



Filed: 12 August 2022 2:10 PM



D0001LOOWG

### Section 34 Agreement

#### COURT DETAILS

Court	Land and Environment Court of NSW
Division	Class 1
Registry	Land and Environment Court Sydney
Case number	2022/00035670

#### TITLE OF PROCEEDINGS

First Applicant	Capital Corporation Wahroonga Pty Limited
First Respondent	Ku-ring-gai Council ABN 86408856411

#### FILING DETAILS

Filed for	Capital Corporation Wahroonga Pty Limited, Applicant 1
Legal representative	Lindsay Mark Taylor
Legal representative reference	
Telephone	02 8235 9714

#### ATTACHMENT DETAILS

In accordance with Part 3 of the UCPR, this coversheet confirms that both the Lodge Document, along with any other documents listed below, were filed by the Court.

Section 34 Agreement (Counter Signed s34 Agreement - 12.8.pdf)

[attach.]

Form A (version 2)  
LEC Act s34(3)(a)

**AGREEMENT BETWEEN THE PARTIES**  
**SECTION 34(3) LAND & ENVIRONMENT COURT ACT 1979**

**COURT DETAILS**

Court	Land and Environment Court of New South Wales
Class	1
Case number	2022/00035670

**TITLE OF PROCEEDINGS**

Applicant	<b>Capital Corporation Wahroonga Pty Limited</b>
Respondent	<b>Ku-ring-gai Municipal Council</b>

**FILING DETAILS**

Filed for	<b>Capital Corporation Wahroonga Pty Limited</b> , Applicant
Legal representative	Lindsay Mark Taylor Lindsay Taylor Lawyers Level 9 Suite 3, 420 George Street Sydney NSW 2000
Legal representative reference	CLC21002
Contact name and telephone	Katie Mortimer, Phone: 02 8235 9716
Contact email	katie.mortimer@lindsaytaylorlawyers.com.au

**TERMS OF AGREEMENT**

1. The Court notes that:
  - 1) Ku-ring-gai Municipal Council as the relevant consent authority has agreed under clause 55 of the *Environmental Planning and Assessment Regulation 2000* to the Applicant amending the Development Application DA0539/21, the subject of these proceedings, to rely on the documents specified in **Annexure A**.
  - 2) The Applicant uploaded the amended application on the NSW Planning Portal on 2 August 2022.
  - 3) The Applicant filed the amended application with the Court on 21 July 2022.
2. The parties have reached an agreement in a conciliation conference conducted pursuant to s34(3) of the *Land and Environment Court Act 1979*, as to the terms of a decision in

the proceedings that would be acceptable to the parties, that the Court could have made in the proper exercise of its functions.

3. The terms of that decision are as follows:

- 1) The appeal is upheld.
  - 2) Development Application No. DA0539/21, as amended, for the demolition of the existing structures, Torrens Title subdivision into three (3) lots, construction of four (4) residential flat buildings comprising 177 apartments with basement car parking, new internal road and associated site works including tree removal at 161 – 163, 167 and 169 Fox Valley Road is approved subject to the conditions at **Annexure B**.
  - 3) Pursuant to section 8.15(3) of the *Environmental Planning and Assessment Act 1979*, the Applicant is to pay the costs of the Respondent that have been thrown away as a result of the amendment of the application for development consent, as agreed or assessed.
4. Pursuant to Section 34(3)(a) and (b) of the *Land and Environment Court Act 1979*, the parties request that the Commissioner dispose of the proceedings in accordance with the terms of the decision set out in paragraph 3 above.

## SIGNATURES

Signature of legal representative



Capacity

Solicitor for the Applicant, by his employed solicitor

Date of signature

12 August 2022

Signature of legal representative



Capacity

Solicitor for the Respondent

Date of signature

1 2 . 8 . 2 2

## Annexure A

TAB	DOCUMENT	DATE
1.	Statement of Environmental Effects prepared by Ethos Urban	17 June 2022
2.	<p>Architectural Drawings drawn by Group GSA:</p> <ul style="list-style-type: none"> <li>i. A0011 C</li> <li>ii. A0000 E</li> <li>iii. A0010 G</li> <li>iv. A0110 D</li> <li>v. A1000 D</li> <li>vi. A2000 E</li> <li>vii. A2001 E</li> <li>viii. A2002A E</li> <li>ix. A2002B E</li> <li>x. A2003 F</li> <li>xi. A2004 G</li> <li>xii. A2005 F</li> <li>xiii. A2006 F</li> <li>xiv. A2007 F</li> <li>xv. A2008 F</li> <li>xvi. A2009 G</li> <li>xvii. A2010 G</li> <li>xviii. A2011 E</li> <li>xix. A2012 E</li> <li>xx. A2013 F</li> <li>xxi. A2014 F</li> <li>xxii. A2015 F</li> <li>xxiii. A2020 D</li> <li>xxiv. A2021 D</li> <li>xxv. A2022 F</li> <li>xxvi. A2023 F</li> <li>xxvii. A2024 F</li> <li>xxviii. A2030 F</li> <li>xxix. A2031 F</li> <li>xxx. A2032 F</li> <li>xxxi. A2033 F</li> <li>xxxii. A2034 F</li> <li>xxxiii. A2035 F</li> <li>xxxiv. A2036 F</li> <li>xxxv. A2040 F</li> <li>xxxvi. A2041 F</li> <li>xxxvii. A2042B F</li> <li>xxxviii. A2042 F</li> <li>xxxix. A2043 F</li> <li>xl. A2044 FA3000 E</li> <li>xli. A3001 E</li> <li>xlii. A3002 E</li> <li>xlili. A3003 E</li> </ul>	21 June 2022

	xliv.	A3010 E	
	xl.	A3011 E	
	xlvi.	A3012 E	
	xlvii.	A3013 E	
	xlvi.	A3020 E	
	xlix.	A3021 F	
	l.	A3022 E	
	li.	A3023 E	
	lii.	A3031 E	
	liii.	A3032 E	
	liv.	A3033 E	
	lv.	A3040 D	
	lvi.	A3100 E	
	lvii.	A3101 E	
	lviii.	A3102 E	
	lix.	A3103 E	
	lx.	A3104 E	
	lxi.	A3105 E	
	lxii.	A3200 C	
	lxiii.	A3201 E	
	lxiv.	A3202 E	
	lxv.	A3203 A	
	lxvi.	A8300 E	
	lxvii.	A9040 E	
	lxviii.	A9041 G	
	lxix.	A9042 G	
	lxx.	A9050 D	
	lxxi.	A9060 G	
	lxxii.	A9070 E	
	lxxiii.	A9080 B	
	lxxiv.	A9100 D	
	lxxv.	A9101 D	
	lxxvi.	A9102 D	
	lxxvii.	A9200 C	
	lxxviii.	A9201 C	
	lxxix.	A9203 C	
	lxxx.	A9204 C	
	lxxxi.	A9205 C	
	lxxxii.	A9000 D	
	lxxxiii.	A9001 D	
	lxxxiv.	A9002 D	
	lxxxv.	A9003 D	
	lxxxvi.	A9004 D	
	lxxxvii.	A9010 D	
	lxxxviii.	A9011 D	
	lxxxix.	A9020 E	
	xc.	A9021 E	
	xc.	A9023 E	
	xcii.	A9024 F	
	xciii.	A9030 D	
	xciv.	A9031 F	

	xcv. A9032 F	
3.	DA Design Report prepared by GroupGSA	23 June 2022
4.	Plan of Subdivision of Lot 201 in DP1234558 and Lots 703, 706, 707, 708 & 709 in DP1222418 (2 sheets)	30 March 2022
5.	<p>Landscape Plans prepared by GroupGSA:</p> <ul style="list-style-type: none"> <li>i. L-0000 J</li> <li>ii. L-0001 H</li> <li>iii. L-0002 H</li> <li>iv. L-0003 H</li> <li>v. L-0004-E</li> <li>vi. L-0005 L</li> <li>vii. L-1002 C</li> <li>viii. L-1003-F</li> <li>ix. L-1004-G</li> <li>x. L-1005-E</li> <li>xi. L-5001 D</li> <li>xii. L-7000 C</li> <li>xiii. L-2001 H</li> <li>xiv. L-2002 G</li> <li>xv. L-2003 H</li> <li>xvi. L-2004 F</li> <li>xvii. L-2005 F</li> <li>xviii. L-2006 F</li> <li>xix. L-2007 F</li> <li>xx. L-2008 G</li> <li>xxi. L-2009 G</li> <li>xxii. L-2010 H</li> <li>xxiii. L-2011 E</li> <li>xxiv. L-3001 G</li> <li>xxv. L-3002 F</li> <li>xxvi. L-3003 F</li> <li>xxvii. L-3004 F</li> <li>xxviii. L-3005 F</li> <li>xxix. L-3006 F</li> <li>xxx. L-3007 G</li> <li>xxxi. L-3008 H</li> <li>xxxii. L-3009 H</li> <li>xxxiii. L-3010 F</li> <li>xxxiv. L-3011 F</li> <li>xxxv. L-3201 H</li> <li>xxxvi. L-3202 G</li> <li>xxxvii. L-4001 C</li> <li>xxxviii. L-4002 E</li> </ul>	Various
6.	<p>Civil and Stormwater Plans prepared by TTW:</p> <ul style="list-style-type: none"> <li>i. SKC000 P11</li> <li>ii. SKC001 P11</li> </ul>	Various

	iii. SKC200 P16 iv. SKC201 P19 v. SKC202 P18 vi. SKC203 P19 vii. SKCD01 P10 viii. SKC204 P15 ix. SKC210 P13 x. SKC211 P11 xi. SKC212 P11 xii. SKC213 P9 xiii. SKC214 P10 xiv. SKC215 P10 xv. SKC221 P10 xvi. SKC222 P10 xvii. SKC223 P11 xviii. SKC230 P7 xix. SKC231 P7 xx. SKC250 P3 xxi. SKC260 P3	
7.	DA Civil Stormwater Report prepared by TTW	17 June 2022
8.	Stormwater Drainage Development Application Report prepared by Intrax	19 May 2022
9.	NatHERS Certificates No. EFUUQQQ0MF and KSIK1CVIX – Stage 1 & 2	22 June 2022
10.	BASIX Certificates No. 914197M_05 and 1221329M_04 – Stage 1 & 2	23 June 2022
11.	NatHERS Certified Drawings – Stage 1 & 2	22 June 2022
12.	Statement of Consistency with Concept Plan and Variation Request prepared by Ethos Urban	28 April 2022
13.	Traffic Impact Assessment prepared by TTW	27 June 2022
14.	Statement of Compliance – Access for People with a Disability prepared by Accessible Building Solutions	20 June 2022
15.	Acoustic Report prepared by PKA Acoustic Consulting	24 June 2022
16.	Report on Geotechnical and Groundwater Investigation	June 2022
17.	Arboricultural Impact Assessment prepared by Eco Logical	17 June 2022
18.	BCA Audit Report prepared by Private Certifiers Australia and supporting letters	23 June 2022, 26 October 2021 and 3 August 2021

19.	Amended Bushfire Protection Assessment prepared by Australian Bushfire Protection Planners	23 June 2022
20.	Biodiversity Management Plan prepared by Cumberland Ecology	20 May 2022
21.	Table of Compliance with Ku-ring-gai Development Control Plan 2021 prepared by Ethos Urban	24 June 2022
22.	Design Verification Statement	23 June 2022



## DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF CONSENT

**Development Application No:** DA0539/21

**Development:** Demolition of the existing structures, Torrens title subdivision into 3 lots, and construction of four residential flat buildings comprising 177 apartments with basement carparking, new internal road, and associated site works including tree removal

**Site:** 161-163, 167 and 169 Fox Valley Road, Wahroonga

The above development application has been determined by the granting of consent subject to the conditions specified in this consent.

