable). (Conditions 30(vi)).</p>
<p><i>Objective 4J-1</i> In noisy or hostile environments, the impacts of external noise and pollution are minimised through the careful siting and layout of buildings</p>	<p>YES</p>
<p><i>Objective 4J-2</i> Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission</p>	<p>YES</p>
<p><i>Objective 4K-1</i> A range of apartment types and sizes is provided to cater for different household types now and into the future</p>	<p>YES 52x1BR; 50x2BR and 28x3BR apartments of varying types and sizes are proposed.</p>
<p><i>Objective 4K-2</i> The apartment mix is distributed to suitable locations within the building</p>	<p>YES The apartment types are mixed throughout the 4 buildings.</p>
<p><i>Objective 4L-1</i> Street frontage activity is maximised where ground floor apartments are located</p>	<p>YES Where location is appropriate. This excludes orientation towards Pacific Highway.</p>
<p><i>Objective 4L-2</i> Design of ground floor apartments delivers amenity and safety for residents</p>	<p>YES</p>
<p><i>Objective 4M-1</i> Building facades provide visual interest along the street while respecting the character of the local area</p>	<p>YES</p>
<p><i>Objective 4M-2</i> Building functions are expressed by the façade</p>	<p>YES</p>
<p><i>Objective 4N-1</i> Roof treatments are integrated into the building design and positively respond to the street</p>	<p>YES</p>
<p><i>Objective 4N-2</i> Opportunities to use roof space for residential accommodation and open space are maximised</p>	<p>YES</p>

ADG COMPLIANCE TABLE	
Guideline	Compliance Y/N
<i>Objective 4N-3</i> Roof design incorporates sustainability features	YES
<i>Objective 4O-1</i> Landscape design is viable and sustainable	YES Subject to amended landscape plan required by Condition 32
<i>Objective 4O-2</i> Landscape design contributes to the streetscape and amenity	YES Subject to Condition 32
<i>Objective 4P-1</i> Appropriate soil profiles are provided	YES
<i>Objective 4P-2</i> Plant growth is optimised with appropriate selection and maintenance	YES
<i>Objective 4P-3</i> Planting on structures contributes to the quality and amenity of communal and public open spaces	YES
<i>Objective 4Q-1</i> Universal design features are included in apartment design to promote flexible housing for all community members	YES Subject to Certification by Access Consultant (Conditions 40-42)
<i>Objective 4Q-2</i> A variety of apartments with adaptable designs are provided	YES
<i>Objective 4Q-3</i> Apartment layouts are flexible and accommodate a range of lifestyle needs	YES
<i>Objective 4R-1</i> New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place	N/A
<i>Objective 4R-2</i> Adapted buildings provide residential amenity while not precluding future adaptive reuse	N/A
<i>Objective 4S-1</i> Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement	YES
<i>Objective 4S-2</i> Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents	YES

ADG COMPLIANCE TABLE	
Guideline	Compliance Y/N
<i>Objective 4T-1</i> Awnings are well located and complement and integrate with the building design	N/A
<i>Objective 4T-2</i> Signage responds to the context and desired streetscape character	YES Subject to Condition 144
<i>Objective 4U-1</i> Development incorporates passive environmental design	YES
<i>Objective 4U-2</i> Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer	YES
<i>Objective 4U-3</i> Adequate natural ventilation minimises the need for mechanical ventilation	YES
<i>Objective 4V-1</i> Potable water use is minimised	YES
<i>Objective 4V-2</i> Urban stormwater is treated on site before being discharged to receiving waters	YES
<i>Objective 4V-3</i> Flood management systems are integrated into site design	N/A
<i>Objective 4W-1</i> Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents	YES
<i>Objective 4W-2</i> Domestic waste is minimised by providing safe and convenient source separation and recycling	YES
<i>Objective 4X-1</i> Building design detail provides protection from weathering	YES
<i>Objective 4X-2</i> Systems and access enable ease of maintenance	YES
<i>Objective 4X-3</i> Material selection reduces ongoing maintenance costs	YES

Justification for Variations to ADG Controls

The following variations to the ADG controls, as identified above, which are not resolved to be by conditions of consent are further considered below:

- **Consideration of safe access to the site**

Removal of 3 parking spaces in the kerbside lane of Pacific Highway on the approach to the new road is to be considered and referral to the Traffic Committee is required by **Condition 99**.

- **The maximum habitable room depth in open plan layouts (where the living, dining and kitchen are combined) depth is 8m from a window.**

3 apartments in Building B (G03, 103 and 202) have a habitable room depth of 9m, representing a minor variation to the ADG requirement. The variation could be addressed by internal wall movements creating additional storage space but the variation is considered acceptable as it provides additional area to the open plan layout of these relatively-small one-bedroom apartments with areas of 52m². A condition to require compliance with the 8m depth requirement is not considered warranted in the circumstances.

- **Performance of plenum solutions and balcony glazing for apartments**

Railway-facing balconies are proposed to have glazing which is 30% open to the elements at all times. The remaining 70% glazing is partially fixed and partially-moveable but will need to be in the full fixed position when a balcony door is open to achieve the required level of noise attenuation.

The 30/70 glazing solution is proposed for 32 apartments facing the railway. However, it is not a well-known solution for noise attenuation such that there is a chance that if balcony doors need to close to achieve the noise attenuation required, plenum solutions will need to be provided to ventilate such apartments. Plenum solutions must be designed into the apartment up front and there should not be reliance on the potential for them to be retrofitted.

The UDC has also raised concern about the design and efficiency of plenum solutions that do not involve an acoustic box on the balcony but there are only 6 such apartments, representing 5% of the total. The following summarises the situation:

- Acoustics

Of the 130 units in the proposal,
22 do not require some form of noise attenuation
57 use plenums (considered satisfactory)
19 use a combination of plenums and discharge (considered satisfactory)
32 rely on the 30/70 solution which is supported by JHA Acoustic Report dated July 2019.

- Natural cross ventilation

Of the 130 units in the proposal,
73 (56%) are considered to be naturally cross ventilated
51 (39%) are not considered to be naturally cross ventilated
6 (5%) are considered as attempting to use a baffled plenum for natural cross ventilation which may not be fully compliant.

The UDC recommends further specialist consideration of the 32 apartments above reliant on the 30/70 solution. Plenums could potentially form part of the optimum solution in relation to these apartments.

The 6 units above proposed with the baffled plenum subject to doubt are required to meet the 60% ADG requirement for natural cross ventilation. These units represent only 5% of the total number of units.

The ADG4J -1 and 2 states that where developments are unable to achieve the design criteria due to noise and pollution, alternatives may be considered in the areas of private open space and balconies, and natural cross ventilation.

Accordingly, given the small number of units in question required to achieve the cross ventilation requirement of 60%, it is considered that the ADG provides a level of flexibility in this regard and that the non-compliance is not sufficient to warrant refusal of the application.

Appropriate conditions have been recommended to obtain the best possible outcome in relation to both acoustic and ventilation requirements. **Conditions 30(v), 30 (vi) and 104).**

Consolidating LEPs Planning Proposal

The Planning Proposal was on public exhibition from 25 October 2019 to 22 November 2019. The purpose of the Planning Proposal is to consolidate the Ku-ring-gai Local Environmental Plan (Local Centres) 2012 and Ku-ring-gai Local Environmental Plan 2015. The Planning Proposal is an amendment to KLEP 2015 and will correct site specific mapping errors, resolve the status of deferred areas, remove an existing land reservation in Gordon and amend heritage listings. The Planning Proposal does not seek to amend the zoning and development standards that apply to the subject site. The proposal is consistent with the Planning Proposal.

Ku-ring-gai LEP (Local Centres) 2012

Zoning and permissibility:

The site is zoned R4 High Density Residential. The proposed development is defined as a mixed-use development containing 130 residential apartments and a neighbourhood shop. A new road is also proposed.

A residential flat building is specifically permitted in the list of permitted uses in the R4 zone as is a neighbourhood shop and road. The shop is subject to the definition of a neighbourhood shop which outlines its nature in serving the day-to-day needs of local residents and restricts what can be sold. The shop use is also subject to the requirements of Clause 5.4 Requirements for Miscellaneous Permissible Uses which restricts the size of a Neighbourhood Shop to 100m².

R4 Zone objectives:

The objectives of the zone are:

- *To provide for the housing needs of the community within a high density residential environment;*
- *To provide a variety of housing types within a high density residential environment;*
- *To enable other land uses that provide facilities or services to meet the day*

- to day needs of residents;
- To provide for high density residential housing close to public transport, services and employment opportunities.

The development provides a variety of apartment types i.e. a mix of 1, 2 and 3 bedrooms dwellings, within walking distance of Lindfield station and provides the space for a future neighbourhood shop which will be well located to meet the daily needs of residents of the development as well as other local residents.

The proposed development therefore upholds the zone objectives.

Development standards:

Ku-ring-gai LEP (Local Centres) 2012

Development standard	Proposed	Complies
CI 4.3 - Height of buildings: Maximum Building Height - 23.5 metres	26.8 metres	NO (Clause 4.6 variation submitted)
CI 4.4 - Floor space ratio (FSR): Maximum Floor Space Ratio - 2.0:1	1.99:1 GFA is 11,688m ²	YES
CI 5.4 – Controls Relating to Miscellaneous Permissible Uses (7) Neighbourhood shops If development for the purposes of a neighbourhood shop is permitted under this Plan, the retail floor area must not exceed 100m ²	62m ²	YES
CI 6.5 - Site requirements for multi dwelling housing and residential flat buildings: <ul style="list-style-type: none"> Min 1,200m² 30m frontage for land over 1,800m² 	The combined site is greater than 1800m ² and has a frontage of 68m to Pacific Highway.	YES

Clause 4.6 Exceptions to development standards

The proposed development breaches the height standard of 23.5m contained within the LEP. The applicant has made a submission pursuant to Clause 4.6 to vary the height standard by 3.3m or 14%. Clause 4.6 provides for flexibility in applying certain development standards so as to achieve better development outcomes by allowing flexibility in certain circumstances.

The following table is an assessment of the Clause 4.6 Variation Request, referencing the grounds for requesting flexibility submitted by the applicant and based on tests developed in Case Law in the Land and Environment Court of NSW.

Clause 4.6 (KLEP) provision	Assessment
Whether the proposed development is consistent with the objectives of the particular standard.	The objectives of the standard are: <ul style="list-style-type: none"> To ensure that the height of development is appropriate for the scale of the different centres within the hierarchy of Ku-ring-gai centres;

Clause 4.6 (KLEP) provision	Assessment
	<ul style="list-style-type: none"> <i>To establish a transition in scale between the centres and the adjoining lower density residential and open space zones to protect local amenity;</i> <i>To enable development with a built form that is compatible with the size of the land to be developed.</i> <p>The height limit is breached in the following areas:</p> <ul style="list-style-type: none"> Parts of the roofs of all buildings protrude above the height limit with the maximum breach being the top of a skylight on Building D which allows increased sunlight to apartments below. This part of Building D sits directly above a localised depression in the site topography Lift overruns, solar panels, walls of stairwells, providing access to the roof area, car park exhaust riser and garden walls. <p>The Clause 4.6 Variation Request explains the exact extent of variation <u>for each specific element on each building</u> which breaches the height limit and gives a detailed explanation of why this has occurred.</p> <p>The request also provides information on the total extent of the roof which breaches the height limit (52%) including a % figure for each building.</p> <p>There are two main reasons for the current design which involves the above breaches on the top level of the development:</p> <ol style="list-style-type: none"> 1. The SJB Masterplan was prepared prior to the current Apartment Design Guidelines (ADG), ie when the previous Residential Flat Design Code (RFDC) was in place. The ADG has set a 3.1m minimum floor-to-floor height which is higher than the previous RFDC. To achieve the equivalent number of residential levels contemplated by the SJB Masterplan ie 6 storeys fronting Pacific Highway and 7 storeys adjacent to the rail line, additional height is required particularly on the lowest parts of the site such as the north eastern corner. 2. The ADG also requires 25% of the site area to be provided as open space. This was not the requirement under the earlier RFDC. To meet this quantity of open space, and still satisfy the requirement for part of the site to be dedicated for public road, it has been necessary to provide open space as part of a roof top garden. It is the walling associated with the lifts and access stairs which provide access to the roof top garden, which mainly contribute to a number of the height breaches.

Clause 4.6 (KLEP) provision	Assessment
	<p>The height exceedances do not result in the building being visually dominant. The breaching elements are hidden from view from Pacific Highway as they are behind the parapet of the western elevation (Building A and B). They arise as a result of the slope of the land down to the rear of the site. The additional building height and height of roof top building elements above the maximum height do not result in additional residential storeys above the height limit. The numbers of storeys proposed are exactly that contemplated under the Masterplan and associated Planning Proposal.</p> <p>It is also noted that almost half of the total roof area of the development (48%) sits <u>below</u> the height limit and that the majority of this compliant roof area is located on the southern portions of Buildings B and C, adjacent to the sensitive southern boundary adjoining No. 257 Pacific Highway.</p> <p>The development complies with the permitted FSR of 2:1 for the site and is not therefore an overdevelopment of the site.</p> <p>The issue of the need to transition between commercial development (ie B2 zone to the north) and residential development to the south, was fully considered in the Masterplan in terms of the adopted building heights for the site, which included a lower height for the centre building to try and minimise solar impacts on the adjoining development No. 257 Pacific Highway, and a stepped development form which responds to the sloping nature of the site.</p> <p>In the subject proposal, we note that development immediately to the north can only achieve a height of 20.5m which is a maximum of 6 storeys. The site immediately to the south, ie No. 257, if redeveloped, can only achieve a maximum height of 11.5m which is 3-4 storeys. As such, it is important to have a well-articulated development on the subject site which is not excessively high or incongruent with the character of adjoining development. The 3 level centre building (Building B) in the proposed development helps to break up its overall visual bulk. The Masterplan layout of buildings on the subject site has changed, but the principles of having a well articulated built form and minimising solar impacts to No. 257 have driven the revised layout. As such, the second objective of the height standard i.e. of creating an acceptable transition, is satisfied.</p> <p>The applicant has demonstrated that the development is appropriate in scale and generally consistent with</p>

Clause 4.6 (KLEP) provision	Assessment
	the objectives of the SJB Masterplan and all three objectives of the height standard.
Whether the proposed development is consistent with the objectives for development within the zone.	<p>The proposal is consistent with the R4 zone objectives (listed earlier in this report) and demonstrated below:</p> <ul style="list-style-type: none"> • The proposed height variation ensures that the housing needs of the community can be provided within a high amenity, high density residential environment. The variation ensures that the ADG controls can be achieved within the building including minimum floor-to-floor heights and a compliant quantity of communal open space; • A range of 1, 2 and 3-bedroom apartments has been provided to meet varying community needs for different apartment types and sizes; • The neighbourhood shop is a complementary land use which will cater for day-to-day needs of residents, local commuters as well as activating the laneway; • The proposed variation facilitates this high density, mixed-use development within walking distance of Lindfield station and the Town Centre where services and employment opportunities are concentrated.
Whether compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.	<p>The Clause 4.6 variation request applies the test in <i>Wehbe vs Pittwater Council</i> to argue that strict compliance with the height development standard is unreasonable and/or unnecessary in the case of the subject development. The following is a summary of the reasons:</p> <ul style="list-style-type: none"> • <i>“The proposal is consistent with the objectives of the building height standard;</i> • <i>The maximum FSR of the site is not exceeded by the proposed development;</i> • <i>The variation enables the provision of rooftop communal open space to meet the requirements of the ADG. This ensures sufficient space can be allocated on the site for the planned through- site link;</i> • <i>The height variation results in part from the provision of ADG compliant 3.1m floor-to-floor heights within the number of storeys envisaged by the SJB Masterplan and KDCP;</i> • <i>The variation to the development standard is supportable by environmental planning grounds including the limited environmental impact resulting from the breach to the standard, and benefits to the proposal resulting from the breach;</i> • <i>Maintaining strict compliance with the development standard is not considered to be in the public interest.”</i>