**Date of determination:**

**Date from which consent takes effect:** Date of determination.

### TERMINOLOGY

In this consent:

- (a) Any reference to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to such a certificate as defined in the *Environmental Planning and Assessment Act 1979*.
- (b) Any reference to the “applicant” means a reference to the applicant for development consent or any person who may be carrying out development from time to time pursuant to this consent.
- (c) Any reference to the “site”, means the land known as 161-163, 167 and 169 Fox Valley Road, Wahroonga

The conditions of consent are as follows:

### CONDITIONS THAT IDENTIFY APPROVED PLANS:

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

The development must be carried out in accordance with the 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>		
A0000 E Location plan & drawing list	Group GSA	21/06/2022
A0010 G Site plan		21/06/2022
A1000 D Demolition plan		21/06/2022
A2000 E Basement 2 – Building ABC		21/06/2022
A2001 E Basement 1 – Building ABC		21/06/2022
A2002A E Basement 2 – Building E		21/06/2022
A2002B E Basement 1 – Building E		21/06/2022
A2011 E Building A - Ground		21/06/2022
A2012 E Building A – LV 1-4		21/06/2022

A2013 F Building A – LV 5	21/06/2022
A2014 F Building A – Roof plant	21/06/2022
A2015 F Building A - Roof	21/06/2022
A2020 D Building B - Ground	21/06/2022
A2021 D Building B – LV 1-4	21/06/2022
A2022 F Building B – LV 5	21/06/2022
A2023 F Building B – Roof plant	21/06/2022
A2024 F Building B – Roof	21/06/2022
A2030 F Building C – Ground	21/06/2022
A2031 F Building C – LV 1-2	21/06/2022
A2032 F Building C – LV3	21/06/2022
A2033 F Building C – LV 4	21/06/2022
A2034 F Building C – LV 5	21/06/2022
A2035 F Building C – Roof plant	21/06/2022
A2036 F Building C – Roof	21/06/2022
A2040 F Building E – Lower Ground	21/06/2022
A2041 F Building E – Ground	21/06/2022
A2042 F Building E – Level 1-2	21/06/2022
A2042B F Building E – Level 3	21/06/2022
A2043 F Building E – Roof Plant	21/06/2022
A2044 F Building E – Roof	21/06/2022
A3000 E Elevation – Building A - North	21/06/2022
A3001 E Elevation – Building A – East	21/06/2022
A3002 E Elevation – Building A – South	21/06/2022
A3003 F Elevation – Building A – West	21/06/2022
A3010 E Elevation – Building B – North	21/06/2022
A3011 E Elevation – Building B – East	21/06/2022
A3012 E Elevation – Building B – South	21/06/2022
A3013 E Elevation – Building B – West	21/06/2022
A3020 E Elevation – Building C – North	21/06/2022
A3021 F Elevation – Building C – East	21/06/2022
A3022 E Elevation – Building C - South	21/06/2022
A3023 E Elevation – Building C – West	21/06/2022
A3030 E Elevation – Building E – North	21/06/2022
A3031 E Elevation – Building E – East	21/06/2022
A3032 E Elevation – Building E – South	21/06/2022
A3033 E Elevation – Building E – West	21/06/2022
A3040 D Elevation – Overall – North	21/06/2022
A3100 E Section – Overall	21/06/2022
A3101 E Section – Building A	21/06/2022
A3102 E Section – Building B	21/06/2022
A3103 E Section – Building C	21/06/2022
A3104 E Section – Building E	21/06/2022
A3105 E Section 02 – Building E	21/06/2022
A3200 C Ramp section – Buildings ABC	21/10/2021
A3201 E Ramp Section – Building E	21/06/2022
A3202 E Section detail – Typical northern façade	21/06/2022
A3203 A Section detail – Typical eastern façade	21/06/2022
A8300 E Material & finishes	21/06/2022
A9100 D Platinum apartment layout	21/06/2022

A9101 D Platinum apartment layout		21/06/2022
A9102 D Platinum apartment layout		21/06/2022
Landscape Plans		
L-0000 J Cover sheet	Group GSA	20/06/2022
L-0001 H Master plan		17/06/2022
L-0002 H Planting strategy		17/06/2022
L-0003 H Fence strategy		16/06/2022
L-0004-E 2m wide deep soil plan		21/06/2022
L-0005 L 6m wide deep soil plan		21/06/2022
L-1002 C BASIX turf plan		16/06/2022
L-1003-F Fire compliance landscape plan		16/06/2022
L-1004-G Landscape zone RFS		20/06/2022
L-1005-E Drought tolerant/indigenous species		20/06/2022
L-5001 D Material palette		16/06/2022
L-7000 C Indicative entry signage		16/06/2022
L-2001 H General arrangement plan		15/06/2022
L-2002 G General arrangement plan		15/06/2022
L-2003 H General arrangement plan		17/06/2022
L-2004 F General arrangement plan		15/06/2022
L-2005 F General arrangement plan		15/06/2022
L-2006 F General arrangement plan		15/06/2022
L-2007 F General arrangement plan		15/06/2022
L-2008 G General arrangement plan		15/06/2022
L-2009 G General arrangement plan		15/06/2022
L-2010 H General arrangement plan		15/06/2022
L-2011 E General arrangement plan		15/06/2022
L-3001 G Planting plan		17/06/2022
L-3002 F Planting plan		17/06/2022
L-3003 F Planting plan		17/06/2022
L-3004 F Planting plan		17/06/2022
L-3005 F Planting plan		17/06/2022
L-3006 F Planting plan		17/06/2022
L-3007 G Planting plan		17/06/2022
L-3008 H Planting plan		17/06/2022
L-3009 H Planting plan		17/06/2022
L-3010 F Planting plan		17/06/2022
L-3011 F Planting plan		17/06/2022
L-3201 H Plant schedule Building ABC		17/06/2022
L-4001 C Sections		17/06/2022
L-4002 E Sections		17/06/2022
Stormwater Management Plans		
SKC000 P11 Notes & legend	Taylor Thomson Whiting	17/06/2022
SKC001 P11 Erosion & sediment control		17/06/2022
SKC200 P16 Overall linemarking		17/06/2022
SKC201 P19 Overall site works		17/06/2022
SKC202 P18 Siteworks & stormwater		22/06/2022
SKC203 P19 Siteworks & stormwater		22/06/2022
SKC204 P15 Siteworks & stormwater		17/06/2022
SKC210 P13 Building E Turnings Paths		17/06/2022
Sheet 1		

SKC211 P11 Building E Turnings Paths Sheet 2		19/10/2021
SKC212 P11 Truck turning path		17/06/2022
SKC213 P9 Basement A-C Turning paths		17/06/2022
SKC214 P10 Mini bus turning paths		17/06/2022
SKC215 P10 MRV turning paths		17/06/2022
SKC221 P10 Details sheet 1		17/06/2022
SKC222 P10 Details sheet 2		17/06/2022
SKC223 P11 Details sheet 3		17/06/2022
SKC230 P7 Bulk earthworks plan		17/06/2022
SKC231 P7 Cut/fill plan		17/06/2022
SKC250 P3 Section sheet 1		17/06/2022
SKC260 P3 Driveway long section		17/06/2022
<i>Subdivision Plans</i>		
PLAN OF SUBDIVISION OF LOT 201 IN DP1234558 AND LOTS 703, 706, 707, 708 & 709 IN DP1222418 (two sheets)	Unauthored	30/03/2022
<b>Document(s)</b>		<b>Dated</b>
Accessibility Report prepared by Accessible Building Solutions, Issue B		20 June 2022
Acoustic Report prepared by PKA Acoustic Consulting, Version 5		24 June 2022
Basix certificate No.914197M_05		23 June 2022
Basix certificate No.1221329M_04		23 June 2022
Building Code of Australia Assessment Report prepared by Private Certifiers Australia, Version 2 and Covering Letters		23 June 2022 26 October 2021 and 3 August 2021
Design Verification Statement prepared by Group GSA		23 June 2022
Biodiversity Management Plan prepared by Cumberland Ecology, Version 4		20 May 2022
Geotechnical Report prepared by Douglas Partners		16 June 2022
Heritage Impact Statement prepared by GBA Heritage, Issue B		25 October 2021
Traffic and Car Parking Assessment prepared by TTW (Parts 1 and 2 Rev 6		17 June 2022
Waste Management Plan prepared by EcCell, Version 5		27 July 2021
Contamination Report prepared by Douglas Partners		6 October 2021
Construction Management Plan prepared by Westbourne		Undated
Stormwater Report prepared by Intrax Projects, Revision F		19 May 2022

**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.

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

### 3. Submission of plans of subdivision (Torrens title)

For endorsement of a Subdivision Certificate, an original plan of subdivision plus 2 copies, suitable for endorsement by Council shall be submitted to Council through the NSW Planning Portal. The following details must be submitted with the plan of subdivision and its copies:

1. The endorsement fee current at the time of lodgement.
2. The 88B instrument plus 2 copies.

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

**Reason:** Statutory requirement

## CONDITIONS APPLICABLE TO BUILDINGS A, B AND C

**The following conditions [1] – [126] apply to the works for Buildings A, B, C on Drawing Number A0011, Revision C, Staging Plan dated 21 June 2022, and applications for certificates under Part 6 of the Act for those works only.**

### 4. Universal and accessible housing

Prior to the issue of the relevant Construction Certificate, evidence from an appropriately qualified Liveable Housing Accredited Assessor/Access consultant is to be submitted to and approved by the Team Leader Development Assessment, demonstrating compliance with the following requirements:

#### (a) Platinum Level Housing

At least 15% of the units are designed to Platinum Level under the *Liveable Housing Design Guidelines*.

#### (b) Silver Level Housing

All units are designed to Silver Level under the *Liveable Housing Design Guidelines*.

#### (c) Visitable dwellings

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

**Reason:** To ensure universal and accessible housing is provided.

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

**5. Site Health and Safety Plan**

A Site Health & Safety Plan shall be prepared prior to the commencement of remediation works by a person competent to do so. All works shall be carried out in accordance with this plan. This plan shall include:

- Hazard identification and control
- Site security
- Personal protective equipment
- Work zones and decontamination procedures
- Contingency plans and incident reporting
- Environmental monitoring

**Reason:** To comply with State Environmental Planning Policy (Resilience and Hazards) 2021.

**6. Imported landfill material**

Where it is necessary to import landfill material onto the site to fill the land to levels shown on the plans forming part of the consent, a certificate prepared by a suitably qualified and experienced Contaminated Land Consultant, shall be submitted to Council being the Regulatory Authority prior to the commencement of works, certifying that the imported fill is suitable for the land use.

**Reason:** To comply with State Environmental Planning Policy (Resilience and Hazards) 2021

**7. 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.

**8. 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.

**9. 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.

#### **10. Geotechnical report**

Prior to the commencement of any works, the results of the detailed geotechnical investigation comprising a minimum of three cored boreholes to at least 1 metre below the proposed basement level shall be submitted to the Principal Certifier. The report is to address such matters as:

- appropriate excavation methods and techniques
- vibration management and monitoring
- dilapidation survey
- support and retention of excavated faces
- hydrogeological considerations

The recommendations of the report are to be implemented during the course of the works.

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

#### **11. Construction traffic management plan**

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

The plan is to consist of a report with traffic control plans attached.

The report is to contain commitments which must be followed by the demolition and excavation contractor, builder, owner and subcontractors. The CTMP applies to all persons associated with demolition, excavation and construction of the development. The report is to contain 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 TfNSW 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 (Medium Rigid Vehicle of 8.8m or greater) movements are to occur in school zones provided for the Wahroonga Adventist School on Fox Valley Road during school drop-off (8.00am to 9.30am) and pick up (2.30pm to 4.00pm) times on school days.**

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.

## **12. Temporary construction exit**

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

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

## **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 demolition/building work.

Tree/Location	Radius in metres
Tree 1 <i>Ficus microcarpa</i> 'hillii' (Hill's Fig) Adjacent to southwest site boundary	7.0m east, 13.0m elsewhere
Tree 2 <i>Ficus microcarpa</i> 'hillii' (Hill's Fig) Adjacent to southwest site boundary	7.0m
Tree 3 <i>Lophostemon confertus</i> (Brushbox) Adjacent to southwest site boundary	7.0m east, 11.0m elsewhere
Tree 4 <i>Lophostemon confertus</i> (Brushbox) Adjacent to southwest site boundary	5.0m
Tree 5 <i>Eucalyptus</i> sp (Eucalypt) Adjacent to northwest/rear site boundary	10.0m
Tree 6 <i>Syncarpia glomulifera</i> (Turpentine) Adjacent to northwest/rear site boundary	15.0m
Tree 7 <i>Syncarpia glomulifera</i> (Turpentine) Adjacent to northwest/rear site boundary	11.5m
Tree 8 <i>Syncarpia glomulifera</i> (Turpentine) Adjacent to northwest/rear site boundary	11.5m
Tree 16 Unidentified tree sp. Fox Valley Rd site frontage/southeast school corner	5.0m
Tree 17 <i>Lophostemon confertus</i> (Brushbox) Adjacent to southwest site boundary	8.0m

**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 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.

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

#### **22. Noise and vibration management plan (Part 1)**

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

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

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

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

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

### **23. Storage**

Prior to the issue of the relevant Construction Certificate, the following units are to demonstrate internal fit-outs of all spaces/rooms without access to natural daylight or natural ventilation - notionally identified as storage, are fitted out to prevent their use as habitable spaces/rooms:

- Building A: AG06, A106, A206, A306, A406, A506,
- Building C: CG01, CG02, CG07, CG08, CG09, C101, C105, C108, C109, C201, C205, C208, C209, C301, C305, C308, C309, C310, C401, C405, C408, C409, C410, C501, C505, C508, C509, C510

**Reason:** To ensure compliance with SEPP 65 ADG for natural daylight and natural ventilation to all habitable rooms.

#### **24. Compliance with BASIX Certificate**

Prior to the issue of the relevant 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.

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

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

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

#### **26. 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.

#### **27. Builder's indemnity insurance**

The Applicant, builder, developer or person who does the work on this development, must arrange builder's indemnity insurance and submit the certificate of insurance in accordance with the requirements of Part 6 of the *Home Building Act 1989* to the Certifier for endorsement of the plans accompanying the Construction Certificate, unless an exemption under the *Home Building Regulation 2014* applies.

It is the responsibility of the Applicant, builder or developer to arrange the builder's indemnity insurance for residential building work over the value of \$20,000. The builder's indemnity insurance does not apply to commercial or industrial building work or to residential work valued at less than \$20,000, nor to work undertaken by persons holding an owner/builder's permit issued by the Department of Fair Trading (unless the owner/builder's property is sold within 7 years of the commencement of the work).

**Reason:** Statutory requirement

#### **28. Outdoor lighting**

Prior to the issue of the relevant Construction Certificate, the Certifier shall be

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

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

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

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

## **29. 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.

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

The Certifier shall not issue the relevant 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.

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

Prior to the issue of the relevant 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 the relevant 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.

### **32. Livable Housing - Silver and Platinum Units**

Prior to the issue of the relevant Construction Certificate, an independent and accredited Livable Housing Australia Assessor is to submit Stage 1 – Provisional Mark Certification certifying that detailed plans and construction drawings demonstrate full compliance with the requirements of each standard within the Liveable Housing Design Guidelines, including for car parking and as identified within the accessibility report prepared by Accessible Building Solutions, dated 08.07.2021 as follows:

- a) All apartments identified as Silver Level; and
- b) Apartments AG02, AG05, AG06, A102, A105, A202, A205, A302, A305, A402, A405, A502, A505, C103, C106, C203, C206, C303, C306, C403, C406, C503, C506 identified as Platinum Level.

**Reason:** To ensure Ku-ring-gai's housing strategy for equitable and dignified access to housing for all people is constructed.

### **33. Excavation for services**

Prior to the issue of the relevant 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.

### **34. Recycling and waste management**

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

The waste management is to identify who has responsibility for:

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

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

### **35. Location of air conditioning condensers (residential flat buildings)**

Prior to the issue of the relevant Construction Certificate, the Certifier shall be satisfied that architectural plans display that all air conditioning condensers will be located within the basement or roof top plant enclosure.

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

### **36. 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 the relevant 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 and pumps 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 be audible within any habitable room in any residential occupancy before 7.00am and after 10.00pm. Outside of these restricted hours noise from an individual piece of equipment or in combination shall not be greater than 5dB(A) above the background noise (LA90, 15 min) when measured at the nearest adjoining property boundary..

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 acoustic amenity.

### **37. Driveway crossing levels**

Prior to issue of the relevant 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.

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

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

- vehicular access ramp along the path of travel to the garbage loading/unloading area can be obtained using grades of 20% (1 in 5) maximum,
- vehicular access can be obtained using grades of 25% (1 in 4) maximum, and
- all changes in grade (transitions) comply with Australian Standard 2890.1 - "Off-street car parking" (refer clause 2.5.3) to prevent the scraping of the underside of vehicles

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

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

### **39. Basement car parking details**

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

- all parking space dimensions, driveway and aisle widths, driveway grades, transitions, circulation ramps, blind aisle situations and other trafficked areas comply with Australian Standard 2890.1 - 2004 "*Off-street car parking*"
- a clear height clearance of **2.6 metres** (required under Part 23.7 '*Waste Management*' for waste collection trucks is provided over the designated garbage collection truck manoeuvring areas within the basement and all other areas within the basement required for garbage collection truck manoeuvring
- Council and its contractor requires unimpeded access to the waste storage facility within the development for the purpose collecting waste and recycling materials.
- Security doors or gates installed leading to the waste storage area are to be keyed to Council's master key to allow unimpeded access.



- the vehicle access and accommodation arrangements are to be constructed and marked in accordance with the certified plans

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

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

Prior to issue of the relevant 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 a new access road supported by a signalised intersection at Fox Valley Road (subject to separate approval)
- Removal of old vehicular crossings on Fox Valley Rd
- Construction of a new vehicular crossing to Building E from Fox Valley Road.
- Reconstruction of kerb and gutter for the full frontage of the development in Fox Valley Rd, along with associated road pavement reconstruction
- Reconstruction of 1.2m wide concrete footpath for the full frontage of the development in Fox Valley Rd

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 the relevant 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 the relevant Construction Certificate.

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

#### **41. Ausgrid requirements**

Prior to issue of the relevant 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 the relevant 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 the relevant Occupation Certificate.

**Reason:** To ensure compliance with the requirements of Ausgrid.

#### **42. Utility provider requirements**

Prior to issue of the relevant 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.

#### **43. Design and construction of mechanical ventilation**

Prior to the issue of the relevant Construction Certificate the Certifier shall be satisfied that plans and specifications demonstrate that the installation of mechanical ventilation systems will comply with:

- The National Construction Code
- Australian Standard 1668
- Australian Standard 3666 where applicable.

**Reason:** To protect the amenity of occupants and neighbouring properties.

#### **44. Waste and recycling storage facilities - residential flat building**

The Certifier must be satisfied that the waste storage room shall be located within the respective basement(s) and will be of adequate size to contain the waste and recycling bins. All internal walls shall be rendered and coved at the floor/wall intersection. The floor is to be graded and appropriately drained to the sewer and a tap with hot and cold water is to be located in close proximity to facilitate cleaning.

Details of the waste storage room demonstrating compliance with the above shall be provided to the Certifier prior to the issue of the relevant Construction Certificate.

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

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

#### **45. Notification of any new contamination information discovered**

Any new information discovered during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, shall be notified to Council being the Regulatory Authority for the management of contaminated land.

**Reason:** To comply with State Environmental Planning Policy (Resilience and Hazards) 2021

**46. Infrastructure damage security bond and inspection fee**

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

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

#### 47. 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.

#### 48. Section 7.11 development contributions - other than identified centres (For DAs determined on or after 19 December 2010).

##### Section 7.11 Local infrastructure contributions – for Buildings A, B and C

- (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	\$281,873.71
Local parks and local sporting facilities	\$2,578,126.29
<b>Total:</b>	<b>\$2,860,000.00</b>

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 relevant construction certificate, or Occupation Certificate after that date.

Copies of Council's Contributions Plan can be viewed at Council Chambers at 818 Pacific Hwy Gordon or on Council's website at [www.krg.nsw.gov.au](http://www.krg.nsw.gov.au) <<http://www.krg.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:**

**49. 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.

**50. 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.

**51. 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 the relevant 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 the relevant 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.

**52. 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.

### **53. Site notice**

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

The site notice must:

- be prominently displayed at the boundaries of the site for the purposes of informing the public that unauthorised entry to the site is not permitted
- display project details including, but not limited to the details of the builder, Principal 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.

### **54. Dust control**

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

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

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

**55. 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 approved geotechnical report.

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.

**56. 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.

**57. Toilet facilities**

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. 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/>](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/>](https://www.legislation.nsw.gov.au/).

**Reason:** Statutory requirement.

**58. 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.

#### **59. 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.

#### **60. Construction signage**

All construction signs must comply with the following requirements:

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

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

#### **61. 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.

#### **62. 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.

### **63. 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.

### **64. 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.

### **65. 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.

#### 66. 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 **Australian Standard AS 4970 - 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
Trees: 1, 2, 3, 4, 5, 6, 7, 8, 16, 17, 24 & 24a On site and adjacent to the site	*Immediately prior to the commencement of ANY works on site *Certification of tree protection fencing/requirements consistent with the consent conditions *Direct supervision of excavation works within the recognised TPZ *At the completion of bulk excavation works and prior to basement construction works. *At three monthly intervals during construction *At 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.