Clause 4.6 (KLEP) provision	Assessment
	<p>For focus to be given to the specific aspect or element of the development that contravenes the standard i.e. the height control (as was required in <i>Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118</i>), the locations, extent, purpose, impact and visibility of all the proposed roof top infrastructure including the skylights, the stairs and the lift overruns which contribute to the set of height breaches, require examination. This has been provided in detail in the Clause 4.6 Variation Request.</p> <p>All elements of each of the 4 buildings which breach the standard are listed and explained in the Clause 4.6 variation request, with associated diagrams. The maximum breach in overall height is the skylight in Building D (3.3m) which is located over a natural depression in the ground. There are other structures on each of the 4 buildings which also breach the height standard of 23.5m.</p> <p>All 4 buildings indicate a range of breaches to the 23.5m height standard, including parapets and roof infrastructure. The maximum breach for any part of the roof of any building is 3.3m, which occurs with the top of the skylight in Building D.</p> <p>The detailed explanation also shows the extent of the variation over the roofs of the four buildings. In summary, 52% of the total roof area breaches the height standard roof infrastructure contributing to the main areas of non-compliance.</p> <p>The submitted Clause 4.6 variatin written request adequately explains that the height control does not arise from a design which seeks to achieve additional floor space or development yield. It has arisen out of changes to relevant planning controls such as occurred with the change from the RFDC to the ADG in the time since the development of the Masterplan and associated Planning Proposal (commenced in 2014), which set the height limit at the time. The DA was prepared and submitted <u>after</u> the guidelines changed.</p>
<p>Whether there are sufficient environmental planning grounds to justify contravening the development standard.</p>	<p>The applicant has provided the following environmental planning grounds for the proposed variation to the development standard:</p> <ul style="list-style-type: none"> • <i>Site topography: The site falls approximately 7m from south-west to the north-east and in part causes the exceedance to the maximum building height. Reducing the height would be inconsistent with the SJB Masterplan and KDCP which specifies 7 storeys fronting the rail line and 6 storeys to Pacific Highway. The request examines the height</i>

Clause 4.6 (KLEP) provision	Assessment
	<p><i>breaches in detail for every building in the development;</i></p> <ul style="list-style-type: none"> • <i>Site configuration: Whilst there was a ‘rule of thumb’ within the previous RFDC for communal open space 25-30% the areas provided within the original SJB Masterplan did not achieve this requirement. This meant that additional area was required in the form of a rooftop garden in order to comply with the ADG. The access to these areas has (in part) contributed to the height variation. Also, the requirement under the DCP to provide the 13m wide new road, together with boundary setbacks under the ADG, has constrained the amount of available site area;</i> • <i>Overshadowing: The proposal achieves acceptable solar impacts to adjacent properties, consistent with the level of impact anticipated by the original SJB Masterplan which informed the controls within the KLEP2012;</i> • <i>Residential amenity: The exceedance to the building height arising from the proposed skylights is justifiable because they improve natural light and ventilation to apartments at the top of the building;</i> • <i>Visual impact: The buildings have been designed to reduce the visual impact of the proposed roof top infrastructure which breaches the height limit, when viewed from the public domain;</i> • <i>Planned future character: Notwithstanding the minor variation to the maximum building height, the proposed built form remains consistent with the desired future character within the Ku-ring-gai DCP which envisages a maximum 7 storey mixed use residential apartment building with an active ground plane, neighbourhood shop and new road connecting Pacific Highway to Tryon Lane.</i> <p>If the clause 4.6 variation request is denied, the development yield based on an FSR of 2:1 is likely to be considerably lower and may not achieve the form of development contemplated in the SJB Masterplan. This could impact the viability of the development and possibly its ability to deliver on the provision and construction of the new road.</p>
Whether the proposed development is in the public interest.	The proposal is considered to be in the public interest as it is consistent with the objectives of both the development standard and the R4 zone.
Concurrence of the Planning Secretary	Circular PS20-002 issued on 5 May 2020 informed Council that it may assume the Planning Secretary’s concurrence for exceptions to development standards. However, any variation to a standard that exceeds 10% must be considered by a Local Planning Panel or Regional Planning Panel. The variation in this case is a breach of 14% which may be considered by the SNPP.

Clause 4.6 (KLEP) provision	Assessment
Any State or regional significant planning matters raised by contravening the standard	Contravention of the standard does not in the circumstances raise any State or regionally- significant planning matters.
The public benefit of maintaining the standard	Council has previously varied the height control in the Ku-ring-gai LGA when such a variation has been considered justified. There would be no public benefit served by denying the request to vary the height control on the subject site to the extent requested under the subject DA as the objectives of the height standard and the zone objectives can be fully achieved with the variation agreed to.

The Height of Buildings development standard prescribed by clause 4.3 of KLEP2012 is a development standard capable of being varied under clause 4.6(2) of KLEP2012. Furthermore, the proposed variation is not excluded from the operation of clause 4.6(2) as it does not comprise any of the matters listed within clause 4.6(8) of KLEP2012.

The Request has provided detailed arguments to establish that compliance with the development standard is unreasonable or unnecessary, using the test in *Wehbe v Pittwater Council*.

The Request also demonstrates that there is an absence of environmental harm arising from the contravention of the development standard and positive planning benefits arising from the proposed development.

Clause 4.6(2) gives permissive power to a consent authority to grant development consent for a development that contravenes a development standard. Case law establishes two important considerations:

Consideration 1

- (i) Under clause 4.6(4)(a), the consent authority must be able to form a positive opinion that the request has adequately addressed the matters in 4.6(3)(a), ie that compliance is unreasonable or unnecessary in the circumstances (satisfying at least one of the 5 tests in *Wehbe v Pittwater Council (2007)*. The variation request has addressed at least one test;
- (ii) Also, under 4.6(3)(b) sufficient environmental planning grounds to justify contravening the development standard need to be demonstrated. To be “sufficient” there needs to be focus on the specific element of the development that contravenes the development standard and not just the development as a whole. Also to be considered “sufficient”, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under 4.6(4)(a)(i) that the variation request has adequately addressed the matter. The variation request has provided a list of environmental planning grounds to address clauses 4.6(3)(b);
- (iii) Under clause 4.6(4)(a)(ii), a direct opinion needs to be formed by the consent authority that the proposed development will be in the public interest because

it is consistent with the objectives of the development standard which is contravened and with the zone objectives. The variation request has shown that the objectives of the standard are achieved notwithstanding non-compliance with the Height of Buildings standard in clause 4.3 of the KLEP2012. The Request has also shown that the zone objectives are met by the proposed development. As such, the consent authority could potentially form the view that the proposed development is in the public interest.

The clause 4.6 variation request includes detailed diagrams which indicate which parts of the roof and which elements in particular have contributed to the contravention of the development standard. The independent UDC confirms that the variation to the building height is considered acceptable from an urban design perspective and will not be visible from Pacific Highway. The clause 4.6 variation request also explains in detail the reasons for the contravention by this DA, in terms of the changeover from the Residential Flat Design Code to the Apartment Design Guide associated with SEPP 65. The request also outlines the consequences of the contravention in terms of satisfaction of the objectives of the LEP height standard and the objectives of the R4 zone.

The arguments put forward support the view that the proposed development is in the public interest because it satisfies both the objectives of the development standard and the zone objectives. As such, the public interest would not be harmed by approval of the development.

The arguments put forward in the written request are considered adequate and sufficiently detailed to allow the consent authority to form an opinion that the required matters have been addressed.

Consideration 1 is thereby considered to be satisfied.

Consideration 2

Under clause 4.6(4)(b), before the consent authority can exercise the power to grant development consent for development that contravenes a development standard, the concurrence of the Secretary of the Department of Planning and Environment must be obtained.

Under clause 64 of the EP&A Regulation 2000, the Secretary has given written Notice dated 5 May 2020 attached to the Planning Circular PS20-002, that consent authorities may assume the Secretary's concurrence for exceptions to development standards in respect of applications under clause 4.6, subject to the conditions in the Circular. Variations to numerical development standards of more than 10% or non-numerical standards are required to be determined by a Regional Panel or Local Planning Panel. The Sydney North Planning Panel may assume concurrence with respect to the variation to the building height development standard.

Consideration 2 is considered to be satisfied.

Overall, it is considered that the proposed variation to the height of buildings development standard is considered appropriate and well-founded and can be supported under the provisions of clause 4.6 Exceptions to development standards.

This report recommends that the Panel supports the Clause 4.6 variation request.

Consideration of Gross Floor Area (GFA) and Compliance with Floor Space Ratio (FSR)

It is considered that the proposed development complies with the 2:1 FSR limit that applies to the site under the Ku-ring-gai LEP (Local Centres) 2012. To arrive at this position, it was necessary to consider the definition of Gross Floor Area under the LEP, as well as the specific design of balconies which are proposed to attenuate noise from the road and railway, and to maximise amenity.

The recessed balconies, referred to as wintergardens, have suspended acoustic plywood soffits in the roof, and acoustic plywood wall panelling. If the internal glass sliding doors are open, then the acoustic glass panels above the glass balustrade must be in the closed position to achieve the required level of acoustic attenuation. The wintergarden design of the balconies affected by road or rail noise is a solution recommended by the Acoustic Report by JHA Consulting Revision, dated 19 July 2019.

The definition of GFA in the LEP is as follows:

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

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

Thirty two wintergardens in the proposed development have not been included in GFA, and the exclusion in point (i) of the above LEP definition (bolded) is relied upon. The proposed balustrade for wintergarden-type balconies is 1.02m high, topped by one fixed and one partially-moveable glass panels reaching to the roof of the balcony. One part (30%) of the enclosure remains fully open at all times making the space unlikely to be habitable.



Figure 7 – Information supplied by applicant regarding the specific design of balconies. Note: glass balustrade 1.02m in height, topped by moveable acoustic glass panels occupying 70% of the area when fully closed. 30% remains open at all times.

If the wintergardens were included in GFA, it would add 500m² of additional GFA to the proposal, resulting in 491m² over the permitted 2:1 FSR. The new FSR would be 2.084: 1 which exceeds the LEP limit by 4.2%.

The decisions of the Land and Environment Court relevant to the inclusion of balconies as gross floor area have been considered. These decisions include:

1. *Haralambis Management Pty Ltd v Council of the City of Sydney [2013] NSWLEC 1009*
2. *Landmark Group Australia Pty Ltd v Sutherland Shire Council [2016] NSWLEC 1577*

In *Haralambis*, Commissioner Tuor found that balconies should be included in GFA. The balconies in this case were of two types, one with a solid balustrade with glass bifold windows above, and the other with full height aluminium framed glass louvres.

In the *Haralambis* case, there was no reliance on the proposed balcony outer walls for acoustic attenuation and the balconies were designed as fully enclosed but optionally openable, depending on the weather. They could remain permanently closed.

In the case of DA570/18, the balcony outer walls play a role in both acoustic and ventilation control but remain 30% (by area) open to the elements at all times. There is timber decking over a screed floor and drainage via a rainwater outlet in the centre of the space. These features make the balconies highly unsuitable for any habitation and set them apart from the balcony types in the *Haralambis* case.

In the case of *Landmark Group Australia v Sutherland Shire Council*, the question was whether an internal corridor between two buildings and open at each end, contributed to floor space. This case would be of relevance if the Panel was to decide that the balconies should in fact be included in GFA in which case the maximum FSR of 2:1 would be exceeded by 4.2%.

In the *Landmark* case, Commissioner Morris did not require the building to be reduced, notwithstanding the exceedance of the FSR limit which had been created by incorporating the corridor area. The appeal was upheld because the two units which the Council wanted deleted from the plans so as to reduce the GFA to the LEP limit were below the main ground floor due to the slope of the site. The Commissioner found that there was no merit in the council's request as there would be no reduction to the bulk of the building achieved by removing the two units.

In the case of DA0570/2018, if the Panel was to form the view that the balconies should be included in GFA (necessitating a Clause 4.6 Variation Request), then there would be the opportunity to reduce the building by reducing the top floor by the amount of excessive floor space. However, this is not a recommendation of this report as the report concludes, as was the case in the above *Landmark Group* case, that the bulk of the development, as proposed, fully meets the desired character of the area, and is satisfactory.

Clause 5.10 – Heritage conservation

The subject site does not contain any heritage items. The site is located within 100m of 3 heritage items and is not within a heritage conservation area. The proposed works may affect a historic well located on the site but the well is to be retained and protected during construction. Appropriate conditions devised by Council's Heritage Advisor have been included in the recommendation. **(Conditions 9, 11, 60 and 61).**

Part 6 Additional local provisions

Clause 6.1 Earthworks

The proposed development will not restrict the existing or future use of the site, adversely impact on neighbours' amenity, affect the quality of the water table or disturb any known relics. Additionally, the fill to be removed from the site will be disposed of appropriately.

Clause 6.2 Stormwater and water sensitive urban design

A stormwater management plan has been prepared which includes details regarding stormwater and water sensitive urban design. Council's Development Engineer has given consideration to the plans, and the objective of this clause which seeks to minimise the adverse impacts of urban water on the site and within the catchment. The amended stormwater plans include appropriate water treatment devices and the requirements of the clause are satisfied in this regard.

Clause 6.3 Biodiversity protection

The site is not mapped as biodiversity land.

Clause 6.4 Riparian land and waterways

The site is not mapped as riparian land.

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

Ku-ring-gai Local Centres Development Control Plan

Part 1A.5 General aims of the DCP

The proposed development has been assessed against the general aims of this DCP and is found to be acceptable for the reasons given throughout this report.

Part 2: Site analysis

A site analysis which identifies the existing characteristics of the site and the surrounding area has been provided as part of the development application. The site analysis is considered to satisfy the objectives of this part of the DCP.

Part 3: Land consolidation and subdivision

The following table details compliance on relevant matters.