#### 67. 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
Tree 1 <i>Ficus microcarpa 'hillii'</i> (Hill's Fig) Adjacent to southwest site boundary	13.0m
Tree 2 <i>Ficus microcarpa 'hillii'</i> (Hill's Fig) Adjacent to southwest site boundary	7.0m
Tree 3 <i>Lophostemon confertus</i> (Brushbox) Adjacent to southwest site boundary	11.0m

Tree 4 <i>Lophostemon confertus</i> (Brushbox) Adjacent to southwest site boundary	5.0m
Tree 5 <i>Eucalyptus sp</i> (Eucalypt) Adjacent to northwest/rear site boundary	10.0m
Tree 6 <i>Syncarpia glomulifera</i> (Turpentine) Adjacent to northwest/rear site boundary	15.0m
Tree 7 <i>Syncarpia glomulifera</i> (Turpentine) Adjacent to northwest/rear site boundary	11.5m
Tree 8 <i>Syncarpia glomulifera</i> (Turpentine) Adjacent to northwest/rear site boundary	11.5m
Tree 16 Unidentified tree sp. Fox Valley Rd site frontage/southeast school corner	5.0m
Tree 17 <i>Lophostemon confertus</i> (Brushbox) Adjacent to southwest site boundary	8.0m

**Reason:** To protect existing trees.

#### 68. Trees on nature strip

Removal or pruning of the following tree/s on Council's nature strip shall be undertaken at no cost to Council by one of Council's approved tree contractors. A list of contractors is available from Council's Tree Management Team, who are in Council's Operation's Department.

Council's Tree Maintenance Supervisor must be advised via email, within a minimum of 48 hours prior to commencement of the works, with the following detail:

- selected contractor,
- the item code
- associated rate provided.

You and/or the contractor will be responsible for the reporting and/or repair of any services damaged because of works undertaken. :

Tree/location	Tree Works
Tree 10A <i>Liquidambar styraciflua</i> (Sweet Gum) Fox Valley Rd nature strip	Removal

**Reason:** To protect existing trees.

#### 69. 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 current version of **Australian Standard AS 4373 - Pruning of amenity trees**. The arborist/horticulturalist shall provide a report to the Certifier confirming compliance with this condition.

**Reason:** To protect existing trees.

#### 70. 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/horticulturalist, with a minimum AQF Level 3 qualification.

Tree/Location	Radius in metres
Tree 1 <i>Ficus microcarpa 'hillii'</i> (Hill's Fig) Adjacent to southwest site boundary	9.0m east, 13.0m elsewhere
Tree 2 <i>Ficus microcarpa 'hillii'</i> (Hill's Fig) Adjacent to southwest site boundary	7.0m
Tree 3 <i>Lophostemon confertus</i> (Brushbox) Adjacent to southwest site boundary	9.0m east, 11.0m elsewhere
Tree 4 <i>Lophostemon confertus</i> (Brushbox) Adjacent to southwest site boundary	5.0m
Tree 5 <i>Eucalyptus sp</i> (Eucalypt) Adjacent to northwest/rear site boundary	10.0m
Tree 6 <i>Syncarpia glomulifera</i> (Turpentine) Adjacent to northwest/rear site boundary	15.0m
Tree 7 <i>Syncarpia glomulifera</i> (Turpentine) Adjacent to northwest/rear site boundary	11.5m
Tree 8 <i>Syncarpia glomulifera</i> (Turpentine) Adjacent to northwest/rear site boundary	11.5m
Tree 16 Unidentified tree sp. Fox Valley Rd site frontage/southeast school corner	5.0m
Tree 17 <i>Lophostemon confertus</i> (Brushbox) Adjacent to southwest site boundary	8.0m

**Reason:** To protect existing trees.

## 71. 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
T9 <i>Chamaecyparis obtusa</i> (Hinoki Cypress) On site within proposed internal road	Removal
T10 <i>Chamaecyparis obtusa</i> (Hinoki Cypress) On site within proposed footpath/internal road	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/horticulturalist, with a minimum AQF Level 3 qualification.
3. All root or canopy pruning works shall be undertaken as specified in current version of **Australian Standard 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.

## 72. Hand excavation

All excavation within the specified radius of the trunk/s of the following tree/s 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/horticulturist shall provide a report to the Principal Certifier confirming compliance with this condition:

Tree/Location	Radius in metres
Tree 1 <i>Ficus microcarpa 'hillii'</i> (Hill's Fig) Adjacent to southwest site boundary	9.0m east, 13.0m elsewhere
Tree 2 <i>Ficus microcarpa 'hillii'</i> (Hill's Fig) Adjacent to southwest site boundary	7.0m
Tree 3 <i>Lophostemon confertus</i> (Brushbox) Adjacent to southwest site boundary	9.0m east, 11.0m elsewhere
Tree 4 <i>Lophostemon confertus</i> (Brushbox) Adjacent to southwest site boundary	5.0m
Tree 5 <i>Eucalyptus sp</i> (Eucalypt) Adjacent to northwest/rear site boundary	10.0m
Tree 6 <i>Syncarpia glomulifera</i> (Turpentine) Adjacent to northwest/rear site boundary	15.0m
Tree 7 <i>Syncarpia glomulifera</i> (Turpentine) Adjacent to northwest/rear site boundary	11.5m
Tree 8 <i>Syncarpia glomulifera</i> (Turpentine) Adjacent to northwest/rear site boundary	11.5m
Tree 16 Unidentified tree sp. Fox Valley Rd site frontage/southeast school corner	5.0m
Tree 17 <i>Lophostemon confertus</i> (Brushbox) Adjacent to southwest site boundary	8.0m

**Reason:** To protect existing trees.

### 73. Thrust boring/directional drilling

Excavation for the installation of any services within the specified radius of the trunk/s of the following tree/s shall utilise the thrust boring or directional drilling method:

1. The tunnelling shall be carried out at least 600mm beneath natural ground level.
2. The launching pit for the tunnelling machine shall be located outside the tree protection zone (defined in current version of **Australian Standard AS 4970 - Protection of trees on development sites**) of any tree unless approved in writing by the project arborist.

Tree/Location	Radius in metres
Tree 1 <i>Ficus microcarpa 'hillii'</i> (Hill's Fig) Adjacent to southwest site boundary	13.0m
Tree 2 <i>Ficus microcarpa 'hillii'</i> (Hill's Fig) Adjacent to southwest site boundary	7.0m
Tree 3 <i>Lophostemon confertus</i> (Brushbox) Adjacent to southwest site boundary	11.0m
Tree 4 <i>Lophostemon confertus</i> (Brushbox) Adjacent to southwest site boundary	5.0m
Tree 5 <i>Eucalyptus sp</i> (Eucalypt) Adjacent to northwest/rear site boundary	10.0m

Tree 6 <i>Syncarpia glomulifera</i> (Turpentine) Adjacent to northwest/rear site boundary	15.0m
Tree 7 <i>Syncarpia glomulifera</i> (Turpentine) Adjacent to northwest/rear site boundary	11.5m
Tree 8 <i>Syncarpia glomulifera</i> (Turpentine) Adjacent to northwest/rear site boundary	11.5m
Tree 16 Unidentified tree sp. Fox Valley Rd site frontage/southeast school corner	5.0m
Tree 17 <i>Lophostemon confertus</i> (Brushbox) Adjacent to southwest site boundary	8.0m

**Reason:** To protect and minimise damage to existing trees.

#### **74. 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.

#### **75. 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.

#### **76. Canopy replenishment trees to be planted**

The canopy replenishment trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5 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.

#### **77. Removal of weeds**

All urban environmental weed species as listed in the Biosecurity Act 2015 (NSW), Council's Weed Management Policy and/or weed species listed within Council's Development Control Plan shall be removed from the property prior to completion of building works/

**Reason:** To protect the environment.

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

At the stage when formwork for the ground floor slabs are 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.

#### **79. 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.

#### **80. Salvage and re-use of existing material**

Existing building elements and materials in good condition are to be carefully removed during the works and securely stored in a place protected from damage, damp and sunlight. The salvaged building elements and materials are to be re-used in the new work, or if this is not possible, forwarded to an appropriate registered business dealing in salvaged building elements and materials.

Care should be taken in the removal of the existing doors, architraves and skirtings so they can be stored on site in a secure location such as the roof space for future restoration works.

**Reason:** To ensure the continuing heritage significance of the heritage item.

#### **81. 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.

## **82. Vibration**

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

**Reason:** To protect residential amenity during construction.

## **83. 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

## **84. Prescribed conditions**

The work shall comply with any relevant prescribed conditions of development consent under Section 69 of the Environmental Planning and Assessment Regulation 2021. 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.

## **85. 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.

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.

## **86. 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:**

**87. Validation Report**

Validation Report shall be submitted to Council being the Regulatory Authority for the management of contaminated land prior to issue of the Occupation Certificate. The Validation Report shall be prepared in accordance with the NSW EPA's guidelines, Consultants Reporting on Contaminated Sites and shall:

- Describe and document all works performed
- Include results of validation testing and monitoring
- Including validation results of any fill imported on to the site
- Show how all agreed clean-up criteria and relevant regulations have been complied with; and
- Include clear justification as to the suitability of the site for the proposed use and the potential for off-site migration of any residual contaminants

**Reason:** To comply with State Environmental Planning Policy (Resilience and Hazards) 2021

**88. Review of Validation Report**

An accredited auditor under the Contaminated Land Management Act 1997 shall review the Validation Report prepared by the contaminated land consultant and issue a Site Audit Statement. The accredited auditor shall provide Council being the Regulatory Authority for the management of contaminated land, with a copy of the Site Audit Report and Site Audit Statement, prior to issue of the Occupation Certificate.

**Reason:** To comply with State Environmental Planning Policy (Resilience and Hazards) 2021

**89. Site Audit Statement**

A Site Audit Statement (SAS) shall be submitted to Council being the Regulatory Authority for the management of contaminated land, prior to the issue of the Occupation Certificate, clearly demonstrating that the site is suitable for the intended use. Conditions imposed on the SAS shall form part of this consent. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, the consent shall prevail.

**Reason:** To comply with State Environmental Planning Policy (Resilience and Hazards) 2021

**90. Storage**

Prior to the issue of the relevant Occupation Certificate, the following units are to demonstrate internal fit-outs of all spaces/rooms without access to natural daylight or

natural ventilation - notionally identified as storage, are fitted out to prevent their use as habitable spaces/rooms:

- Building A: AG06, A106, A206, A306, A406, A506,
- Building C: CG01, CG02, CG07, CG08, CG09, C101, C105, C108, C109, C201, C205, C208, C209, C301, C305, C308, C309, C310, C401, C405, C408, C409, C410, C501, C505, C508, C509, C510,

**Reason:** To ensure compliance with SEPP 65 ADG for natural daylight and natural ventilation to all habitable rooms.

### **91. Acoustic Control Measures - Glazing**

Prior to the issue of the relevant Occupation Certificate, the Principal Certifier shall be satisfied that the acoustic glazing for the development has been installed as specified in Part 5.1 of DA Acoustic Report Ref: ID:11042 RO1v4 dated 26 October 2021 prepared by PKA Acoustic Consulting.

Written confirmation from an acoustic engineer that the acoustic glazing has been installed as specified in the DA Acoustic Report is to be submitted to the Principal Certifier.

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

### **92. Compliance with BASIX Certificate**

Prior to the issue of the relevant 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.

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

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

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

### **94. Mechanical ventilation**

Following completion, installation and testing of all the mechanical ventilation systems the installation and performance of these systems must comply with:

- The National Construction Code
- Australian Standard 1668
- Australian Standard 3666 where applicable.

The Principal Certifier shall be satisfied of the above prior to the issue of the relevant Occupation Certificate.

**Reason:** To protect the amenity of occupants and neighbouring properties.

**95. Completion of landscape works**

Prior to the issue of the relevant 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.

**96. Mechanical noise control**

Prior to the issue of the relevant 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 and pumps when in operation either as an individual piece of equipment or in combination with other equipment will not be audible within any habitable room in any residential occupancy before 7.00am and after 10.00pm. Outside of these restricted hours noise from an individual piece of equipment or in combination shall not be greater than 5dB(A) above the background noise (LA90, 15 min) when measured at the nearest adjoining property boundary. 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 occupants and neighbouring residents.

**97. Outdoor Lighting**

Prior to the issue of the relevant Occupation Certificate, the Principal Certifier shall be satisfied that all outdoor lighting will comply with AS/NZS 4282:2019 *Control of the obtrusive effects of outdoor lighting* and is mounted, screened and directed in a way that 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.

**98. Location of air conditioning condensers**

Prior to the issue of the relevant Occupation Certificate, the Principal Certifier shall be satisfied that all air conditioning condensers are located in the basement or roof top plant enclosure.

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

**99. Accessibility**

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

- the lift design and associated functions are compliant with AS 1735.12 & AS

1428.2

- the level and direction of travel, both in lifts and lift lobbies, is audible and visible
- the controls for lifts are accessible to all persons and control buttons and lettering are raised
- international symbols have been used with specifications relating to signs, symbols and size of lettering complying with AS 1428.2
- the height of lettering on signage is in accordance with AS 1428.1 - 2009 and the signs and other information indicating access and services incorporate tactile communication methods in addition to the visual methods

**Reason:** To facilitate disabled access.

### **100. Livable Housing - Silver and Platinum Units**

Prior to the issue of the relevant Occupation Certificate, an independent and accredited Livable Housing Australia Assessor is to submit Stage 2 – Final Mark Certification certifying that the constructed building demonstrates full compliance with the requirements of each standard within the Liveable Housing Design Guidelines, including for car parking and as identified within the accessibility report prepared by Accessible Building Solutions, dated 08.07.2021 as follows:

- a) All apartments identified as Silver Level; and
- b) Apartments AG02, AG05, AG06, A102, A105, A202, A205, A302, A305, A402, A405, A502, A505, C103, C106, C203, C206, C303, C306, C403, C406, C503, C506 identified as Platinum Level.

**Reason:** To ensure Ku-ring-gai's housing strategy for equitable and dignified access to housing for all people is constructed.

### **101. Certification of drainage works**

Prior to issue of the relevant 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 Part 24 'Water Management' have been achieved. Council's On-Site Detention And Retention Certification sheet shall be completed.
3. Retained water is connected and available for use.
4. All grates potentially accessible by children are secured.
5. Components of the new drainage system have been installed by a licensed plumbing contractor in accordance with the Plumbing and Drainage Code AS3500.3 2018 and the Building Code of Australia.
6. All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

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

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

### **102. Works as executed plans for stormwater management and disposal**

Prior to issue of the relevant 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 the relevant 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.

### **103. Basement pump-out maintenance**

Prior to issue of the relevant 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.

### **104. 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 relevant Occupation Certificate.

This marker plate can be purchased from Council.

**Reason:** To prevent unlawful alteration.

### **105. Certification of as-constructed driveway and carpark**

Prior to issue of the relevant 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" 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 the Australian Standard 2890.1 - "Off-street car parking",
6. **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 the relevant Occupation Certificate.

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

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

Prior to issue of the relevant 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 Section 73 of the Environmental Planning and Assessment (Development Certification and

Fire Safety) Regulation 2021.

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.

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

Prior to issue of the relevant 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 the relevant Occupation Certificate being issued.

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

#### **108. 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.

#### **109. Fire safety certificate**

Prior to the issue of the relevant 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.

#### **110. Waste and recycling storage facilities- residential flat building**

Prior to the issue of the relevant Occupation Certificate, the Principal Certifier shall be satisfied that the waste storage room has been installed in the basement and is of



adequate size to contain the waste bins. All internal walls of the waste storage rooms are rendered and coved at the floor/wall intersection, the floor is graded and drained to the sewer and a tap with hot and cold water is located in close proximity to facilitate cleaning.

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

#### **111. OSD positive covenant stormwater detention facilities**

Prior issue of the Final Occupation Certificate, a positive covenant and restriction on the use of land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention facilities on site shall be created. The terms of the instruments are to be generally in accordance with the Council's "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 Ku-ring-gai Development Control Plan). The location of the on-site detention facilities for all dwellings is to be noted on the final plan of subdivision.

**Reason:** To ensure maintenance of on-site stormwater detention facilities.

#### **112. Positive covenant retention and re-use facilities**

Prior to issue of the Final Occupation Certificate, the Applicant shall create a positive covenant and restriction on the use of land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the site retention and re-use facilities. The terms of the instruments are to be generally in accordance with the Council's "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.8.2 of the Ku-ring-gai Development Control Plan). The location of the on-site detention facilities for all dwellings is to be noted on the final plan of subdivision.

**Reason:** To ensure maintenance of site retention and re-use facilities.

#### **113. Easement for waste collection**

Prior to the issue of the Final Occupation Certificate, an easement for waste collection under Section 88B of the Conveyancing Act 1919 shall be created. 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.

#### **114. Submission of 88b instrument**

Prior to the issue of the Final Occupation Certificate, an original instrument under Section 88B of the Conveyancing Act with the plan of subdivision, plus two (2) copies, shall be submitted to Council. Ku-ring-gai Council must be named as the authority whose consent is required to release, vary or modify the burdens.

**Reason:** To create all required easements, rights-of-carriageway, positive covenants, restrictions-on-use or other burdens/benefits as may be

required.

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

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

**Reason:** To ensure that all physical structures are fully contained within the proposed allotments or will be fully covered by the proposed burdens upon registration of the final plan of subdivision.

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

##### **116. 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.

##### **117. Screening of air conditioning condenser units**

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

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

##### **118. Trees to be retained on bushfire prone land**

Trees: 05, 06, 07, 08, 24, 24A as numbered on plan L-1002 issue F prepared by GSA, dated 03/05/2022 are to be retained.

**Reason:** To maintain the existing landscape character for conservation purposes and protect the environment.

##### **119. Noise control - mechanical plant**

Noise levels associated with mechanical plant installed on the premises shall not be audible within any habitable room in any residential premises before 7.00am and

after 10.00pm. Outside of these restricted hours noise levels associated with mechanical plant installed on the premises either as an individual piece of equipment or in combination shall not emit a noise level greater than 5dB(A) above the background noise (LA90, 15 min) when measured at the nearest adjoining property boundary. The background (LA90, 15 min) level is to be determined without the source noise present.

**Reason:** To protect the amenity of occupants and neighbouring properties.

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

Noise levels associated with rainwater re-use system(s) installed on the premises shall not be audible within any habitable room in residential premises before 7.00am and after 10.00pm. Outside of these restricted hours noise levels associated with rainwater re-use system(s) installed on the premises either as an individual piece of equipment or in combination shall not emit a noise level greater than 5dB(A) above the background noise (LA90, 15 min) when measured at the nearest adjoining property boundary. The background (LA90, 15 min) level is to be determined without the source noise present.

**Reason:** To protect the amenity of occupants and neighbouring properties.

#### **121. Noise Control - air conditioning**

Noise levels associated with air conditioning units installed on the premises shall not be audible within any habitable room in any residential occupancy before 7.00am and after 10.00pm. Outside of these restricted hours noise levels associated with air conditioning units installed on the premises either as an individual piece of equipment or in combination shall not emit a noise level greater than 5dB(A) above the background noise (LA90, 15 min) when measured at the nearest adjoining property boundary. The background (LA90, 15 min) level is to be determined without the source noise present.

**Reason:** To protect the amenity of residential occupants and neighbouring properties.

#### **122. Noise Control - mechanical exhaust ventilation**

Noise levels associated with mechanical exhaust ventilation installed on the premises shall not be audible within any habitable room in any residential premises before 7.00am and after 10.00pm. Outside of these restricted hours noise levels associated with mechanical exhaust ventilation installed on the premises either as an individual piece of equipment or in combination shall not emit a noise level greater than 5dB(A) above the background noise (LA90, 15 min) when measured at the nearest adjoining property boundary. The background (LA90, 15 min) level is to be determined without the source noise present.

**Reason:** To protect the amenity of neighbouring residential occupants and neighbouring properties.

#### **123. 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.

#### **124. Loading and unloading**

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

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

#### **125. 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.

### **INTEGRATED REFERRAL CONDITIONS:**

#### **126. General Terms of Approval - Rural Fire Service**

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted. General Terms of Approval, under Division 4.8 of the *Environmental Planning and Assessment Act 1979*, and a Bush Fire Safety Authority, under section 100B of the *Rural Fires Act 1997*, have been issued that are subject to the following conditions:

##### **Asset Protection Zones**

**Intent of measures: to provide sufficient space and maintain reduced fuel loads to ensure radiant heat levels at the buildings are below critical limits and prevent direct flame contact.**

1. Prior to the issue of subdivision or construction certificate (whichever occurs first), the areas denoted outer protection area (OPA) and inner protection area (IPA) on the 'Fire Compliance Landscape Plan' prepared by Group GSA Pty Ltd, project no. 180846, dwg no. L-1003, issue F, dated 16/06/2022 must be managed in perpetuity in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019.

When establishing and maintaining an OPA, the following requirements apply:

- Trees tree canopy cover be less than 30%;
- Canopies are separated by 2 to 5m;
- Shrubs are not form a continuous canopy;
- Shrubs do not form more than 20% of ground cover;
- Grass to be kept mown to a height of less than 100mm; and
- Leaf and other debris are removed; and
- NSW Rural Fire Service's document *Standards for asset protection zones*

When establishing and maintaining an IPA, the following requirements apply:

- Tree canopy cover be less than 15% at maturity;
- Trees at maturity are not touching or overhang the building;
- Lower limbs are removed up to a height of 2m above the ground;
- Tree canopies are separated by 2 to 5m;
- Preference is given to smooth-barked and evergreen trees;
- Large discontinuities or gaps in vegetation are provided to slow down or break the progress of fire towards buildings;
- Shrubs are not located under trees;
- Shrubs do not form more than 10% of ground cover;
- Clumps of shrubs are separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
- Grass to be kept mown (as a guide grass should be kept to no more than 100mm in height);
- Leaves and vegetation debris are removed; and
- NSW Rural Fire Service's document *Standards for asset protection zones*.