COMPLIANCE TABLE		
Development control	Proposed	Complies
Part 3 land Consolidation and Subdivision		
3A – General Controls for Consolidation and Subdivision		
3A.1 Lot Shape, Orientation and Design	The proposed consolidation of subject lots and location of the proposed road is satisfactory.	YES
3A.4 Trees and Vegetation	All trees on the subject site are to be removed. This approach is supported by Council's Landscape and Tree Assessment Officer. The site will be re-landscaped.	YES
3B – Land Consolidation		
1. Proposal increases the width of the street frontage and avoid irregular lot configuration.	The combined frontage to Pacific Highway is 68m	YES
2. Avoids isolating any adjoining sites and does not compromise potential redevelopment of the adjoining site or sites in accordance with their zoning.	No land will be isolated.	YES
3. Proposal avoids creating: i) a primary street frontage less than that required by KLEP 2012; ii) a lot size less than that required by KLEP 2012; and/or iii) a highly constrained site.	All lots will be consolidated to form a development parcel (Condition 58).	YES

Part 7: Residential Flat Buildings

COMPLIANCE TABLE		
Development Control	Proposed	Complies
Part 7 Residential Flat Buildings		
7A.1 – Local character and streetscape		
Provide a garden setting with buildings surrounded by landscaped gardens, including canopy trees, on all sides.	A landscaped setting has been provided.	YES
7A.2 and 7A.3 – Site Layout and Setbacks		
<p>Sites in Building Setbacks map</p> <ul style="list-style-type: none"> Complies with Part 14 Urban Precincts and Sites. Figure 14.E 13-5 nominates the Pacific Highway setback to be achieved ie 6m increasing to 10m at the southern boundary; 8m to 4th storey & above (street boundary) <p>2m articulation zone behind street setback and <40% occupied by building Building line to street parallel, or stepped for angled sites</p> <p>Side Setback (adjacent to No. 257)</p> <p>i) 6m up to 4th storey ii) 9m to 5th storey and above</p> <p>Rear Setback (to rail line)</p> <p>i) 6m up to 4th storey ii) 9m to 5th storey and above</p>	Front setback ranges from 6m to 9.5m.	NO
	Not recessed from the 4 th storey (but not required in SJB Masterplan).	N/A
	Front elevation is well articulated, and responds to curve in the road.	YES
	6m <u>average</u> setback to southern boundary with minor encroachments by balconies and steps) due to angled designs.	NO
	Setback of 9m to 4 th storey and above on the southern elevation.	YES
	The 6m setback is encroached upon by building parts, balconies and planter boxes (allowed under Part 7 of the DCP which allows 4m setback)	NO
		NO

Driveway set back a minimum of 6m from the side boundary within the street setback to allow for deep soil planting	<p>The 9m setback is not provided above the 4th storey</p> <p>The driveway is located in the north eastern corner, with the required setback.</p>	YES
Encroachments <ul style="list-style-type: none"> Basements do not encroach into any setback areas Ground floor terrace/courtyard walls min 8m to street boundary / 4m to rear & side boundaries <15% of the street setback area occupied by terraces/courtyards 	<p>6m setbacks are proposed for basement walls, with no encroachment.</p> <p>The SJB Masterplan provides for a setback of 6-10m (overrides this control).</p> <p>No terraces or courtyards are oriented directly towards the Pacific Highway.</p>	YES YES YES
7A.4 – Building Separation		
<p>The minimum separation between residential buildings on the development site and the adjoining sites is:</p> <p>Up to 4th storey:</p> <ul style="list-style-type: none"> 12m between habitable rooms/balconies <p>5th storey & above:</p> <ul style="list-style-type: none"> 18m between habitable rooms/balconies 	<p>Internal building separation complies with ADG Separation distance to adjoining development at ground level is 14m.</p>	YES
7A.5 – Site coverage		
Max 30% of the site area	This provision does not apply to a mixed-use development.	N/A

7A.6 – Deep soil landscaping		
A minimum deep soil landscaping area of 50% for a site area of 1800m ² or more	This provision does not apply to the site. There is a specific notation (Part 14E.13 Control 4) stating this.	N/A
Tree replenishment and planting 1801m ² + - 1 tall tree per 300m ²	All trees on the site are to be removed including significant Trees 21, 22, 24 and 63, due to poor form and/or structural faults. Trees 36 and 37 located within the Pacific Highway road reserve are to be retained and protected during construction. New tree planting to be conditioned, as part of amended Landscape Plan to be required.	YES
7B – Access and parking		
7B.1 – Car parking provision		
Design All parking within basement	2 levels of basement parking, consolidated under building footprints where possible.	YES
Car parking does not project more than 1 metre above natural ground level	The basement projects more than 1m above the ground level in the north eastern corner. The basement wall is covered by the supporting wall of balconies above and softened by landscaping in front. The overall effect is visually acceptable.	NO (This matter was already explained as part of the ADG variations, earlier in this report)
Single lane aisles, straight ramps and tunnels max 12.0m in length.	Complies	YES

Direct and continuous internal pedestrian access from basement car park is provided to each level of the building	Pedestrian access to the development will be via stairs and accessible walkways. There are 4 main cores. Each level is serviced by lifts.	YES						
Car parking to comply with AS2890.1	Subject to Condition 49	YES						
Car parking rates within 400m walking distance of a railway station entry (RMS Guide to Traffic Generating Developments: <table><tr><td>One bedroom</td><td>0.6 spaces</td></tr><tr><td>Two bedrooms</td><td>0.9 space</td></tr><tr><td>Three or more bedrooms</td><td>1.4 space</td></tr></table> Visitors: 1 per 6 units (at least one is accessible (compliant with AS2890.6) (130/6 = 22 spaces) 1 space per 17m ² for the neighbourhood shop (close to station) inclusive of loading space (62 /17 = 4). Residential calculation is 116 spaces [52 x 0.6 + 50 x 0.9+ 28 x 1.4 = 31.2 + 45 + 39.2 = 116]	One bedroom	0.6 spaces	Two bedrooms	0.9 space	Three or more bedrooms	1.4 space	153 car spaces are proposed, including 23 visitor spaces, 2 car share spaces, 4 commercial spaces. This exceeds the minimum provision of 142 spaces (i.e. 116 for residential, 22 visitors, and 4 for commercial. 9 spaces in excess of requirements. Some 3 BR apartments will be allocated 2 residential spaces.	YES
One bedroom	0.6 spaces							
Two bedrooms	0.9 space							
Three or more bedrooms	1.4 space							
At least one car share space is provided.	2 car share spaces are provided.	YES						
Temporary service/removalist vehicle space provided	The loading bay is located within the basement.	YES						
Adaptable units have at least one disabled parking space each	Yes, subject to Condition 50 .	YES						
7B.2 – Bicycle parking and support facilities provision								
- A minimum of 1 bicycle space per 5 units provided within the residential car park area - A minimum of 1 bicycle space per 10 units provided for visitors in the visitor car park area	Minimum requirement is for 39 spaces. 44 bicycle spaces are provided, 28 for residents and 16 for visitors.	YES						
7C – Building design and sustainability								

7C.2 – Communal open space		
At least 10% of the site area must be provided as communal open space	587m ² (10%) is required to be provided as communal open space. 1489m ² (based on the communal open space plan A-660-000, Revision I) is provided, which exceeds the requirements and represents 25% of the site.	YES
A single parcel of communal open space with a minimum area of 80m ² , minimum dimensions of 8m and 3 hours solar access to 50% of the space on 21 June is provided	Communal space is provided in two large consolidated parcels, both of which have the required level of solar access.	YES
Communal open space located behind building line at ground level Secondary communal open space has a minimum dimension of 5.0m	The ground level communal space is internal to the development and is supplemented by the roof top garden on Level 6.	YES
Shared facilities such as BBQs, shade structures, play equipment and seating provided in the communal open space	A full range of facilities is provided, including seating areas, shade structures, swimming pool.	YES
Access for people with a disability is provided to and within communal open space	Areas are directly accessible from common circulation areas. Access to both communal areas is confirmed by the Access Consultant.	YES
Capable of surveillance from 2 apartments, no entrapment areas and well lit	Complies	YES
Garden maintenance storage, water and drainage connections provided	Complies, subject to Condition 32(ix) .	YES

7C.3 – Ground floor apartments		
Gates from each ground floor apartment private open space into common areas	Ground level units have direct access into setback areas.	YES
No subterranean rooms to any part of any apartment	No subterranean rooms	YES
No ground floor apartments created as a result of excessive excavation.	No ground floor apartments are created from excessive excavation.	YES
No dwelling walls have direct contact to soil and below the adjacent ground level	No dwelling walls have direct contact to soil and below adjacent ground level.	YES
Internal finished floor level and private open space is not to be more than 0.9m below existing ground level	Units with access to private courtyards have balconies with steps down to ground level space	YES
Ground level adjacent to the building levelled to the finished floor level for a distance of 3.0m from the building line	Ground level units on the eastern elevation have balconies without direct access into the setback. Three units on the southern elevation with access into a private courtyard have a small balcony and then steps down into a levelled courtyard with gates into the common pathway. This is considered satisfactory due to the sloping nature of the site. Units with balconies facing the central communal areas do not have access into those areas via their balconies.	NO
7C.4 – Apartment mix and accessibility		
Range of apartment sizes included within the development	A mix of apartment types and sizes is	YES

	proposed.	
Mix of 1, 2 & 3 bedroom apartments located on the ground level.	Complies	YES
All apartments meet the Silver Level under the Livable Housing Design Guidelines	31% of apartments do not satisfy the Silver Level, requirements, Condition 41 requires that compliance be demonstrated prior to the issue of a CC.	YES (subject to Condition 41)
15% of the dwellings meet the Platinum Level under the Livable Housing Design Guidelines.	15% of apartments meet the Platinum Level.	YES
At least 70% of all dwellings are visitable	Confirmed by UDC and Access Consultant. Complies	YES
7C.5 – Building entries		
Buildings address the street: <ul style="list-style-type: none"> with main entrances to lift lobbies directly accessible and visible from the street 	Clear entries have been provided.	YES
Entry foyers no more than 1m above ground level.	Complies	YES
All entry areas are well lit and designed to avoid any concealment or entrapment areas; with no light spill.	A CPTED report has considered these matters and the development was found to be satisfactory.	YES
Lockable mail boxes are provided close to the street; at 90 degrees to the street, meet Australia Post standards and integrated with front fences or building entries.	Mailboxes will be located at entries.	YES
Large development sites provide clear entries, sight lines and way finding signs	Complies	YES
Both street frontages are addressed with entry points and direct level access	Complies	YES
Building entry paths min 1.2m wide, within the common area with 1.2m on either side for landscape planting	Complies	YES
1.5m wide common circulation corridors and 1.8m wide at lifts	Complies	YES

7C.6 – Building form and facades		
<ul style="list-style-type: none"> Designed to avoid entrapment areas 	A satisfactory based on the CPTED report. Habitable windows and balconies orient towards communal space and public domain to maximise surveillance.	YES
<ul style="list-style-type: none"> Modulated and designed to avoid: <ul style="list-style-type: none"> large flat walls undifferentiated window openings applied treatments one single predominant finish or material 	Satisfactory level of articulation, including variation in external finishes is provided.	YES
<ul style="list-style-type: none"> No single wall plane exceeds 81m² 	The wall planes are larger than the maximum, but the buildings are well modulated. The control has limited applicability as the Part 14 controls relating to the Masterplan (no 5 th storey setback) override it.	N/A
<ul style="list-style-type: none"> Air conditioning units not located on building façade or within private open space 		YES
<ul style="list-style-type: none"> No balconies run full length of building façade 		YES
<ul style="list-style-type: none"> Balconies do not project more than 1.5m 		YES
<ul style="list-style-type: none"> Corner buildings address both frontages 		N/A
Continuous length of any elevation does not exceed 36m.	Buildings A and B which form the front (west) elevation are broken into 3 distinct sections, incorporating recessed bays and curved corners and each component is less than 16m in width. The elevation to Pacific Highway is considered well-modulated.	YES

7C.7 – Building storeys			
Maximum number of storeys above the basement:	All buildings have 7 or less storeys above the basement.	YES	
Maximum building height			Maximum number of storeys
23.5m			7
7C.8 – Top storey design and roof forms			
GFA does not exceed 60% of the floor below	This is overridden by SJB Masterplan) which does not require a sixth level setback.	N/A	
Articulated and set back 2.4m from outer face of floors below (Overridden by SJB Masterplan which does not require the sixth level setback)	Level 6 is not set back from Level 5, adding to visual bulk of the building.	NO	
Service elements (plant, air conditioning, solar panels, lift overruns etc.) integrated into overall design	Reasonably well integrated into roof top garden designs.	YES	
7C.9 – Laundry and air clothes drying facilities			
Each apartment has access to an external air clothes drying area, e.g. a screened balcony, a terrace or common area	All apartments are to be provided with retractable drying facilities on the balconies by Condition 30. Balcony detail is provided in Figure 9 and drawing A-800-011. (Conditions 30(i) and (11)).	YES	
External air clothes drying areas are screened from public and common open space areas	To be conditioned (Condition 30(ii)).	YES	
7C.10 – Fencing			
Fences in street set back not longer than: - 0.9m if of solid construction - 1.2m if of open construction Solid front fence maximum 1.8m and set back minimum 2m on busy roads or from noise sources only Fences stepped to follow natural contours Hedges/shrubs along the entire front	Front setback area is to be landscaped. A wall is indicated around the courtyard of the neighbourhood shop, and there is to be a gated access point into	YES	

boundary do not exceed 1.2m and 1.8m on busy roads External finishes are robust and graffiti resistant Fence heights to ground floor private open space, courtyards etc. do not exceed: <ul style="list-style-type: none"> • 1.2m to any street frontage • 1.8m to any side or rear boundary (max 1.2m high solid and a minimum 30% transparent component above). 	the communal area such that fencing will be provided. The wall should be a maximum of 1.8m in height, and the fence and gate no more than 1.2m in height. Condition 32(x).	
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Explanation of Non-compliances with Part 7 of the DCP

- **Non-compliance with 10m setback at the southern boundary:**

Front setbacks in this case are determined by Part 14 which states they should range from 6m to 10m at the southern boundary. Only 9.5m is achieved at the southern boundary. There is ample room for deep soil planting in the front setback area and the adjoining development is separated a further 8m from the side boundary, achieving a 14m separation distance. With planting of larger canopy trees in the front setback area, the small shortfall in setback at the southern boundary will have no appreciable adverse impact and is considered acceptable.

- **Side boundary setback of 6m, adjacent to the boundary with No. 257 Pacific Highway**

The 6m side setback is encroached upon by the corners of balconies mainly due to their skewed designs which have been angled to maximise privacy; steps down to the south-eastern corner of the site, and non-trafficable parapet walls in front of units G05, G06 and G07, 105, 106 and 07, 205. There is sufficient room for screen planting in this area and there are 13 trees on the adjoining property No. 257 Pacific Highway, close to the common boundary. As such, the minor encroachments to this side boundary setback are considered acceptable.

- **Rear boundary setback of 6m**

The rear setback is determined by Part 14 rather than Part 7 and 6m is required. The building encroaches into this setback with balconies, planter boxes and some parts of the building including habitable areas. The applicant has pointed out that a 4m setback is permissible under Part 7 of the DCP and seeks flexibility given that the adjacent land is a rail corridor. The basement walls do not encroach into the 6m setback such that the full width of deep soil is available for planting. It is considered that the encroachments of the building into this rear setback area will not impact any adjoining development, or significantly reduce the amenity for prospective residents such that they are considered acceptable.


Section B

Part 14 – Urban Precincts and Sites

The site is within the L6 Centre Urban Precinct. The relevant provisions of Section B which is the overriding, site specific part of the DCP, are addressed below: and within the DCP compliance table above as many aspects of the development controls

overlap:

KDCP (LOCAL CENTRES) COMPLIANCE TABLE		
Control	Proposed	
Part 14E.13 Precinct L6 and 14R.3 Lindfield Library Masterplan		
Control 1 Planned Future Character	A new road is provided although it is in a slightly different location to the DCP/Masterplan. The “Kiss and Ride” concept has been removed.	NO
Figure 14E.13-2 in DCP shows planned open space areas and Masterplan at Part 14R.3	A bio-retention basin initially proposed within the eastern deep soil zone setback has now been removed and this change allows the planting of additional trees and vegetation in this setback.	YES
Control 2 Public Domain and Pedestrian Access (Figure 14E.13-3 in DCP and Masterplan at Part 14R.3)	The proposal is consistent with these controls by providing: <ul style="list-style-type: none"> • A terraced central garden with private communal open space • New pedestrian access via Pacific Highway and extension of Tryon Lane <p>The proposal indicates a landscaped public open space/pocket park adjoining the northern side of the new road with paving and seating, opposite the entrance to the residential development.</p> <p>A public open space as envisaged by the DCP has not been provided adjacent to the southern side of the new laneway.</p>	YES
		NO
Control 3 Proposed Community Infrastructure (Figure 14E.14-4 in DCP, the Ku-ring-gai Contributions Plan 2010 and SJB Masterplan at Part 14R.3)	Proposal is to extend Tryon Lane and embellish footpaths along Pacific Highway. This control requires a 13m setback to accommodate the Tryon Lane extension.	YES
Control 4 Setbacks (Figure 14E 13-5 in DCP and SJB Masterplan in Part 14R.3)	The proposal provides setbacks between 6 and 9.5m along the Pacific Highway frontage. Required is a 10m setback closest to the southern boundary.	NO
	A side setback of 6m applies to the southern boundary. There are minor encroachments to the 6m setback on this boundary.	NO
	The eastern setback to the rail line should be 6m but varies between 4 and 6m.	NO
Control 5 Built Form and Building Depth Controls	The building depth control 5(v) is “22m building depth to the Pacific Highway frontage to allow for double-loaded corridors” and 5(vi) which is “15m to 18m	NO

<p>(Figures 14E.13-6 and 14E.13-7 in DCP and SJB Masterplan in Part 14R.3)</p>	<p>building depth to the rear of site, typically oriented to maximise residential amenity”.</p> <p>This part of the DCP also provides a layout for the development which shows a U-shape open to the south.</p>  <p><i>Figure 8 – Extract from SJB Masterplan</i></p> <p>The northern part of Building D is over 22m in depth and has double-loaded corridors. It is non-compliant with Control 5(vi). Building A facing Pacific Highway is not double loaded as was described in Control 5(v). This is because of the change to the building layouts on the site.</p> <p>Ground floor commercial is to be located at the northern edge of the site, immediately to the south of the road.</p>	<p>NO</p>
<p>Control 6 Road (Figure 14E.13-8 in DCP and SJB Masterplan in Part 14E.3)</p>	<p>This control requires:</p> <ul style="list-style-type: none"> • 6.0m one-way carriageway; • 3.5m verges with 2.0m wide footpaths; • 1.5m landscaping with street tree zone planting; • On street parking on one side. <p>The proposed through-site link is generally consistent with this control providing adequate carriageway width (3.5m) and footpath width and areas for landscaping. However, there is no parking lane on one side.</p>	<p>NO</p>
<p>Control 7 Building entries, car parking and service access (Figure 14E.13.9 in DCP and SJB Masterplan in Part 14R.3)</p>	<p>The proposal is consistent with these controls, providing vehicular access to the site and carpark via the southern extension to Tryon Lane at the lowest part of the site. Residential lobbies are accessed via entries to the communal open space from the new road and Pacific Highway.</p>	<p>YES</p>

Explanation of Non-compliances with Part 14 of the DCP

- **Control 1 Planned Future Character**

The location of the new road is considered satisfactory, with the design being supported by the People Trans report and Council's Engineering Section. The orientation of the proposed development is both toward the new road and internally to the site.

A childcare facility has not been provided, but the new road will be activated by a design which accommodates pedestrian activity and the neighbourhood shop on the ground floor of the development.

- **Figure 14E.13-2 in DCP shows planned open space areas and Masterplan at Part 14R.3**

The changes to the planned open space areas are acceptable as they provide for an internal communal space with greater solar access, and a greater sense of openness to the through-site link than would be achieved by a building wall.

The applicant has agreed to delete the proposed bio-retention basin in the eastern setback and the area will be planted with suitable trees and shrubs. This change will improve the landscape setting.

- **Control 2 Public Domain and Pedestrian Access
(Figure 14E.13-3 in DCP and Masterplan at Part 14R.3)**

No public open space as envisaged by the DCP has been provided adjacent to the southern side of the new laneway. This arises from the change to the building layout and orientation of the communal space, with an entrance to the communal space on the southern side of the road. Loss of landscaped area on the southern part of the laneway is supported in favour of the new layout of buildings, and a greater sense of openness. The through-site link is to be well-landscaped along its length, and there is a pocket park on the northern side of the road.

- **Control 4 Setbacks
(Figure 14E 13-5 in DCP and SJB Masterplan in Part 14R.3)**

The front setback area, achieving a slightly reduced 9.5m setback close to the southern boundary, does achieve deep soil areas for a landscaped setting including substantial trees. The variation is considered acceptable.

An average 6m setback is achieved to the southern boundary. There are minor encroachments with balcony, steps and part of the parapet of apartment (outlined earlier in this report) but generally considered acceptable.

The eastern setback to the rail line is required under Part 14 to be 6m. It varies however between 4 and 6m, with encroachments in this area already described earlier in this report. The applicant seeks to rely on Part 7 of the DCP which allows 4m setbacks on a rear boundary. Given that the basement achieves the 6m setback, which ensures no reduction of deep soil planting areas, and the fact that the rear boundary is shared with the rail corridor, the reduced setback can be supported. There will no loss of amenity to residents as a result of the reduced setback.

- **Control 5 Built Form and Building Depth Controls (Figures 14E.13-6 ad 141e.13-7 in DCP and SJB Masterplan in Part 14R.3**

The applicant has provided the following justification for the non-compliance with the DCP depth controls:

“The proposal meets the objectives of 5(vi) of maximising residential amenity. The building wing at the rear of the site is designed to receive more than 2 hours solar access to typical apartments in both its eastern and western facing apartments. This is achieved with a highly articulated and sculptural façade design to the east and a western façade onto the courtyard that receives more than 2 hours sun in a curved sculptural form. The building separation across the courtyard meets the ADG separation distance and the courtyard is a well-landscaped space of high amenity. The apartments have been designed internally to meet maximum apartment depths in the ADG and the central corridors are naturally lit and ventilated. The corridors are relatively short and have good amenity. The central “through” apartment types are 17m deep, meeting the ADG maximum apartment depth standard and demonstrating good amenity. The rear wing of the building is a double loaded corridor type, which is the recommended building type in the masterplan for the Pacific Highway building and therefore an acceptable building type on the site. The eastern wing meets all the ADG standards for residential amenity and therefore meets the objectives of the master plan.”

The rear building is over 22m in depth in its northern section and non-compliant with Control 5(vi). This arises from the change to the built form on the site. The proposed alternate layout achieves a more efficient built form which meets the objectives of the control notably including the minimisation of overshadowing of open space, whilst still achieving well-articulated and modulated building facades.

Given the changed building layout, the proposed building depths are considered satisfactory. This is agreed by the UDC.

There is a conflict with another part of the DCP (KLDCP7C.8 2) which requires that the top storey of a building be set back by a minimum of 2.4m from the outer face of the floors below on all sides. KLDCP 7C.8 1 (iii) states that “for the purposes of this section, the top storey of the building applies to the building as a whole and does not apply to the top level of each part of a stepped building. Therefore, the area on non-compliance is limited to Buildings A and B at level 6 [refer Plan A-400-009D] being the high part of the site.

The upper storey, is not set back from the floor directly below it.

In the view of the UDC, the wording of the Part 7 control accords with the Part 14 controls and the intention of the control should be followed through.

“Whilst the proposal is considered to have a well-articulated and cohesive built form overall, it cannot be said to achieve the objectives of minimising the visual bulk of the topmost floor or differentiating the appearance of the topmost floor (see perspective view A-800-000B). A differentiation of the topmost level would assist in reducing the wall plane area to meet the objectives of KLDCP7C.6.2.”

The SJB Masterplan (refer Figure 10 above showing SJB Masterplan) shows no

upper level setback.

It is considered that the proposed upper storey setback is satisfactory. It accords with the SJB Masterplan and the objectives of Part 14 of the DCP and, due to the articulated built form, does not present an excessively bulky elevation to Pacific Highway or adjoining development.

In relation to the requirement to have commercial uses along the full frontage to the new road, this has not been provided. Only the neighbourhood shop with an area of 62m² and an outdoor courtyard has been provided in the north-western corner of the site. The applicant has advised that more commercial uses along the frontage of the development to the new road would be unviable in this location, and on the subject site.

- **Control 6 Road (Figure 14E.13-8 in DCP and SJB Masterplan in Part 14E.3)**

The road design is supported by People Trans Traffic Impact Assessment Report which advises that the design and characteristics of the proposed road were guided by the need to limit the use of it by external private vehicles (including the discouragement of Kiss and Ride) and to make it as pedestrian-friendly as possible in line with the proposal for it to be a shared zone.

Although no on-street parking is proposed, there is sufficient residential and visitor parking proposed within the basement as per the RMS Guide to Traffic Generating Development and the DCP.

The proposal does not provide for a constant 1.5m wide landscaped verge for the new road, but the areas provided either side of the new road are considered adequate.

The future property boundary shown on Ground/Site Level Plan A-400-003K indicates that the through-site link is consistently of a width 13m or greater, satisfying the DCP requirements.

The shared zone must be designed in accordance with the RMS Technical Direction for the design and implementation of shared zones –Category 1, although variation in the pavement type is recommended by People Trans, and this will need to be further verified by RMS.

Part 16 – Bushfire Risk

The site is not mapped as bush fire prone land.

Part 17 – Riparian Lands

The site is not mapped as riparian land.

Part 18 – Biodiversity

The site is not mapped as land comprising biodiversity significance.

Part 19 – Heritage and Conservation Areas

The site is within 100m of other heritage items but is not listed as a heritage item or

within a heritage conservation area.

This report has outlined the heritage impacts of the proposal and includes consideration of the Heritage Impact Statement by John Oultram Heritage and Design.

Council's Heritage Advisor has not raised any concerns with the application. Suitable conditions relating to the archival recording of the existing uses on the site, interpretative plaques and the retention of the well, have been provided and are incorporated in the recommended conditions.

Part 20 – Development near Road or Rail noise

The proposal has been assessed by Sydney Trains and found to be generally satisfactory, subject to conditions, one of which (discharge of stormwater onto Sydney Rail land) triggers the need for a Deferred Commencement.

The proposal has been assessed by RMS as a Traffic Generating Development and appropriate conditions have been recommended.

Ku-ring-gai Local Centres Development Control Plan Section C

Development Control	Proposed	Complies
Part 21 General Site Design		
21.1 – Earthworks and slope		
Development consider site topography, drainage, soil, landscapes, flora, fauna and bushfire hazard by: <ul style="list-style-type: none">• Stepping buildings down the site• Locate finished ground level as close to the natural ground level as practicable• Level changes to occur primarily within building footprint• Minimum 0.6 metres width between retaining walls• Maintain existing ground level within 2m from any boundary• Limit slope for embankments to 1:6 (grassed) and 1:3 (soil stabilising vegetation)• No fill and excavation within sensitive environments• Minimise altered groundwater flows	The proposal responds to the site slope and meets the requirements.	YES

21.2 – Landscape Design		
Appropriate and sensitive site planning and design Existing appropriate screen planting is retained	All site trees need to be removed, however the site will be re-landscaped. Council's Landscape and Tree Assessment Officer supports this approach.	YES
Planting more than 300m from bushland <ul style="list-style-type: none"> 25% of trees and shrubs local native species 	Local trees and shrubs are adequately represented in the landscape plan.	YES
Part 22 - General access and parking		
22.1 – Equitable Access		
Compliance with DDA demonstrated Entry access ramps located within the site and does not dominate the front façade Access ways for pedestrians and for vehicles are separated	A revised Access report has been submitted with demonstrates adequate design to ensure accessibility and separation for vehicles and pedestrians. The entry ramps are on the northern side, and not visible from the Pacific Highway elevation.	YES
Residential only Multi Dwelling Housing, Residential Flat Buildings and Shop Top Housing within Mixed Use developments provide access to, and between, dwellings and parking in accordance with the Livable Housing Guidelines as stipulated in Part 6 Multi Dwelling Housing, Part 7 Residential Flat Buildings and Part 8 Mixed Use Development.	Accessibility between parking and dwellings is adequately provided for within the design.	YES
22.2 – General vehicle access		
<ul style="list-style-type: none"> Minimise width and number of vehicle access points Access driveways set back at least 10m from street intersections and 3m from pedestrian entrances Vehicle and pedestrian access to buildings clearly distinguished and separate 	One vehicular entrance/exit only, clearly distinguishable resident entries.	YES

<ul style="list-style-type: none"> • Vehicle crossing width is acceptable for intensity of use proposed • Vehicles must exit in a forward direction • Vehicle entries are integrated into the external façade and are finished in a high quality material • Retaining walls associated with driveways maximum height of 1.2m • No driveways are longer than 30m unless a passing bay is provided 		
22.3 – Basement car parking		
Logical and efficient basement design AS2890.1	Design of basement area is satisfactory	YES
Appropriate ceiling floor to ceiling heights and ventilation provided: <ul style="list-style-type: none"> • 2.5m for parking area for people with a disability; • 2.6m for residential waste collection and manoeuvring area • 4.5m for commercial waste collection and manoeuvring area 	Proposed heights are satisfactory.	YES
Basement is fully tanked	Satisfactory	YES
Unimpeded access to visitor parking and waste recycling rooms	Satisfactory	YES
Ventilation grilles and screening devices are integrated into the landscape design	Satisfactory	YES
Vehicles access ways are not in close proximity to doors and windows of habitable rooms	Satisfactory	YES
Safe and accessible intercom access provided	Satisfactory	YES
22.4 – Visitor parking		
Visitor parking located behind a security grille with an intercom system to gain entry	Satisfactory	YES
At least one visitor space is accessible and designed in accordance with AS2890.6	A disabled visitor space provided.	
22.5 – Parking for people with a disability		
Accessible spaces are signposted and have a continuous path of travel to the principal entrance or a lift	Satisfactory	YES
Non-residential development provides accessible parking as follows:	4 spaces are provided in association with	YES

	the proposed neighbourhood shop, including a loading bay close to the lift within the basement. There is adequate visitor parking within the development, including an accessible space.	
22.6 – Pedestrian Movement within Car Parks		
Marked pedestrian pathways have clear sightlines, appropriate lighting, are visible, conveniently located and constructed of non-slip material	Satisfactory	YES
22.7 – Bicycle Parking and facilities		
Bicycle parking and storage facilities satisfy AS2890.3	Satisfactory	YES
Bicycle access paths have a minimum width of 1.5metres	Satisfactory – no separate paths for bicycles.	YES
Part 23 – Building Design and Sustainability		
23.1 – Social Impact		
Social Impact Statement required.	Satisfactorily dealt with in the SEE by Urbis.	YES
23.3 – Sustainability of Building Materials and 23.4 – Materials and Finishes		
External walls constructed of high quality and durable materials	Satisfactory	YES
Use of materials and colours creates well-proportioned facades and minimises visual bulk	Satisfactory	YES
23.5 – Roof Terraces and Podiums		
Podiums and roof terraces are trafficable and support landscaping	Satisfactory	YES
Roof & terrace common areas design encourage usage	Satisfactory	YES
23.6 – Building Services		
Services and related structures are appropriately located to minimise streetscape	Satisfactory	YES

impact		
In mixed use precincts substations and fire hydrants are not visible from the primary and principal street frontages	Satisfactory, subject to condition.	YES
Air-conditioning units are well screened and do not create adverse noise impacts	Satisfactory	YES
23.7 – Waste Management		
Efficient, effective and sustainable waste management practices	Satisfactory	YES
23.8 – Acoustic Privacy		
Design minimises impact of internal and external noise sources	Satisfactory final design of all apartments exposed to noise source, subject to further Acoustic Engineer's Certificate on Plenum solutions.	YES
23.9 – Visual Privacy		
Visual privacy maintained for occupants and for neighbouring dwellings	Satisfactory separation distances, offset of certain balconies on southern elevation, and screen landscaping.	YES
23.10 – Construction, Demolition and Disposal		
Satisfactory Environmental Site Management Plan	Satisfactory	YES

Part 24 – Water management

Council's Development Engineer is satisfied that the proposed development has been designed to manage urban stormwater as per the requirements of the DCP.