### **Construction Standards**

**Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.**

2. New construction (except for the southern elevation/s) must comply with Sections 3 and 7 (BAL 29) of the Australian Standard AS3959-2018 *Construction of buildings in bush fire-prone areas* or NASH Standard (1.7.14 updated) *National Standard Steel Framed Construction in Bushfire Areas – 2014* as appropriate, and Section 7.5 of *Planning for Bush Fire Protection 2019*.
3. New construction on the southern elevation/s must comply with Sections 3 and 6 (BAL 19) of the Australian Standard AS3959-2018 *Construction of buildings in bush fire-prone areas* or NASH Standard (1.7.14 updated) *National Standard Steel Framed Construction in Bushfire Areas – 2014* as appropriate, and Section 7.5 of *Planning for Bush Fire Protection 2019*.

4. Any new Class 10b structures as defined per the *National Construction Code* must be non-combustible.

### **Access – Public Roads**

**Intent of measures: to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area.**

5. The new access road must comply with the following requirements for perimeter roads under Table 5.3b of *Planning for Bush Fire Protection 2019*:
  - a two-way sealed road with a minimum 8m carriageway width kerb to kerb;
  - parking is provided outside of the carriageway width;
  - hydrants are located clear of parking areas;
  - all roads are through roads;
  - curves of roads have a minimum inner radius of 6m;
  - the maximum grade road is 15 degrees and average grade of not more than 10 degrees or other gradient specified by road design standards, whichever is the lesser gradient;
  - the road crossfall does not exceed 3 degrees; and
  - a minimum vertical clearance of 4m to any overhanging obstructions, including tree branches, is provided.
  - traffic management devices are constructed to not prohibit access by emergency services vehicles;
  - where kerb and guttering is provided on perimeter roads, roll top kerbing should be used to the hazard side of the road;
  - one way only public access roads are no less than 3.5 metres wide and have designated parking bays with hydrants located outside of these areas to ensure accessibility to reticulated water for fire suppression;
  - the capacity of road surfaces and any bridges/causeways is sufficient to carry fully loaded firefighting vehicles (up to 23 tonnes); bridges/causeways are to clearly indicate load rating;
  - hydrants are located outside of parking reserves and road carriageways to ensure accessibility to reticulated water for fire suppression;
  - hydrants are provided in accordance with the relevant clauses of AS 2419.1:2005 - *Fire hydrant installations System design, installation and commissioning*.

### **Water and Utility Services**

**Intent of measures: to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.**

6. The provision of water, electricity and gas must comply with Table 5.3c of *Planning for Bush Fire Protection 2019*.

**Reason:** To ensure the development is adequately protected from the threat of bush fire.

**Landscaping Assessment**

7. Before the start of building works, a Vegetation Management Plan (VMP), and/or a landscape plan, that can be legally and practically enforced for the life of the development must be produced for the management of the entire site outside of the IPA and OPA specified in Condition 1 above. The VMP, and/or landscape plan, must be certified by an accredited bushfire consultant to ensure that landscaping is designed and managed to ensure that the land does not become a bushfire hazard.

**CONDITIONS APPLICABLE TO BUILDINGS E**

**The following conditions [127] – [245] apply to the works for Building E on Drawing Number A0011, Revision C, Staging Plan dated 21 June 2022, and applications for certificates under Part 6 of the Act for those works only.**

**127. Universal and accessible housing**

Prior to the issue of the relevant Construction Certificate, evidence from an appropriately qualified Liveable Housing Accredited Assessor/Access consultant is to be submitted to and approved by the Team Leader Development Assessment, demonstrating compliance with the following requirements:

(a) Platinum Level Housing

At least 15% of the units are designed to Platinum Level under the *Liveable Housing Design Guidelines*.

(b) Silver Level Housing

All units are designed to Silver Level under the *Liveable Housing Design Guidelines*.

(c) Visitable dwellings

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

**Reason:** To ensure universal and accessible housing is provided.

**CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION:****128. Site Health and Safety Plan**

A Site Health & Safety Plan shall be prepared prior to the commencement of remediation works by a person competent to do so. All works shall be carried out in accordance with this plan. This plan shall include:

- Hazard identification and control
- Site security
- Personal protective equipment
- Work zones and decontamination procedures
- Contingency plans and incident reporting
- Environmental monitoring

**Reason:** To comply with State Environmental Planning Policy (Resilience and Hazards) 2021.

**129. Imported landfill material**

Where it is necessary to import landfill material onto the site to fill the land to levels shown on the plans forming part of the consent, a certificate prepared by a suitably qualified and experienced Contaminated Land Consultant, shall be submitted to Council being the Regulatory Authority prior to the commencement of works, certifying that the imported fill is suitable for the land use.



**Reason:** To comply with State Environmental Planning Policy (Resilience and Hazards) 2021

### **130.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.

### **131.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.

### **132.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.

### **133.Geotechnical report**

Prior to the commencement of any works, the results of the detailed geotechnical investigation comprising a minimum of three cored boreholes to at least 1 metre below the proposed basement level shall be submitted to the Principal Certifier. The report is to address such matters as:

- appropriate excavation methods and techniques
- vibration management and monitoring
- dilapidation survey
- support and retention of excavated faces
- hydrogeological considerations

The recommendations of the report are to be implemented during the course of the works.

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

### **134.Construction traffic management plan**

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

The plan is to consist of a report with traffic control plans attached.

The report is to contain commitments which must be followed by the demolition and excavation contractor, builder, owner and subcontractors. The CTMP applies to all persons associated with demolition, excavation and construction of the development. The report is to contain 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 TfNSW 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 (Medium Rigid Vehicle of 8.8m or greater) movements are to occur in school zones provided for the Wahroonga Adventist School on Fox Valley Road during school drop-off (8.00am to 9.30am) and pick up (2.30pm to 4.00pm) times on school days.**

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.

### **135. Temporary construction exit**

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

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

### 136. 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.

### 137. 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.

### 138. 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 demolition/building work.

Tree/Location	Radius in metres
Tree 10C <i>Acer bergueranum</i> (Trident Maple) Fox Valley Rd nature strip	Top of kerb, southern side of pedestrian path, 3.5m elsewhere
Tree 10D <i>Liquidambar styraciflua</i> (Sweet Gum) Adjacent to western site boundary	9.5m
Tree 10E <i>Lagerstroemia indica</i> (Crepe Myrtle) Adjacent to western site boundary	4.5m
Tree 10F <i>Acacia sp</i> (Wattle) Adjacent to western site boundary	3.0m
Tree 10G <i>Liquidambar styraciflua</i> (Sweet Gum) Adjacent to western site boundary	4.5m
Tree 10 J <i>Liquidambar styraciflua</i> (Sweet Gum) Fox Valley Rd nature strip	Top of kerb, southern side of pedestrian path, 4.5m elsewhere
Tree 10L <i>Corymbia citriodora</i> (Lemon Scented Gum) Adjacent to eastern site boundary in neighbouring site	8.0m west, 9.5m elsewhere
Tree 11 <i>Prunus sp</i> Adjacent to eastern site boundary within site frontage	2.0m

**Reason:** To protect existing trees.

**139.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.

**140.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.

**141.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.

**142.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.

**143.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.

#### **144. Construction waste management plan**

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

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.

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

#### **145. Noise and vibration management plan (Part 1)**

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

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

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

- procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration
- contingency plans to be implemented in the event of non-compliances and/or noise complaints

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

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

**146.Subterranean Unit**

Prior to the issue of the relevant Construction Certificate, coordinated waterproofing details of the south-western wall of Unit ELG01 are to be verified by the appropriately qualified Waterproofing specialist consultant for 'Wall section detail BLG E' of drawing 3204 (A) for subterranean conditions.

**Reason:** To provide effective waterproofing and confirm compliance with the Design and Building Practitioners Act.

**147.Storage**

Prior to the issue of the relevant Construction Certificate, the following units are to demonstrate internal fit-outs of all spaces/rooms without access to natural daylight or natural ventilation - notionally identified as storage, are fitted out to prevent their use as habitable spaces/rooms:

Building E: ELG01, ELG02, EG02, EG06, E102, E106, E202, E206, E302, E306, E402, E406.

**Reason:** To ensure compliance with SEPP 65 ADG for natural daylight and natural ventilation to all habitable rooms.

**148.Compliance with BASIX Certificate**

Prior to the issue of the relevant 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.

**149.Statement of compliance with Australian Standards**

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

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

**150.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.

#### **151.Builder's indemnity insurance**

The Applicant, builder, developer or person who does the work on this development, must arrange builder's indemnity insurance and submit the certificate of insurance in accordance with the requirements of Part 6 of the *Home Building Act 1989* to the Certifier for endorsement of the plans accompanying the Construction Certificate, unless an exemption under the *Home Building Regulation 2014* applies.

It is the responsibility of the Applicant, builder or developer to arrange the builder's indemnity insurance for residential building work over the value of \$20,000. The builder's indemnity insurance does not apply to commercial or industrial building work or to residential work valued at less than \$20,000, nor to work undertaken by persons holding an owner/builder's permit issued by the Department of Fair Trading (unless the owner/builder's property is sold within 7 years of the commencement of the work).

**Reason:** Statutory requirement.

#### **152.Outdoor lighting**

Prior to the issue of the relevant Construction Certificate, the Certifier shall be satisfied that all outdoor lighting will comply with AS/NZS 4282:2019 *Control of the obtrusive effects of outdoor lighting* and be mounted, screened and directed in a way that it does not create a nuisance or light spill on to buildings on adjoining lots or public places.

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

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

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

#### **153.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.

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

The Certifier shall not issue the relevant 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.

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

Prior to the issue of the relevant 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 the relevant 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.

#### **156.Livable Housing - Silver and Platinum Units**

Prior to the issue of the relevant Construction Certificate, an independent and accredited Livable Housing Australia Assessor is to submit Stage 1 – Provisional Mark Certification certifying that detailed plans and construction drawings demonstrate full compliance with the requirements of each standard within the Liveable Housing Design Guidelines, including for car parking and as identified within the accessibility report prepared by Accessible Building Solutions, dated 08.07.2021 as follows:

- a) All apartments identified as Silver Level; and
- b) Apartments ELG04, E107, E207 & E307 identified as Platinum Level.

**Reason:** To ensure Ku-ring-gai's housing strategy for equitable and dignified access to housing for all people is constructed.



### **157.Excavation for services**

Prior to the issue of the relevant 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.

### **158.Recycling and waste management**

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

The waste management is to identify who has responsibility for:

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

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

### **159.Location of air conditioning condensers (residential flat buildings)**

Prior to the issue of the relevant Construction Certificate, the Certifier shall be satisfied that architectural plans display that all air conditioning condensers will be located within the basement or roof top plant enclosure.

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

### **160.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 the relevant 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 and pumps 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 be audible within any habitable room in any residential occupancy before 7.00am and after 10.00pm. Outside of these restricted hours noise from an individual piece of equipment or in combination shall not be greater than 5dB(A) above the background noise (LA90, 15 min) when measured at the nearest adjoining property boundary..

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 acoustic amenity.