Part 25 – Notification

The application was notified in accordance with the requirements of the DCP. The submissions received are addressed earlier in this report.

Summary Comments in respect of non-compliances associated with the proposal

State and Regional Planning Policies

Generally the proposal complies with the relevant State and Regional Planning Policies.

Design Principles in SEPP 65

The proposal complies with the Principles with the exception of Principle 8. A greater degree of compliance is required with respect to the fit outs of adaptable apartments being designed in accordance with Silver Level Universal Design features and Visitable apartments under the Livable Housing Guidelines. This can be addressed via conditions **(Refer Conditions 40-42)**.

Apartment Design Guide

Generally the proposal complies with the ADG, with the exception of a 1m minor exceedance in the minimum depth of living rooms on three south facing apartments and additional verification required from a suitably qualified acoustic consultant regarding the likely performance of the proposed plenum solutions in terms of their acoustic and ventilation performances. There is also a concern that there may need to be some additional parking restrictions in front of the adjoining development to the north to ensure safety for traffic slowing down to turn into the site outside of the peak hour, which is a matter for Council's Traffic Committee **(Refer Condition 99)**;

Ku-ring-gai LEP (Local Centres) 2012

The proposal involves a small height variation, dealt with as a Clause 4.6 Variation Request. There are no other LEP departures;

Ku-ring-gai Local Centres DCP

There are a number of non-compliances with the DCP excluding matters covered under ADG requirements. Site specific controls in Part 14 based on the SJB Masterplan take precedence over more general requirements under Part 7 where both parts deal with the same types of controls;

The changes in design from the SJB Masterplan arose when the Stage One Design report was done, preceding the current DA submission, and involving changes to the layout of buildings on the site and the location of the communal space. The variations may be explained through design development. The list of DCP non-compliances is summarised as follows:

- Front setback in the south-western corner is only 9.5m, instead of 10m;
- There are small encroachments of balcony corners, parapets and stairs in the required 6m southern setback, although a 6m average is achieved;
- Rear boundary achieves a 6m setback for the basement but the setback above ground is encroached by balconies, planter boxes and some habitable areas, The applicant here seeks to rely on a 4m rear setback allowed in Part 7 of the DCP, but technically there is non-compliance under the overriding Part 14. However, the non-compliance is supported as it does not lead to any amenity issues apart from a loss in available landscape area. The required total amount of landscaped area is fully-achieved on the site;
- The non-compliance regarding Silver Level Apartments and Visitable Apartments is to be corrected by condition;
- The DCP road location has undergone minor changes, and the parking lane was removed. The design of the new road is justified by the People Trans Report and

- supported by Council's Strategic Traffic Engineer;
- A public space on the southern side of the new road has not been provided. Provision of the space is not pressed by Council's Landscape and Tree Assessment Officer or Public Domain Co-ordinator, generally there being satisfaction with the landscaping and pocket park on the northern side of Tryon Place.;
- Variations in building depths which have arisen out of changes to the layout of buildings, compared to the SJB Masterplan, with the U-shape opening to the north. The UDC has considered and generally supports the revised layout, building depths and resultant apartment configurations, as proposed.

In summary, the above non-compliances have been considered and are believed to be insufficient to warrant refusal of the application. Some of the non-compliances may be resolved through conditions of consent, whilst others have been justified and may be accepted without requiring changes.

Ku-ring-gai Contributions Plan 2010

The development contribution amount has been based upon the following:

- i. a credit for the 14 seniors living studio apartments to be demolished
- ii. 62m² retail GLFA (neighbourhood shop)
- iii. 52 x 1-bedroom apartments
- iv. 50 x 2-bedroom apartments
- v. 28 x 3-bedroom apartments

The development attracts a section 7.11 contribution of \$3,015,602.90 (**Condition 62**).

The development does not attract a section 7.12 development contribution.

The DA includes the construction of the road. Council's Section 94 (Ku-ring-gai Contributions Plan 2010, specifically the Works Programme, identified the Tryon Lane extension as a required work and dedication under the Plan at a capital cost of \$618,467. A condition is to be imposed requiring the construction of the road as a deliverable as part of the development together with lodgement to Council of a Subdivision Application to allow for the land to be excised and future dedication.

REGULATIONS

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

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

LIKELY IMPACTS

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

SUITABILITY OF THE SITE

The site is suitable for the proposed development.

PUBLIC INTEREST

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments and by the Panel ensuring that any adverse effects on the surrounding area and the environment are minimised.

The proposal has been assessed against the relevant environmental planning instruments and Council's Policies and is deemed to be acceptable. On this basis, the proposal is not considered to raise any issues that are contrary to the public interest.

CONCLUSION

The proposed development represents an opportunity to achieve the redevelopment of a site in public ownership which currently has existing community facilities which are aged and no longer viable into the future. The new development will consolidate 7 lots and provide new housing in the Lindfield Town Centre close to the station as part of a modern, well-designed development comprising 4 buildings, as well as a new through-site link to be dedicated as public road which will contribute to connectivity and amenity in the area.

The development site will be sold with an approval to a developer and the funds from the sale used to finance new, state-of-the-art community facilities and public spaces on other key sites in the Lindfield Town Centre. This strategic program, which has been developed in conjunction with the local community, will activate the Lindfield Town Centre.

The proposed development accords with all relevant State, Regional and Local strategic planning.

Having regard to the provisions of section 4.15 of the Environmental Planning and Assessment Act 1979, the proposed development is considered to be satisfactory subject to conditions.

RECOMMENDATION

PURSUANT TO SECTION 4.16(3) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

- A.** THAT the Sydney North Planning Panel, as the consent authority, is of the opinion that the request submitted under clause 4.6 to vary the development standard in clause 4.3 'Height of buildings' of Ku-ring-gai LEP (Local Centres) 2012 has met the requirements of clause 4.6(3). The Panel is also of the opinion that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify the variation to the development standard.
- B.** THAT the Sydney North Planning Panel, as the consent authority, being satisfied that the proposed development will be in the public interest, grant deferred commencement development consent to DA0570/18 for demolition of existing structures and construction of a residential flat building with 130 apartments, a neighbourhood shop, basement car parking with associated works, tree removal and public domain works (including a new road) identified

on land at 259 and 265-271 Pacific Highway, Lindfield. Pursuant to Section 4.53(1) & (6) of the Environmental Planning and Assessment Act 1979, this consent lapses if the deferred commencement requirements are not satisfied within five years from the date of the Notice of Determination and if the approved works are not physically commenced within five years from the date on which the consent becomes operable.

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

The following deferred commencement terms must be complied with to the satisfaction of Council within 5 years after the grant of consent:

1. In order for the consent to become operable, approval/certification from Sydney Trains as to the following matters is to be obtained and provided to Council:

A. The Applicant shall comply with the following requirements, and prepare and provide to Sydney Trains for written endorsement:

- i. Unless there is an existing Drainage License arrangement between RailCorp/Sydney Trains and Council there shall be no direct stormwater discharge into the rail corridor. In the absence of any License between RailCorp/Sydney Trains and Council, then Council will be required to enter into License arrangement with Sydney Trains prior to any connection/discharge into the rail corridor drainage system.
- ii. Revised drainage design shall be developed and presented to Sydney Trains as follows:
 - (a) Drainage design shall consider the existing condition of the rail corridor drainage system for capacity and if it is determined that it is at capacity &/or insufficient or deteriorating, then the Applicant will be required to upgrade the existing rail corridor drainage system at their cost.
 - (b) All post development stormwater shall be less than pre-development flows.
 - (c) The drainage design shall consider using a “spreader system” as opposed to direct pipe entering RailCorp Property

B. The Applicant shall prepare and provide to Sydney Trains for approval/certification the following final version items in compliance with relevant ASA Standards (<https://www.transport.nsw.gov.au/industry/asset-standards-authority>):

- i. Final Geotechnical Structural report/drawings that meet Sydney Trains requirements. The Geotechnical Report must be based on actual borehole testing conducted on the site closest to the rail corridor. Reports shall indicate that there is no adverse impact on rail corridor or rail operations. Structural drawings shall also include foundations and basement excavation sequences. No rock anchors, rock bolts, ground anchors or rock ties, piles, foundations, rock pillars, transfer structures, basement walls, slabs, columns, beams, cut rock faces, are to be installed into RailCorp/Sydney Trains property or easements.
- ii. Construction methodology with construction details pertaining to structural support during excavation. The Applicant is to be aware that Sydney Trains will not permit any rock anchors/bolts (whether temporary or permanent) within its land or easements. Construction requirements outlined in Section 7 of the ASA Standard T HR CI 12080 ST.

- iii. Cross sectional drawings showing the rail corridor, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the rail corridor. Drawings should include all rail infrastructure up to the nearest set of tracks. All measurements and RL levels of all items (including rail infrastructure) are to be verified by a Registered Surveyor.
- iv. Detailed Survey Plan showing the relationship of the proposed developed with respect to Sydney Trains easement and rail corridor land. Survey should include all rail infrastructure up to the nearest set of tracks. All measurements and RL levels of all items (including rail infrastructure) are to be verified by a Registered Surveyor.
- v. If required by Sydney Trains, an FE analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor.
- vi. If required by Sydney Trains, a Monitoring Plan.
- vii. Revised Derailment Risk Assessment report that complies with Australian Standard AS5100.2.2017 and ASA standard T HR CI 12080 ST.

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

Reason: To satisfy the requirements of Sydney Trains under SEPP (Infrastructure) 2007.

2. In order for the consent to become operable, amended stormwater plans which address the following requirements are to be submitted to Council's Development Engineer for approval:

- i. All references and graphics which relate to the previously proposed bio-retention basin in the eastern setback of the site are to be deleted.
- ii. Shows the installation of proposed drainage works within the proposed Tryon Place laneway outside of the soft landscape area.
- iii. Realignment of the proposed subsoil pipeline parallel to the southern boundary to run along the southern side of the proposed basement wall.

Reason: To ensure satisfactory drainage design, and to ensure that the desired future landscape character for the site can in fact be achieved in the deep soil zones of the development.

Once the consent becomes operable, the conditions in Schedule B will apply subject to any changes required as a result of the resolution of the deferred commencement requirements.. Upon written receipt from the Council that the deferred commencement terms in Schedule A have been satisfied, the following conditions will apply:

SCHEDULE B: Standard Conditions

CONDITIONS THAT IDENTIFY APPROVED PLANS:

- 1. **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>		
A-100-001 Revision E - Site Plan	Fox Johnston	7 February 2020
A-100-003 Revision D - Future Site Subdivision Plan	Fox Johnston	7 February 2020
A-200-000 Demolition plan Revision C	Fox Johnston	11 November 2019
A-300-000 Excavation plan Revision C	Fox Johnston	11 November 2019
A-400-000 Basement 3 Revision H	Fox Johnston	7 February 2020
A-400-001 Basement 2 Revision H	Fox Johnston	7 February 2020
A-400-002 Lower Ground Revision J	Fox Johnston	7 February 2020
A-400-003 Ground/Site Level Revision K	Fox Johnston	7 February 2020
A-400-004 Level 1 Revision G	Fox Johnston	7 February 2020
A-400-005 Level 2 Revision G	Fox Johnston	7 February 2020
A-400-006 Level 3 Revision G	Fox Johnston	7 February 2020
A-400-007 Level 4 Revision H	Fox Johnston	7 February 2020
A-400-008 Level 5 Revision H	Fox Johnston	7 February 2020
A-400-009 Level 6/Roof Revision G	Fox Johnston	7 February 2020
A-400-010 Roof Revision G	Fox Johnston	7 February 2020
A-510-000 North & South Elevations Revision E	Fox Johnston	7 February 2020
A-510-001 East & West Elevations Revision E	Fox Johnston	7 February 2020
A-510-002 Sectional Elevations Revision D	Fox Johnston	7 February 2020
DA-520-000 Sections Revision D	Fox Johnston	7 February 2020
DA-520-001 Lane & Driveway Sections Revision C	Fox Johnston	7 February 2020
A-800-001 Acoustic section Revision D	Fox Johnston	11 November 2019
A-800-002 Acoustic diagrams Revision D	Fox Johnston	11 November 2019
A-800-003 Platinum apartments Revision C	Fox Johnston	3 July 2019
A-800-010 Natural ventilation diagrams Revision A	Fox Johnston	11 November 2019
A-800-011 Typical Balcony Details Revision A	Fox Johnston	11 November 2019
<i>Landscape Plans</i>		
L-DA-01 Cover page and drawing register Revision J	360 Degrees	11 February 2020
L-DA-02 Introduction Revision J	360 Degrees	11 February