### **161. Driveway crossing levels**

Prior to issue of the relevant 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.

### **162. Driveway grades - basement car parks**

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

- vehicular access ramp along the path of travel to the garbage loading/unloading area can be obtained using grades of 20% (1 in 5) maximum,
- vehicular access can be obtained using grades of 25% (1 in 4) maximum, and
- all changes in grade (transitions) comply with Australian Standard 2890.1 - "Off-street car parking" (refer clause 2.5.3) to prevent the scraping of the underside of vehicles

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

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

### **163. Basement car parking details**

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

- all parking space dimensions, driveway and aisle widths, driveway grades, transitions, circulation ramps, blind aisle situations and other trafficked areas comply with Australian Standard 2890.1 - 2004 *"Off-street car parking"*
- a clear height clearance of **2.6 metres** (required under Part 23.7 *'Waste Management'* for waste collection trucks is provided over the designated garbage collection truck manoeuvring areas within the basement and all other areas within the basement required for garbage collection truck manoeuvring
- Council and its contractor requires unimpeded access to the waste storage facility within the development for the purpose collecting waste and recycling materials.
- Security doors or gates installed leading to the waste storage area are to be keyed to Council's master key to allow unimpeded access.
- the vehicle access and accommodation arrangements are to be constructed and marked in accordance with the certified plans

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

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

Prior to issue of the relevant 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:

- Removal of old vehicular crossings on Fox Valley Rd
- Construction of a new vehicular crossing to Building E from Fox Valley Road.
- Reconstruction of kerb and gutter for the full frontage of the development in Fox Valley Rd, along with associated road pavement reconstruction
- Reconstruction of 1.2m wide concrete footpath for the full frontage of the development in Fox Valley Rd

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 the relevant 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 the relevant Construction Certificate.

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

#### **165.Ausgrid requirements**

Prior to issue of the relevant 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 the relevant 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 the relevant Occupation Certificate.

**Reason:** To ensure compliance with the requirements of Ausgrid.

#### **166.Utility provider requirements**

Prior to issue of the relevant 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.

#### **167.Design and construction of mechanical ventilation**

Prior to the issue of the relevant Construction Certificate the Certifier shall be satisfied that plans and specifications demonstrate that the installation of mechanical ventilation systems will comply with:

- The National Construction Code
- Australian Standard 1668
- Australian Standard 3666 where applicable.

**Reason:** To protect the amenity of occupants and neighbouring properties.

### **168.Waste and recycling storage facilities - residential flat building**

The Certifier must be satisfied that the waste storage room shall be located within the basement and will be of adequate size to contain the waste and recycling bins. All internal walls shall be rendered and coved at the floor/wall intersection. The floor is to be graded and appropriately drained to the sewer and a tap with hot and cold water is to be located in close proximity to facilitate cleaning.

Details of the waste storage room demonstrating compliance with the above shall be provided to the Certifier prior to the issue of the relevant Construction Certificate.

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

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

### **169.Notification of any new contamination information discovered**

Any new information discovered during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, shall be notified to Council being the Regulatory Authority for the management of contaminated land.

**Reason:** To comply with State Environmental Planning Policy (Resilience and Hazards) 2021

### **170.Infrastructure damage security bond and inspection fee**

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

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

undertaken by Council at a cost of not more than the Infrastructure damage security bond payable pursuant to this condition.

- (e) **Release of the bond** – Upon receipt of the Final 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.

#### **171. 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.

#### **172. Section 7.11 development contributions - other than identified centres (For DAs determined on or after 19 December 2010).**

##### **Section 7.11 Local infrastructure contributions – for Buildings E**

- (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:

<b>Key Community Infrastructure</b>	<b>Amount</b>
Local recreation and cultural facilities; Local social facilities	\$67,018.91
Local parks and local sporting facilities	\$612,981.09
<b>Total:</b>	<b>\$680,000.00</b>

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 relevant construction certificate or Occupation Certificate after that date.

Copies of Council's Contributions Plan can be viewed at Council Chambers at 818 Pacific Hwy Gordon or on Council's website at [www.krg.nsw.gov.au](http://www.krg.nsw.gov.au) <<http://www.krg.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:**

##### **173.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.

##### **174.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.

##### **175.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 the relevant 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 the relevant 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.

#### **176. 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.

#### **177. 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.

#### **178. Dust control**

During excavation, demolition and construction, adequate measures shall be taken to



prevent dust from affecting the amenity of the neighbourhood. The following measures must be adopted:

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

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

#### **179.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 approved geotechnical report.

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.

#### **180.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.

### **181.Toilet facilities**

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. 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/>](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/>](https://www.legislation.nsw.gov.au/).

**Reason:** Statutory requirement.

### **182.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.

### **183.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.

### **184.Construction signage**

All construction signs must comply with the following requirements:

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

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

**185. 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.

**186. 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.

**187. 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.

**188. 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.

### **189. 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.

### **190. 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 **Australian Standard AS 4970 - Protection of trees on development sites** during and after completion of development works to ensure their long term survival.

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

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

<b>Tree/location</b>	<b>Time of inspection</b>
Trees: 10C, 10D, 10E, 10F, 10G, 10J, 10L, and 11 On site and adjacent to the site	*Immediately prior to the commencement of ANY works on site *Certification of tree protection fencing/requirements consistent with the consent conditions *Direct supervision of ANY excavation works

	within the recognised TPZ *At the completion of bulk excavation works and prior to basement construction works. *At three monthly intervals during construction *At 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.

### 191.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
Tree 10C <i>Acer bergueranum</i> (Trident Maple) Fox Valley Rd nature strip	3.5m
Tree 10D <i>Liquidambar styraciflua</i> (Sweet Gum) Adjacent to western site boundary	9.5m
Tree 10E <i>Lagerstroemia indica</i> (Crepe Myrtle) Adjacent to western site boundary	4.5m
Tree 10F <i>Acacia sp</i> (Wattle) Adjacent to western site boundary	3.0m
Tree 10G <i>Liquidambar styraciflua</i> (Sweet Gum) Adjacent to western site boundary	4.5m
Tree 10 J <i>Liquidambar styraciflua</i> (Sweet Gum) Fox Valley Rd nature strip	4.5m
Tree 10L <i>Corymbia citriodora</i> (Lemon Scented Gum) Adjacent to eastern site boundary in neighbouring site	9.5m
Tree 11 <i>Prunus sp</i> Adjacent to eastern site boundary within site frontage	2.0m

**Reason:** To protect existing trees.

### 192.Trees on nature strip

Removal or pruning of the following tree/s on Council's nature strip shall be undertaken at no cost to Council by one of Council's approved tree contractors. A list of contractors is available from Council's Tree Management Team, who are in Council's Operation's Department.

Council's Tree Maintenance Supervisor must be advised via email, within a minimum of 48 hours prior to commencement of the works, with the following detail:

- selected contractor,
- the item code
- associated rate provided.

You and/or the contractor will be responsible for the reporting and/or repair of any

services damaged because of works undertaken.

Tree/location	Tree Works
Trees: 10B, 10H, and 10I Fox Valley Rd nature strip	Removal

**Reason:** To protect existing trees.

### 193.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 current version of **Australian Standard AS 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.

### 194.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.  
work.

Tree/Location	Radius in metres
Tree 10C <i>Acer bergueranum</i> (Trident Maple) Fox Valley Rd nature strip	3.5m
Tree 10D <i>Liquidambar styraciflua</i> (Sweet Gum) Adjacent to western site boundary	9.5m
Tree 10E <i>Lagerstroemia indica</i> (Crepe Myrtle) Adjacent to western site boundary	4.5m
Tree 10F <i>Acacia sp</i> (Wattle) Adjacent to western site boundary	3.0m
Tree 10G <i>Liquidambar styraciflua</i> (Sweet Gum) Adjacent to western site boundary	4.5m
Tree 10 J <i>Liquidambar styraciflua</i> (Sweet Gum) Fox Valley Rd nature strip	4.5m
Tree 10L <i>Corymbia citriodora</i> (Lemon Scented Gum) Adjacent to eastern site boundary in neighbouring site	9.5m
Tree 11 <i>Prunus sp</i> Adjacent to eastern site boundary within site frontage	2.0m

**Reason:** To protect existing trees.

### 195.Approved tree works

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

Tree/location	Approved tree works
Tree 10K <i>Cupressus sempervirens</i> (Cypress) Site frontage	Removal

within driveway footprint	
Tree 12 Unidentified tree species Adjacent to northeast site corner	Removal
Tree 13 <i>Callistemon salignus</i> (Bottlebrush) Rear setback	Removal
Tree 14 Unidentified tree species Rear setback	Removal
Tree 15 Unidentified tree species Rear setback	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 current version of **Australian Standard 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.

#### 196.Hand excavation

All excavation within the specified radius of the trunk/s of the following tree/s 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
Tree 10C <i>Acer bergueranum</i> (Trident Maple) Fox Valley Rd nature strip	3.5m
Tree 10D <i>Liquidambar styraciflua</i> (Sweet Gum) Adjacent to western site boundary	9.5m
Tree 10E <i>Lagerstroemia indica</i> (Crepe Myrtle) Adjacent to western site boundary	4.5m
Tree 10F <i>Acacia sp</i> (Wattle) Adjacent to western site boundary	3.0m
Tree 10G <i>Liquidambar styraciflua</i> (Sweet Gum) Adjacent to western site boundary	4.5m
Tree 10 J <i>Liquidambar styraciflua</i> (Sweet Gum) Fox Valley Rd nature strip	4.5m
Tree 10L <i>Corymbia citriodora</i> (Lemon Scented Gum) Adjacent to eastern site boundary in neighbouring site	9.5m
Tree 11 <i>Prunus sp</i> Adjacent to eastern site boundary within site frontage	2.0m

**Reason:** To protect existing trees.

#### 197.Thrust boring/directional drilling

Excavation for the installation of any services within the specified radius of the trunk/s of the following tree/s shall utilise the thrust boring or directional drilling method:

1. The tunnelling shall be carried out at least 600mm beneath natural ground level.
2. The launching pit for the tunnelling machine shall be located outside the tree protection zone (defined in current version of **Australian Standard AS 4970 - Protection of trees on development sites**) of any tree unless approved in writing by the project arborist.

Tree/Location	Radius in metres
Tree 10C <i>Acer bergueranum</i> (Trident Maple) Fox Valley Rd nature strip	3.5m
Tree 10D <i>Liquidambar styraciflua</i> (Sweet Gum) Adjacent to western site boundary	9.5m
Tree 10E <i>Lagerstroemia indica</i> (Crepe Myrtle) Adjacent to western site boundary	4.5m
Tree 10F <i>Acacia sp</i> (Wattle) Adjacent to western site boundary	3.0m
Tree 10G <i>Liquidambar styraciflua</i> (Sweet Gum) Adjacent to western site boundary	4.5m
Tree 10 J <i>Liquidambar styraciflua</i> (Sweet Gum) Fox Valley Rd nature strip	4.5m
Tree 10L <i>Corymbia citriodora</i> (Lemon Scented Gum) Adjacent to eastern site boundary in neighbouring site	9.5m

**Reason:** To protect and minimise damage to existing trees.

#### **198.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.

#### **199.Tree planting on nature strip**

The following tree species *Liquidambar styraciflua* (Sweet Gum) shall be planted, at no cost to Council, in the nature strip fronting the property along Fox Valley Rd. The tree/s used shall be a minimum 45 litre container size and of quality consistent with AS 2303:2018, Tree Stock for Landscape Use.