		2020
L-DA-03 Landscape design statement Revision J	360 Degrees	11 February 2020
L-DA-04 Existing trees plan	360 Degrees	11 February 2020
L-DA-05 Revision J	360 Degrees	11 February 2020
L-DA-05A Revision G	360 Degrees	11 February 2020
L-DA-05B Revision E	360 Degrees	11 February 2020
L-DA-06 Revision J	360 Degrees	11 February 2020
L-DA-06A Revision G	360 Degrees	11 February 2020
L-DA-07 Revision J	360 Degrees	11 February 2020
L-DA-08 Revision J	360 Degrees	11 February 2020
L-DA-09 Revision J	360 Degrees	11 February 2020
L-DA-010 Revision J	360 Degrees	11 February 2020
L-DA-011 Revision J	360 Degrees	11 February 2020
L-DA-012 Revision J	360 Degrees	11 February 2020
L-DA-013 Revision J	360 Degrees	11 February 2020
L-DA-014 Revision J	360 Degrees	11 February 2020
L-DA-015 Revision J	360 Degrees	11 February 2020
L-DA-016 Revision J	360 Degrees	11 February 2020
L-DA-017 Revision J	360 Degrees	11 February 2020
L-DA-018 Revision J	360 Degrees	11 February 2020
L-DA-019 Revision J	360 Degrees	11 February 2020
L-DA-020 Revision J	360 Degrees	11 February 2020
L-DA-021 Revision J	360 Degrees	11 February 2020
L-DA-022 Revision J	360 Degrees	11 February 2020
L-DA-023 Revision J	360 Degrees	11 February

		2020
<i>Civil and stormwater plans</i>		
C000 Revision 5	Jones Nicholson Consulting Engineers	7 August 2019
C100 Revision 8	Jones Nicholson Consulting Engineers	10 February 2020
C101 Revision 6	Jones Nicholson Consulting Engineers	12 November 2019
C102 Revision 6	Jones Nicholson Consulting Engineers	12 November 2019
C103 Revision 10	Jones Nicholson Consulting Engineers	19 June 2020
C104 Revision 8	Jones Nicholson Consulting Engineers	10 February 2020
C105 Revision 7	Jones Nicholson Consulting Engineers	12 November 2019
C106 Revision 7	Jones Nicholson Consulting Engineers	19 June 2020
C107 Revision 6	Jones Nicholson Consulting Engineers	12 November 2019
C150 Revision 5	Jones Nicholson Consulting Engineers	7 August 2019
C151 Revision 5	Jones Nicholson Consulting Engineers	7 August 2019
C200 Revision 8	Jones Nicholson Consulting Engineers	10 February 2020
C210 Revision 7	Jones Nicholson Consulting Engineers	10 February 2020
C220 Revision 7	Jones Nicholson Consulting Engineers	10 February 2020
C221 Revision 7	Jones Nicholson Consulting Engineers	10 February 2020
C250 Revision 5	Jones Nicholson Consulting Engineers	7 August 2019
C300 Revision 4	Jones Nicholson Consulting Engineers	7 August 2019
C600 Revision 5	Jones Nicholson Consulting Engineers	10 February 2020

Document(s)	Dated
letter in response to Additional information request from Council regarding groundwater management prepared by Russell Olsson	14 January 2019
letter prepared by Transport Roads and Maritime Services reference number SYD18/02028/01 (A25686199)	27 February 2019
letter prepared by Transport Sydney Trains	4 November 2019
Site Contamination Investigation by SLR Consulting (Rev 0)	14 January 2016
Acoustic Report prepared by JHA Consulting Engineers for Project Number	4 March 2020

170553 Revision F	
Technical Note Winter-Gardens in High Noise Areas prepared by JHA Consulting Engineers	11 February 2020
BASIX Certificate No. 954322M_03 by JHA	11 February 2020
Building Code of Australia and Accessibility (DDA) Report prepared by Matt Shuter & Associates Ref: MSA1668_REV03	4 December 2018
Letter regarding Accessibility Compliance prepared by Matt Shuter & Associates MSA1688_Accessibility Letter 01	10 February 2020
Colours and finishes schedule prepared by Fox Johnston Ref: Dwg. No. A-700-000, Revision B	11 November 2019
Arboricultural Impact Report prepared by Landscape Matrix	30 November 2018
Geotechnical Report prepared by Asset Geotechnical Ref: 3254-R1-Rev 1	13 January 2016
Heritage Impact Statement prepared by John Oultram Heritage & Design	December 2018
Traffic Impact Assessment Report, prepared by People Trans Ref: Stage 3, Issue D	18 March 2020
Waste Management Plan prepared by SLR Consulting Ref: Version 3, Parts 1 and 2	December 2018
Design Verification Statement and addendum to Design Verification Statement, both prepared by Fox Johnston Architects	13 November 2018 & 3 August 2020
Structural Engineer's Report by SDA Structures Pty Ltd	30 November 2018

Note: Approved plans/documents referred to above will be amended following the resolution of the deferred commencement requirements.

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

2. Inconsistency between documents

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

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

3. Approved use

The specific use of the retail tenancy approved by this Development Consent is *neighbourhood shop* per the definition of *neighbourhood shop* in the Dictionary to Ku-ring-gai LEP (Local Centres) 2012.

Reason: To specify the approved use of the retail tenancy.

4. Compliance with Transport Roads and Maritime Conditions

This development consent is subject to all conditions in the letter prepared by Transport Roads and Maritime Services listed in Condition 1 of this Development

Consent. The Certifier and Principal Certifier is responsible for ensuring compliance with these conditions.

Reason: To ensure compliance with the requirements of Transport Roads and Maritime

5. Compliance with Transport Sydney Trains Conditions

This development consent is subject to all conditions in Attachment B of the letter prepared by Transport Sydney Trains listed in Condition 1 of this Development Consent. The Certifier and Principal Certifier is responsible for ensuring compliance with these conditions.

Reason: To ensure compliance with the requirements of Transport Sydney Trains.

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

6. 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 Safework NSW.

Reason: To ensure public safety.

7. 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.

8. 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.

9. Archival recording of buildings

The existing buildings on the site are to be recorded.

Prior to the commencement of any works, the Principal Certifier shall be satisfied that an archival report has been submitted to Council's Heritage Advisor.

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

Wales Heritage Office.

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

A written acknowledgement from Council must be obtained, attesting to this condition being satisfied and submitted to the Certifier, prior to the issue of any Construction Certificate.

Reason: To ensure there is a historical record of buildings to be altered or demolished and their context.

10. Dilapidation survey and report (private property)

Prior to the commencement of any works, the Applicant must obtain a dilapidation report on the identified private properties 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:

- 283 Pacific Highway, Lindfield
- 257 Pacific Highway, Lindfield

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.

Note: 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.

11. Archaeological survey

Prior to commencement of any works, the Principal Certifier shall be satisfied that an archaeological survey has been completed and submitted to Council's Heritage Advisor.

The survey shall be carried out by a qualified archaeologist and shall identify the likelihood of remains and/or artefacts, whether European or Aboriginal, being present

on site.

If the survey identifies that such items are likely to be present on site, demolition, earthworks and excavation shall be undertaken under the direct supervision of the consultant archaeologist. An excavation permit under section 140 of the Heritage Act, 1977 may be required if it is likely relics will be uncovered.

In the event that remnants or artefacts are found during the progression of works on the site, excavation or disturbance of the area is to stop immediately. In accordance with s.146(a) of the *Heritage Act, 1977* the Applicant must ensure the Heritage Council of NSW is notified within a reasonable time of the discovery or location of these relics. Archaeological assessment and approval, or endorsement, may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

A policy of managing the known relics and an interpretative strategy developed on how to interpret any relics found on the site must be developed and subject to separate approval by Council's Heritage Advisor.

Reason: To comply with the provisions of the NSW Heritage Act and to ensure the preservation and proper management of relics and historical artefacts.

12. Construction traffic management plan

A construction traffic management plan (CTMP) is to be submitted to and approved by Council 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 the following:

- construction vehicle routes for approach and departure to and from all directions, showing loaded and empty vehicles
- a site plan showing entry and exit points
- swept paths on the site plan showing access and egress for a 12.5 metres long heavy rigid vehicle and 19.0 metres articulated vehicle
- swept path analysis plans showing 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
- show locations for site offices and materials storage areas which are 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.

For safety and amenity, no construction vehicle movements are to occur in Pacific Highway during school drop-off (8.00am to 9.30am) and pick up (2.30pm to 4.00pm) times on school days.

No loaded trucks on Treatts Road or Park Avenue railway bridge will be permitted. Other railway bridges will require the applicant to provide approval from Transport for NSW (TfNSW) for all vehicles over 4.5t gross vehicle mass as well as obtaining a permit under the National Heavy Vehicle Regulator (NHVR) if required by Heavy Vehicle National Law (HVNL)

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.

13. Sediment controls

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

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

Reason: To protect and enhance the natural environment.

14. Erosion and drainage management

No works shall commence until an erosion and sediment control plan is submitted to and approved by the Principal Certifier. The plan shall comply with the guidelines set out in the Landcom manual '*Managing Urban Stormwater: Soils and Construction*'. Erosion and sediment control works shall be implemented in accordance with the erosion and sediment control plan.

Reason: To protect the natural environment.

15. Tree protection fencing

Prior to the commencement of any works, the tree protection zone of the listed trees is to be fenced off at the specified radius from the trunk/s to prevent any activities or

storage of material within the fenced area. The fence/s shall be maintained intact until the completion of all construction/building work.

Tree/location	Radius in metres
T49 - T61 Various species Adjacent to southern site boundary in neighbouring site	4.0m to be installed after demolition works are completed

Reason: To protect existing trees.

16. Tree protective fencing type galvanised mesh

Prior to the commencement of any works, tree protection fencing shall be constructed of galvanised pipe at 2.4 metres spacing and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres.

Reason: To protect existing trees.

17. Tree protection signage

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

The words:

- Tree protection zone/No access.
- This fence has been installed to prevent damage to the tree/s and their growing environment both above and below ground.

and the following information:

- The name, address, and telephone number of the developer/builder and project arborist

Reason: To protect existing trees.

18. Tree protection mulching

Prior to the commencement of any works, the tree protection zone is to be mulched to a depth of 100mm with composted organic material.

The mulch is to be replenished so as to be consistent with the above requirement throughout the duration of construction works.

Reason: To protect existing trees.

19. 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.

20. 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.

21. 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 Local Centres 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.

22. Noise and vibration management plan

Prior to the commencement of any works, a noise and vibration management plan is to be prepared by a suitably qualified expert addressing the likely noise and vibration from demolition, excavation and construction of the proposed development and provided to the Principal 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:

- i. identification of the specific activities that will be carried out and associated noise sources
- ii. identification of all potentially affected sensitive receivers, including residences, churches, commercial premises, schools and properties containing noise sensitive equipment
- iii. the construction noise objective specified in the conditions of this consent
- iv. the construction vibration criteria specified in the conditions of this consent
- v. determination of appropriate noise and vibration objectives for each identified sensitive receiver
- vi. noise and vibration monitoring, reporting and response procedures
- vii. assessment of potential noise and vibration from the proposed demolition, excavation and construction activities, including noise from construction vehicles and any traffic diversions
- viii. description of specific mitigation treatments, management methods and

- procedures that will be implemented to control noise and vibration during construction
- ix. construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency
- x. procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration
- xi. contingency plans to be implemented in the event of non-compliances and/or noise complaints

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

23. Vibration

The Principal Certifier shall be satisfied that vibration emitted from activities associated with the demolition, excavation, construction and fitout of buildings and associated infrastructure will be in accordance with the values referenced in Table 2.2 of the Environment Protection Authority Assessing Vibration - a Technical Guideline.

Reason: To protect residential amenity during construction.

24. 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.

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

24A. Construction Certificate plans

The Construction Certificate plans must be 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.

25. 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 Basement 2 level 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.

26. Air conditioning condensers

Prior to the issue of any Construction Certificate, the Certifier shall be satisfied that plans and specifications demonstrate that air conditioning condensers will be provided with appropriate enclosures, are well screened, integrated into the building form and will not result in adverse noise impacts for future and neighbouring occupants.

Reason: To protect amenity

27. Internal ventilation shaft - commercial use

Prior to the issue of any Construction Certificate, the Certifier shall be satisfied that plans and specifications demonstrate that the commercial occupancy on the ground level is provided with an internal ventilation shaft for any potential future use.

Reason: Consideration required for commercial developments under Ku-ring-gai Council's DCP.

28. Trade waste considerations- commercial use

Prior to the issue of any Construction Certificate, the Certifier shall be satisfied that adequate considerations have been made to allow for the future installation of a grease trap to service the commercial use on the ground level that would meet the requirements of Sydney Water.

Reason: To help facilitate compliance for a possible future food shop development application.

29. 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.

30. Amendments to architectural plans

Prior to the issue of any Construction Certificate, the Certifier is to ensure that the Construction Certificate plans have been amended in accordance with the requirements identified below:

- i. All balconies are to be provided with retractable drying lines;
- ii. The roof top clothes drying area identified with the number 11 on 'Landscape Plan – Roof Terrace' Drawing No. L-DA-010–Issue J dated 11/02/20 is to have timber screening to a maximum height of 1.8m and/or planting to prevent it being seen as a clothes drying area from either the internal communal areas in the centre of the development, from other parts of the rooftop garden or from adjoining

- development;
- iii. Additional privacy/security screens shall be provided to all pairs of 1-bedroom apartments facing the railway with adjoining balconies separated by party walls (apartments DG04, DG05, CG03, CG04, D104, D105, C103, C104, D204, D205, C203, C204, D304, D305, C303, C304). The additional screens shall provide for privacy and security between the adjacent balconies but also allow solar access at 11am on 21 June (midwinter). The screens shall not project beyond the outside edge of the balconies to which they relate;
- iv. Screening along the stairs in the setback area adjacent to Unit CLG05 shall be provided to ensure there is no viewing into the bedrooms of that unit from the stairs;
- v. 60% of all apartments of the development shall be naturally cross-ventilated in accordance with Part 4B Natural Ventilation and the definition of 'Natural Cross Ventilation' in the ADG. Apartments A105, A205, A305, A405, A505 and A605 which rely on plenum solutions for natural cross ventilation and natural ventilation shall have their details checked by a suitably qualified Acoustic Consultant and an Environmental Engineer, to ensure that they meet the requirements in ADG and also satisfy the Acoustic Criteria in the approved JHA Consulting Acoustic Report dated 4 March 2020 and referred to in Condition 1 of Schedule B;
- vi. All apartments except for apartments A105, A205, A305, A405, A505 and A605 shall have their details checked by a suitably qualified Acoustic Consultant and an Environmental Engineer, to ensure that they meet the requirements in Part 4B Natural Ventilation of the Apartment Design Guide and also satisfy the Acoustic Criteria in the approved JHA Consulting Acoustic Report dated 4 March 2020 and referred to in Condition 1 of Schedule B of this Development Consent;
- vii. A facility providing an electric charge station shall be incorporated into the basement design, in a suitable location;

Reasons: To improve the overall amenity of the development, for residents, visitors and users of the public spaces, and to ensure its compliance with the ADG, SEPP 65 and SEPP (Infrastructure) 2007 in terms of ventilation and acoustic attenuation for the specific benefit of residents.

31. SEPP 55 'Remediation of Land' investigation requirements

In accordance with the SLR Phase 2 Contamination Report, dated 14 January 2016, prior to the issue of any Construction Certificate, the following must occur:

- i. Further assessment and management/remediation (if warranted) of identified lead and carcinogenic PAH impacts in soil, taking into consideration the detailed design of the proposed development by a suitably-qualified and experienced consultant;
- ii. Investigations to include groundwater and vapour testing;
- iii. Uncertainty around fill material in the vicinity of sampling points HA01, HA04 and HA06 shall be further investigated, taking into consideration the detailed design of the proposed development and any limitations around the removal or relocation of underground services in the vicinity of sampling point HA06;
- iv. In the event that management and/or remediation of lead or carcinogenic

PAH in soils is required, a suitable method of addressing this form of contamination shall be determined as part of a Remedial Action Plan. Management and/or remediation options could include in-situ containment, ex-situ containment, or offsite disposal;

- v. Hazardous materials, including but not limited to asbestos, that may be present in structures on the site, should be appropriately managed/removed and appropriate clearances obtained from a suitably experienced occupational hygienist or environmental consultant, before demolition of those structures. This will assist in mitigating potential for future land contamination to occur during demolition, which can happen if hazardous materials are not managed appropriately;
- vi. The Certifier must not issue a Construction Certificate unless they have received advice from a land contamination expert that the requirements of this condition have been satisfied;
- vii. The Certifier shall ensure that a suitably qualified Contamination Consultant confirms that any works involved with site remediation is Category 2 development, within the meaning of State Environmental Planning Policy No. 55 and does not require a separate development consent;
- viii. For the avoidance of any doubt, nothing in this condition requires the issue of any Construction Certificate prior to the commencement of:
 - a) demolition;
 - b) site clearing
 - c) hoarding
 - d) fencing; and
 - e) excavation and other work that is for the purposes of investigation, remediation or validation.

Reason: To ensure compliance with SEPP 55.

32. Amendments to approved landscape plans

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

Plan no.	Drawn by	Dated
L-DA-05 Rev J	360	11/02/20
L-DA-05A Rev G	360	11/02/20
L-DA-05B Rev E	360	11/02/20
L-DA-023 Rev J	360	11/02/20

The above landscape plans shall be amended as follows:

- i. The surface bio-detention basin within the eastern landscape setback shall be deleted from the drawings;
- ii. The proposed planting of *Eucalyptus saligna* (Sydney Blue Gum) within the Pacific Hwy site frontage shall be amended to *Syncarpia glomulifera* (Turpentine);
- iii. The proposed planting of *Eucalyptus paniculata* (Grey Ironbark) and *Nyssa sylvatica* (Tupelo) shall be amended to *Pyrus calleryana* 'Bradford',

- and *Allocasuarina torulosa* (Forest Oak);
- iv. The proposed planting, as amended, shall be continued for the length of the eastern setback;
- v. The proposed formalised access path within the eastern setback shall be deleted. Access shall be informal through plantings;
- vi. The planting of *Cyathea cooperii* (Coin Spot Fern) shall be amended to a non-weed species;
- vii. Proposed inaccessible rooftop planters behind the A/C Units shall be deleted and the roof maintained as a non-trafficable area;
- viii. The plant schedule shall be updated and amended accordingly
- ix. Details of water and drainage connections associated with the landscaped areas to be indicated on the landscape plans;
- x. The wall around the courtyard of the neighbourhood shop shall have a maximum height of 1.8m above ground level and the fence and gate separating the communal area of the site from the new public road shall have a maximum height of 1.2m above ground level.

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 prior to the issue of any Construction Certificate.

Reason: To ensure adequate landscaping of the site.

33. Amendments to approved engineering plans

Prior to the issue of a Construction Certificate, the 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 and Stormwater plans - Rev 8	Jones Nicholson	10/2/20

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

- i. The driveway entry to the building shall be modified to provide sight triangles of 2m x 2.5m in accordance with AS2890 to allow for better visibility for pedestrians. These sight triangles shall be provided inside the future property boundary line.
- ii. Realign the proposed subsoil pipeline parallel to the southern boundary to run along the southern side of the proposed landscape retaining wall in accordance with the recommendations of the arborist (Page 18 of the Arboricultural Report).
- iii. Adjust drainage pipe and pit locations in the new Tryon Lane shared road to minimise conflicts with proposed tree plantings.

An amended engineering plan prepared by a qualified engineer shall be submitted to the Certifier prior to the issue of any Construction Certificate.

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

34. Compliance with BASIX Certificate

Prior to the issue of any Construction Certificate, the Certifier shall be satisfied that all commitments listed in the approved BASIX Certificate (referred to under Condition 1) are detailed on the plans forming the Construction Certificate.

Reason: Statutory requirement.

35. Statement of compliance with Australian Standard

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 Principal Certifier prior to the commencement of any works.

Reason: To ensure compliance with the Australian Standards.

36. 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.

37. Outdoor lighting

Prior to the issue of any 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*.

Note: Details demonstrating compliance with these requirements are to be submitted to the 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.

38. 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.

39. 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 the Development Consent.

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

40. 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.

41. Livable housing guidelines- platinum and silver level plus visitable apartments

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 approved Building Code of Australia and Accessibility (DDA) Report prepared by Matt Shuter & Associates Ref: MSA1668_REV03.

Apartments identified as Platinum - showing compliance with the Platinum Level requirements of the Livable Housing Australia Livable Housing Guidelines and as detailed in the approved Building Code of Australia and Accessibility (DDA) Report prepared by Matt Shuter & Associates Ref: MSA1668_REV03.

Visitable dwellings - At least 70% of units are a visitable housing unit as defined in AS 4299-1995 Adaptable Housing.

The detailed plans and construction drawings showing full compliance with the requirements of each standard within the Livable Housing Guidelines and as identified within the Building Code of Australia and Accessibility (DDA) Report prepared by Matt Shuter & Associates Ref: MSA1668_REV03 shall be certified by an accredited Liveable Housing Australia assessor and provided to the Certifier for inclusion with the Construction Certificate documentation.

Reason: To ensure equitable access.

42. Livable housing guidelines - access to all platinum level apartments

Access to all Platinum Level Apartments under the Livable Housing Guidelines from the principal point of pedestrian access at the allotment boundary shall be checked by an Access Consultant and verified as satisfactory prior to the issue of any Construction Certificate. If not satisfactory, a performance solution shall be incorporated into the design to ensure adequate pedestrian access for residents and visitors of Platinum Level Apartments.

Reason: To ensure equitable access.

43. 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.

44. 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.

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. Acoustic design report

An acoustic design report shall be prepared by an appropriately qualified acoustic consultant and submitted to the Certifier with the application for any construction certificate. The acoustic design report shall identify all mechanical ventilation equipment and other noise generating plant including, but not limited to air conditioners, car park exhaust, bathroom/toilet and garbage room exhaust, roller shutter doors, lifts, the common gym on the ground level, pumps associated with rain water reuse systems and the swimming pool proposed as part of the approved development.

The acoustic design 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.

A Construction Certificate shall not be issued unless the Certifier is satisfied that the acoustic design report satisfies the requirements of this condition and that the proposal will be constructed in accordance with its requirements.

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

47. 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.

48. Driveway grades - basement car parks

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 Pacific Highway to the proposed basement floor level. The civil/traffic engineer shall provide specific written certification on the plans that:

- (i) Vehicular access ramp along the path of travel to the garbage loading/unloading area can be obtained using grades of 20% (1 in 5) maximum.
- (ii) Vehicular access can be obtained using grades of 25% (1 in 4) maximum.
- (iii) 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.

49. 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:

- (i) 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*";
- (ii) A 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;
- (iii) Council and its contractor requires unimpeded access to the waste storage facility within the development for the purpose collecting waste and recycling materials;
 - a. Security doors or gates installed leading to the waste storage area are to be keyed to Council's master key to allow unimpeded access;
- (iv) The vehicle access and accommodation arrangements are to be constructed and marked in accordance with the certified plans;
- (v) A suitable facility providing an electric car charging station is incorporated into the basement plan.

Reason: To ensure that parking spaces are in accordance with the Development Consent.

50. Car parking allocation

Minimum car parking within the development shall be allocated as follows:

commercial/retail spaces	4
resident car spaces	116
visitor spaces	22
car share spaces	2
car wash bay	1
total spaces required	145

Each Livable Housing Platinum 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 Platinum 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.

51. Design of works in public road (Roads Act approval)

Prior to issue of any Construction Certificate, full design engineering plans and specifications, prepared by a suitably qualified and experienced civil engineer for the following infrastructure works, shall be submitted to Council and approved by Council's Director of Operations on behalf of Council as a road authority:

- construction of vehicular crossing to Pacific Highway
- construction of a new link road and related footpath/shared area, from Pacific Highway to Tryon Lane
- construction of vehicular crossing from this new link road to the proposed building entry

The "Cobble Strips" in the brick paving of the link road are to be removed. There must not be a delineation of a path or carriageway in the shared zone.

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 the *Roads Act 1993* applications. Early submission is recommended to avoid delays in obtaining a Construction 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 Construction 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 Construction Certificate.

Reason: To ensure compliance with the requirements of *Roads Act 1993*.

52. Ausgrid requirements

Prior to issue of any Construction Certificate, Ausgrid must be contacted regarding power supply for the subject development. A written response, detailing the full requirements of Ausgrid (including any need for underground cabling, substations or similar within or in the vicinity of the development) shall be submitted and approved by the Certifier for approval prior to issue of any Construction Certificate.

Any structures or other requirements of Ausgrid shall be indicated on the plans issued with the Construction Certificate, to the satisfaction of the Certifier and Ausgrid. The requirements of Ausgrid must be met in full prior to issue of an Occupation Certificate.

Reason: To ensure compliance with the requirements of Ausgrid.

53. Utility provider requirements

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

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

54. 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.

55. Telecommunications infrastructure

Prior to the issue of any Construction Certificate, satisfactory documentary evidence shall be provided to the Certifier that arrangements have been made for the installation of fibre-ready facilities to all individual lots and/or premises so as to enable fibre to be readily connected to any dwelling or unit that is being or may be constructed.

Prior to the issue of any Construction Certificate, the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or dwellings shall be demonstrated to the Certifier through a written agreement between the developer/owner and a carrier. The agreement will also confirm that the carrier is satisfied the fibre ready facilities are fit for purpose.

Reason: To ensure that telecommunications infrastructure is provided in accordance with the Commonwealth Telecommunications Act 1997.

56. Design and construction of mechanical ventilation

Prior to the issue of the Construction Certificate plans and specification complying with the requirements of the National Construction Code Volume 1 Part F4 and the Australian Standard 1668 parts 1 and 2- The use of ventilation and air conditioning in buildings- Fire and smoke control in buildings shall be submitted to and approved by the Certifier.

Reason: To ensure compliance with standards for mechanical ventilation.

57. Garbage and recycling facilities

All internal walls of the residential and commercial garbage rooms shall be rendered and coved at the floor/wall intersection. The floors are 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 areas demonstrating compliance with the above shall be provided to the Certifier prior to the issue of any Construction Certificate.

Reason: To protect amenity and to prevent environmental pollution.

58. Consolidation of lots

Prior to issue of any Construction Certificate, the Applicant must consolidate the existing lots which form the development site into a single lot. Evidence of lot consolidation, in the form of a plan registered with NSW Land Registry Services, must be submitted to the 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 THE ISSUE OF THE CONSTRUCTION CERTIFICATE, SUBDIVISION WORKS CERTIFICATE OR PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION (WHICHEVER COMES FIRST):

59. 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 any 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 receipt of an 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.

60. Interpretation plan for the existing buildings on the site

Prior to any demolition works commencing on the site an Interpretation Plan must be submitted to and endorsed by Council

An Interpretation Plan is a document that provides policies and details advice for interpreting the heritage significance of the existing buildings and their site and includes detail about the interpretation media. Media can include signs, installations, displays, films, brochures or other means of communication. The Interpretation Plan shall be prepared by a suitably qualified and experienced person.

The media chosen is to clearly help the public understand and convey the significance of the existing buildings and the site. Prior to the issue of an Occupation Certificate, the Media is to be installed near the main entrance of the approved development.

Reason: To ensure the significance of the existing buildings is interpreted through appropriate media for future generations.

61. Interpretation plan for the historic well

Prior to any demolition works commencing on the site an Interpretation Plan must be submitted to and endorsed by Council

An Interpretation Plan is a document that provides policies and details advice for interpreting the heritage significance of the existing brick well includes detail about the interpretation media can include signs, installations, displays, films, brochures or other means of communication. The Interpretation Plan shall be prepared by a suitably qualified and experienced person.

The media chosen is to clearly help the public understand and convey the significance of the brick well. Prior to the issue of an Occupation Certificate, the media is to be installed near the main entrance of the approved development.

Reason: To ensure the identified heritage significance of the brick well is interpreted through appropriate media for future generations.

62. Section 7.11 Contributions - Centres.

(a) 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:

Key Community Infrastructure	Amount
Local recreation and cultural facilities; Local social facilities	\$226,242.08
Local roads, local bus facilities & local drainage facilities (new roads	\$299,247.52

and road modifications)	
Local parks and local sporting facilities	\$1,601,844.28
Local roads, local bus facilities & local drainage facilities (townscape, transport & pedestrian facilities)	\$888,269.02
Total:	\$3,015,602.90

The contribution specified above is subject to indexation and will continue to be indexed to reflect changes in the Consumer Price Index (All Groups Sydney) and Established House Price Index (Sydney) until paid in accordance with Ku-ring-gai Contributions Plan 2010. Prior to payment, please contact Council directly to verify the current contribution payable.

- (b) A development contribution that is required under the conditions of this consent must be paid before the issue of the first occupation certificate in respect of any building to which this consent relates, except as provided by (c) below.
- (c) If no construction certificate in respect of the erection of any building to which the consent relates has been issued before or on 25 September 2022, the development contribution must be paid prior to the issue of the first construction certificate, Linen Plan, Subdivision Certificate or Occupation Certificate after that date.

Note: Copies of Council's Contributions Plan can be viewed at Council Chambers at 818 Pacific Hwy Gordon or on Council's website at www.kmc.nsw.gov.au.

Reason: To comply with the Ministerial Direction that came into effect on 8 July 2020 and to ensure the provision, extension or augmentation of the Key Community Infrastructure identified in Ku-ring-gai Contributions Plan 2010 that will, or is likely to be, required as a consequence of the development.

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

63. 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.

64. 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) 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:

1. the work must be carried out in accordance with the requirements of the Building Code of Australia
2. 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
3. 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.

65. 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.

Demolition and/or excavation using machinery of any kind 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 demolition and/or excavation using machinery of any kind 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 Transport for NSW (TfNSW) from travelling during daylight hours to deliver, erect or remove machinery, tower cranes, pre-cast panels, beams, tanks or service equipment to or from the site, approval for such activities will be subject to the issue of an "outside of hours works permit" from Council as well as notification of the surrounding properties likely to be affected by the proposed works.

Note: Failure to obtain a permit to work outside of the approved hours will result in regulatory action.

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

66. 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.

67. 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 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.

68. Control of construction noise (Noise and vibration management plan)

During any demolition, excavation or building works, noise generated from the site shall be controlled in accordance with the recommendations of the approved noise and vibration management plan.

Reason: To ensure reasonable standards of amenity to neighbouring properties.

69. 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.

70. Dust control

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

- physical barriers shall be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust
- earthworks and scheduling activities shall be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed
- all materials shall be stored or stockpiled at the best locations
- the ground surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs
- all vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust
- all equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays
- gates shall be closed between vehicle movements and shall be fitted with shade cloth
- cleaning of footpaths and roadways shall be carried out daily
- no advertising or signage is permitted to be attached to dust cloth material.

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

71. 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 Asset Geotechnical.

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

Reason: To ensure the safety and protection of property.

72. 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.

73. 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.

74. 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.

75. 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.

76. Construction signage

All construction signs must comply with the following requirements:

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

- are removed within 14 days of the completion of all construction works

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

77. 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.

78. 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.

79. 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.

80. 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.

81. 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.

82. Temporary disposal of stormwater

During construction, stormwater runoff must be disposed of in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to manage and control runoff as far as the approved point of stormwater discharge. Such measures shall be to the satisfaction of the Principal Certifier.

Reason: To protect the natural environment.

83. 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 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.

84. 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:

Tree/location	Time of inspection
T49-T61 Various species adjacent to the southern site boundary in neighbouring site	At three monthly intervals from when the consent is activated to the completion of all works on site

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.

85. Landscape works near trees

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

Tree/location	Radius in metres
T49 - T61 Various species adjacent to southern site boundary in neighbouring site	5.0m

Reason: To protect existing trees.

86. Trees on nature strip

Removal and pruning of the following tree/s from Council's nature strip shall be undertaken at no cost to Council by an experienced tree removal contractor and or arborist holding public liability insurance amounting to a minimum cover of \$20,000,000. All pruning works shall be undertaken by an experienced arborist/horticulturist, within a minimum AQF Level 3 qualification as specified in the current version of AS 4373 - Pruning of amenity trees. :

Tree/location

Reason: To protect existing trees.

87. 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 Certifier confirming compliance with this condition.

Reason: To protect existing trees.

88. 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
T49 - T61 Various species adjacent to southern site boundary in neighbouring site	5.0m

Reason: To protect existing trees.

89. Approved tree works

Prior to the commencement of any works, the following is to be undertaken to the specified trees:

Tree/location	Approved tree works
All trees on site	Removal
T35 <i>Pistacia chinensis</i> (Chinese Pistachio) Pacific Hwy road reserve	Removal

1. All trees are to be clearly tagged and identified in accordance with the specifications in the arborist report prior to the removal or pruning of any tree/s .
2. Canopy and/or root pruning shall be undertaken by an experienced arborist/horticulturist, with a minimum AQF Level 3 qualification.
3. All root or canopy pruning works shall be undertaken as specified in the current version of AS 4373 - Pruning of Amenity Trees.

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

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

90. Hand excavation

All excavation within the specified radius of the trunk/s of the following tree/s after

demolition shall be carried out by hand digging and/or by an air knife and shall be supervised by an experienced arborist/horticulturist, with a minimum AQF Level 3 qualification. The arborist /horticulturalist shall provide a report to the Principal Certifier confirming compliance with this condition:

Tree/location	Radius in metres
T49 - T61 Various species adjacent to southern site boundary in neighbouring site	5.0m

Reason: To protect existing trees.

91. 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 consent.

Reason: To protect existing trees.

92. 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.

93. Replenishment trees to be planted

The replenishment trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5 metres when they will be protected by Council's Development Control Plan. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species.

Reason: To maintain the treed character of the area.

94. 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 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.

95. 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.

96. 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.

97. 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.

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

98. Road dedication

The new road (Tryon Lane extension) is required to be dedicated to Council pursuant to Ku-ring-gai Contributions Plan 2010, and specifically the Works Programme under the Contributions Plan. To enable the future dedication following completion of works, a development application for subdivision shall be submitted to Council showing the separation of the road lot and intended dedication as public road in accordance with Dwg No. A-100-003 Revision D, dated 11 November 2019. The road dedication must be completed prior to the issue of any Occupation Certificate for the development.

Reason: The construction, embellishment and dedication of this road was a feature of the rezoning of this site and is a development requirement.

99. Referral to Council's Traffic Committee

The matter of the potential removal of 3 carparking spaces in the kerbside lane of Pacific Highway within the frontage of No. 283 Pacific Highway Lindfield is to be referred to Council's Traffic Committee for consideration.

Reason: To improve traffic safety.

100. Internal ventilation shaft - commercial use

Prior to the issue of any Occupation Certificate, the Principal Certifier shall be satisfied that an internal ventilation shaft has been provided to the commercial space.

Reason: To ensure compliance with standards and health amenity for occupants.

101. Trade waste considerations- commercial use

Prior to the issue of an Occupation Certificate, the Principal Certifier shall be satisfied that adequate space in the development has been provided to allow for the future installation of a grease trap to service the commercial space on the ground level that would meet the requirements of Sydney Water.

Reason: To help facilitate compliance for a possible future food shop development application.

102. Acoustic barriers- air conditioning condensers

Prior to the issue of an Occupation Certificate, the Principal Certifier shall be satisfied that air conditioning condensers are provided with appropriate enclosure(s) and are screened and integrated into the building form.

Reason: To protect amenity

103. Acoustic control measures - glazing, balcony construction and acoustically treated alternative means of ventilation

Prior to the issue of an Occupation Certificate, the Principal Certifier shall be satisfied that glazing, balcony wall/ceiling construction, acoustically treated alternative means of ventilation and other recommendations specified by JHA Consulting Engineers in their acoustic assessment dated 15 July 2019 have been installed. Written confirmation from an acoustic engineer that the acoustic control measures achieve the noise objectives specified in the acoustic assessment is to be submitted to the Principal Certifier.

Reason: To protect residential amenity.

104. Outdoor lighting

Prior to the issue of an 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.

105. Electromagnetic assessment- substation room

Prior to the issue of an 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 Basement 2 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.

106. Compliance with BASIX Certificate

Prior to the issue of an Occupation Certificate, the Principal Certifier shall be satisfied that all commitments listed in approved BASIX Certificate (referred to under Condition No 1) have been complied with.

Reason: Statutory requirement.

107. Clotheslines and clothes dryers

Prior to the issue of an Occupation Certificate, the Principal Certifier shall be satisfied that all units have retractable clothes line on balconies and that access to the communal external clothes line located on the rooftop has been provided.

Reason: To provide access to clothes drying facilities.

108. Completion of landscape works

Prior to the issue of an Occupation Certificate, the Principal Certifier is to be satisfied that all landscape works have been undertaken in accordance with the approved plan(s) and conditions of this development consent.

Reason: To ensure that the landscape works are consistent with the Development Consent.

109. Mechanical noise control

Prior to the issue of an Occupation Certificate, the Principal Certifier shall be satisfied that the mechanical ventilation systems and other plant, including but not limited to air conditioners, car park and garbage room exhaust, roller shutter doors, lifts, pumps associated with the rain water reuse systems and the common gym 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 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.

110. Location of plant

Prior to the issue of an Occupation Certificate, the Principal Certifier shall be satisfied that all plant and equipment (including but not limited to air conditioning equipment) is located either within the basement of the development or in locations identified on the approved plans as being for the purposes of plant and equipment.

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

111. Easement for waste collection

Prior to the issue of an 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.

112. Retention and re-use positive covenant

Prior to issue of an 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.

113. Certification of drainage works

Prior to issue of an 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.

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

Reason: To ensure appropriate stormwater management.

114. Works as executed plans for stormwater management and disposal

Prior to issue of an 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 an 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 Certifier stamped Construction Certificate stormwater plans.

Reason: To ensure appropriate stormwater management.

115. Basement pump-out maintenance

Prior to issue of an 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.

116. OSD positive covenant/restriction

Prior to issue of an 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 an Occupation

Certificate.

Reason: To ensure appropriate stormwater management.

117. 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 the Occupation Certificate.

This marker plate can be purchased from Council.

Reason: To prevent unlawful alteration.

118. Certification of as-constructed driveway/carpark - RFB

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

1. The as-constructed car park complies with the approved Construction Certificate plans.
2. The completed vehicle access and accommodation arrangements comply with Australian Standard 2890.1 - 2004 "Off-Street car parking" and the Seniors Living State Environment Planning Policy in terms of minimum parking space dimensions.
3. Finished driveway gradients and transitions will not result in the scraping of the underside of cars.
4. No doors, gates, grilles or other structures have been provided in the access driveways to the basement carpark, which would prevent unrestricted access for internal garbage collection from the basement garbage storage and collection area.
5. The development complies with vehicular headroom requirements of:
 - Australian Standard 2890.1 - "Off-street car parking",
 - The Seniors Living SEPP 2004 (as last amended) for accessible parking spaces,
6. A minimum 2.6 metres height clearance for waste collection trucks (refer Part 23.7 of the Ku-ring-gai DCP) are met from the public street into and within the applicable areas of the basement carpark.

Evidence from a suitably qualified and experienced traffic/civil engineer demonstrating compliance with the above is to be provided to and approved by the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure that vehicular access and accommodation areas are compliant with Australian Standards and the Development Consent.

119. 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.

120. Reinstatement of redundant crossings and completion of infrastructure works

Prior to issue of an Occupation Certificate and upon completion of any works which may cause damage to Council's property, the Principal Certifier must receive a signed inspection form from Council which states that the following works in the road reserve have been completed:

1. new concrete driveway crossing in accordance with levels and specifications issued by Council
2. removal of all redundant driveway crossings and kerb laybacks (or sections thereof) and reinstatement of these areas to footpath, turfed verge and upright kerb and gutter (reinstatement works to match surrounding adjacent infrastructure with respect to integration of levels and materials)
3. full repair and resealing of any road surface damaged during construction
4. full replacement of damaged sections of grass verge to match existing
5. reconstruction of kerb and gutter with associated road pavement restoration for the full frontage of the development site

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

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

Reason: To protect the public infrastructure.

121. Construction of works in public road - approved plans

Prior to issue of an 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.

122. Infrastructure repair

Prior to issue of an 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.

123. Swimming pool (part 1)

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

1. Access to the pool/spa shall be restricted by a child resistant barrier in accordance with the regulations prescribed in the Swimming Pools Act, 1992:
 - (a) The pool shall not be filled with water or be allowed to collect stormwater until the child resistant barrier is installed; and
 - (b) The barrier is to conform to the requirements of AS 1926-1 2012 Fences and Gates for Private Swimming Pools.
2. Any mechanical equipment, such as motor enclosure(s), filters and pumps associated with any swimming pool and/or spa pool shall be located in a sound-proofed enclosure. The Principal Certifier shall be satisfied that the sound levels associated with the swimming pool/spa filtration system and associated mechanical equipment do not exceed 5dB(A) above the background noise (LA90, 15 min) level during the day and shall not exceed the background level at night (8.00pm - 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.
3. The pool/spa shall be registered on the NSW Swimming Pool Register in accordance with the *Swimming Pools Act 1992*
www.swimmingpoolregister.nsw.gov.au
<<http://www.swimmingpoolregister.nsw.gov.au>>.

Reason: Statutory requirement to ensure the safety of children and to protect the amenity of surrounding properties.

124. Fire safety certificate

Prior to the issue of an 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.

125. Construction of mechanical ventilation

Prior to the issue of an Occupation Certificate, the Principal Certifier shall be satisfied that the construction of the mechanical ventilation is in accordance with the Australian Standard 1668 parts one and two -The use of ventilation and air conditioning in buildings- Fire and smoke control in buildings.

If a Private Certifier is used, the final inspection of the ventilation 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

Reason: To ensure compliance with standards for mechanical ventilation.

126. Garbage and recycling facilities - commercial use

Prior to the issue of an Occupation Certificate, the Principal Certifier shall be satisfied that the external waste storage area has been installed and adequately contains the waste bins, is covered, 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 prevent environmental pollution.

127. Garbage and recycling facilities - residential premises

Prior to the issue of an 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:

128. Noise control - exercise equipment in the common gym

All noise generating exercise equipment in the common gym associated with the development shall be located and/or acoustically treated so noise generated from the equipment, shall 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 internal 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.

129. Car wash area

The car wash area is constructed and maintained so that all water/wastewater generated by the washing activities are confined to the wash bay and directed to a drain/collection pit that discharges to the Sydney Water sewer system. The discharge/connection to the sewer system shall comply with the requirements of Sydney Water.

Reason: To prevent environmental pollution.

130. Noise control - amplified equipment in the common gym

Amplified sound equipment for the broadcast of music, advertising or instruction in the common gym associated with the development shall 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 internal 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.

131. 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.

132. Noise control - plant and machinery

All noise generating equipment associated with mechanical ventilation systems, plant and machinery including but not limited to air conditioners, car park, bathroom/toilet and garbage room exhaust, roller shutter doors, lifts and common gym 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.

133. Noise control - rainwater re-use system

Noise levels associated with any rainwater re-use system/s shall 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.

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

134. 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.

135. 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. Loading and unloading of services vehicles associated with the neighbourhood shop must be carried out from the Commercial/Deliveries space in Basement 3 shown on approved plan drawing No. A-400-000 Revision H.

Reason: To ensure safe traffic movement and protect acoustic amenity.

136. Deliveries and waste collections - commercial use

All deliveries and waste collection services for the retail business are to be carried out between 6:00am and 10:00pm only. There shall be no loading from Tryon Lane at any time. All loading shall be from the basement.

Reason: To protect the amenity of the surrounding area.

137. Swimming pool (part 2)

1. Access to the swimming pool must be restricted by fencing or other measures as required by the Swimming Pools Act 1992.
2. Noise levels associated with spa/pool pumping units shall not exceed more than 5dB(A) above the background noise (LA90, 15 min) level during the day and shall not exceed the background level at night (8.00pm - 7.00am) when measured at the 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.
3. Devices or structures used for heating swimming pool water must not be placed where they are visible from a public place.
4. The disposal of backwash and/or the emptying of a swimming pool into a reserve, watercourse, easement or storm water drainage system is prohibited. These waters are to discharge via a permanent drainage line into Sydney Water's sewer in accordance with Australian Standard AS3500.2 section 10.9. Permission is to be obtained from Sydney Water prior to the emptying of any pool to the sewer.
5. Lighting from the swimming pool and other communal facilities shall not detrimentally impact the amenity of other premises and adjacent dwellings.

Reason: Health and amenity.

138. Neighbourhood shop

At all times the use of the retail tenancy shall be in accordance with the definition of *neighbourhood shop* within the Dictionary to Ku-ring-gai LEP (Local Centres) 2012.

Reason: To ensure that use of the retail tenancy is in accordance with the objectives of the R4 High Density Residential zone.

139. Hours of operation

At all times, the hours of operation of the neighbourhood shop are restricted to between 7am and 7pm.

Reason: To protect the amenity of the area.

140. 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.

141. 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.

142. Separate consent for signage

A separate Development Consent for any proposed signs which are either externally fitted or applied must be obtained from Council, prior to the erection of any such signs. This does not apply to signs which are classified as being "Exempt Development".

Reason: To protect residential amenity.