Planting must be undertaken by one of Council's pre-approved contractors. A list of the pre-approved contractors is available from Council's Tree Management Team in Council's Operations Department. The final location of the tree(s) will be confirmed by Council's Tree Management Officer in Council's Operations Department. Any tree plantings that fail to survive within two years of planting must be replanted under the conditions outlined above.

You and/or the contractor will be responsible for the reporting and/or repair of any services damaged as a result of works undertaken:

Tree/species	Quantity	Location
Liquidambar styraciflua (Sweet Gum)	3	Equally spaced in front of site within the nature strip



**Reason:** To provide appropriate landscaping within the streetscape.

**200. 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.

**201. Canopy replenishment trees to be planted**

The canopy replenishment trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5 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.

**202. Removal of weeds**

All urban environmental weed species as listed in the Biosecurity Act 2015 (NSW), Council's Weed Management Policy and/or weed species listed within Council's Development Control Plan shall be removed from the property prior to completion of building works/

**Reason:** To protect the environment.

**203. 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.

#### **204. 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.

#### **205. Salvage and re-use of existing material**

Existing building elements and materials in good condition are to be carefully removed during the works and securely stored in a place protected from damage, damp and sunlight. The salvaged building elements and materials are to be re-used in the new work, or if this is not possible, forwarded to an appropriate registered business dealing in salvaged building elements and materials.

Care should be taken in the removal of the existing doors, architraves and skirtings so they can be stored on site in a secure location such as the roof space for future restoration works.

**Reason:** To ensure the continuing heritage significance of the heritage item.

#### **206. 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.

#### **207. Vibration**

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

**Reason:** To protect residential amenity during construction.

#### **208. 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

#### **209. Prescribed conditions**

The work shall comply with any relevant prescribed conditions of development consent under Section 69 of the Environmental Planning and Assessment Regulation 2021. 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.

#### **210. 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. 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.

## **211. 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:**

### **212. Validation Report**

Validation Report shall be submitted to Council being the Regulatory Authority for the management of contaminated land prior to issue of the Occupation Certificate. The Validation Report shall be prepared in accordance with the NSW EPA's guidelines, Consultants Reporting on Contaminated Sites and shall:

- Describe and document all works performed
- Include results of validation testing and monitoring
- Including validation results of any fill imported on to the site
- Show how all agreed clean-up criteria and relevant regulations have been complied with; and
- Include clear justification as to the suitability of the site for the proposed use and the potential for off-site migration of any residual contaminants

**Reason:** To comply with State Environmental Planning Policy (Resilience and Hazards) 2021

**213. Review of Validation Report**

An accredited auditor under the Contaminated Land Management Act 1997 shall review the Validation Reported prepared by the contaminated land consultant and issue a Site Audit Statement. The accredited auditor shall provide Council being the Regulatory Authority for the management of contaminated land, with a copy of the Site Audit Report and Site Audit Statement, prior to issue of the Occupation Certificate.

**Reason:** To comply with State Environmental Planning Policy (Resilience and Hazards) 2021

**214. Site Audit Statement**

A Site Audit Statement (SAS) shall be submitted to Council being the Regulatory Authority for the management of contaminated land, prior to the issue of the Occupation Certificate, clearly demonstrating that the site is suitable for the intended use. Conditions imposed on the SAS shall form part of this consent. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, the consent shall prevail.

**Reason:** To comply with State Environmental Planning Policy (Resilience and Hazards) 2021

**215. Storage**

Prior to the issue of the relevant Construction Certificate, the following units are to demonstrate internal fit-outs of all spaces/rooms without access to natural daylight or natural ventilation - notionally identified as storage, are fitted out to prevent their use as habitable spaces/rooms:

Building E: ELG01, ELG02, EG02, EG06, E102, E106, E202, E206, E302, E306, E402, E406.

**Reason:** To ensure compliance with SEPP 65 ADG for natural daylight and natural ventilation to all habitable rooms.

**216. Acoustic Control Measures - Glazing**

Prior to the issue of the relevant Occupation Certificate, the Principal Certifier shall be satisfied that the acoustic glazing for the development has been installed as specified in Part 5.1 of DA Acoustic Report Ref: ID:11042 RO1v4 dated 26 October 2021 prepared by PKA Acoustic Consulting.

Written confirmation from an acoustic engineer that the acoustic glazing has been installed as specified in the DA Acoustic Report is to be submitted to the Principal Certifier.

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

**217. Compliance with BASIX Certificate**

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

**Reason:** Statutory requirement.

**218. Clotheslines and clothes dryers**

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

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

**219. Mechanical ventilation**

Following completion, installation and testing of all the mechanical ventilation systems the installation and performance of these systems must comply with:

- The National Construction Code
- Australian Standard 1668
- Australian Standard 3666 where applicable.

The Principal Certifier shall be satisfied of the above prior to the issue of the relevant Occupation Certificate.

**Reason:** To protect the amenity of occupants and neighbouring properties.

**220. Completion of landscape works**

Prior to the issue of the relevant 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.

**221. Mechanical noise control**

Prior to the issue of the relevant 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 and pumps when in operation either as an individual piece of equipment or in combination with other equipment will not be audible within any habitable room in any residential occupancy before 7.00am and after 10.00pm. Outside of these restricted hours noise from an individual piece of equipment or in combination shall not be greater than 5dB(A) above the background noise (LA90, 15 min) when measured at the nearest adjoining property boundary. 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 occupants and neighbouring residents.

**222. Outdoor Lighting**

Prior to the issue of the relevant Occupation Certificate, the Principal Certifier shall be satisfied that all outdoor lighting will comply with AS/NZS 4282:2019 *Control of the obtrusive effects of outdoor lighting* and is mounted, screened and directed in a way that 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.

**223. Location of air conditioning condensers**

Prior to the issue of the relevant Occupation Certificate, the Principal Certifier shall be satisfied that all air conditioning condensers are located in the basement or roof top plant enclosure.

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

**224. Accessibility**

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

- the lift design and associated functions are compliant with AS 1735.12 & AS 1428.2
- the level and direction of travel, both in lifts and lift lobbies, is audible and visible
- the controls for lifts are accessible to all persons and control buttons and lettering are raised
- international symbols have been used with specifications relating to signs, symbols and size of lettering complying with AS 1428.2
- the height of lettering on signage is in accordance with AS 1428.1 - 2009 and the signs and other information indicating access and services incorporate tactile communication methods in addition to the visual methods

**Reason:** To facilitate disabled access.

**225. Livable Housing - Silver and Platinum Units**

Prior to the issue of the relevant Occupation Certificate, an independent and accredited Livable Housing Australia Assessor is to submit Stage 2 – Final Mark Certification certifying that the constructed building demonstrates full compliance with the requirements of each standard within the Liveable Housing Design Guidelines, including for car parking and as identified within the accessibility report prepared by Accessible Building Solutions, dated 08.07.2021 as follows:

- a) All apartments identified as Silver Level; and
- b) Apartments ELG04, E107, E207 & E307 identified as Platinum Level.

**Reason:** To ensure Ku-ring-gai's housing strategy for equitable and dignified access to housing for all people is constructed.

## **226. Certification of drainage works**

Prior to issue of the relevant 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 Part 24 'Water Management' have been achieved. Council's On-Site Detention And Retention Certification sheet shall be completed.
3. Retained water is connected and available for use.
4. All grates potentially accessible by children are secured.
5. Components of the new drainage system have been installed by a licensed plumbing contractor in accordance with the Plumbing and Drainage Code AS3500.3 2018 and the Building Code of Australia.
6. All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

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

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

## **227. Works as executed plans for stormwater management and disposal**

Prior to issue of the relevant 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 the relevant 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.

#### **228. Basement pump-out maintenance**

Prior to issue of the relevant 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.

#### **229. 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 relevant Occupation Certificate.

This marker plate can be purchased from Council.

**Reason:** To prevent unlawful alteration.

#### **230. Certification of as-constructed driveway and carpark**

Prior to issue of the relevant 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" 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 the Australian Standard 2890.1 - "Off-street car parking",
6. **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 the relevant Occupation Certificate.

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

**231. Reinstatement of redundant crossings and completion of infrastructure works**

Prior to issue of the relevant 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 Section 73 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

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.

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

Prior to issue of the relevant 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 the relevant Occupation Certificate being issued.

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

**233. 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.

**234. Fire safety certificate**

Prior to the issue of the relevant 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.

**235. Waste and recycling storage facilities- residential flat building**

Prior to the issue of the relevant Occupation Certificate, the Principal Certifier shall be satisfied that the waste storage room has been installed in the basement and is of adequate size to contain the waste bins. All internal walls of the waste storage rooms are rendered and coved at the floor/wall intersection, the floor is graded and drained to the sewer and a tap with hot and cold water is located in close proximity to facilitate cleaning.

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

**CONDITIONS TO BE SATISFIED AT ALL TIMES:****236. 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.

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

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

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

**238. Noise control - mechanical plant**

Noise levels associated with mechanical plant installed on the premises shall not be audible within any habitable room in any residential premises before 7.00am and after 10.00pm. Outside of these restricted hours noise levels associated with mechanical plant installed on the premises either as an individual piece of equipment or in combination shall not emit a noise level greater than 5dB(A) above the background noise (LA90, 15 min) when measured at the nearest adjoining property boundary. The background (LA90, 15 min) level is to be determined without the source noise present.

**Reason:** To protect the amenity of occupants and neighbouring properties.

**239. Noise control - rainwater re-use system**

Noise levels associated with rainwater re-use system(s) installed on the premises shall not be audible within any habitable room in residential premises before 7.00am and after 10.00pm. Outside of these restricted hours noise levels associated with rainwater re-use system(s) installed on the premises either as an individual piece of equipment or in combination shall not emit a noise level greater than 5dB(A) above the background noise (LA90, 15 min) when measured at the nearest adjoining property boundary. The background (LA90, 15 min) level is to be determined without the source noise present.

**Reason:** To protect the amenity of occupants and neighbouring properties.

**240. Noise Control - air conditioning**

Noise levels associated with air conditioning units installed on the premises shall not be audible within any habitable room in any residential occupancy before 7.00am and after 10.00pm. Outside of these restricted hours noise levels associated with air conditioning units installed on the premises either as an individual piece of equipment or in combination shall not emit a noise level greater than 5dB(A) above the background noise (LA90, 15 min) when measured at the nearest adjoining property boundary. The background (LA90, 15 min) level is to be determined without the source noise present.

**Reason:** To protect the amenity of residential occupants and neighbouring properties.

**241. Noise Control - mechanical exhaust ventilation**

Noise levels associated with mechanical exhaust ventilation installed on the premises shall not be audible within any habitable room in any residential premises before 7.00am and after 10.00pm. Outside of these restricted hours noise levels associated with mechanical exhaust ventilation installed on the premises either as an individual piece of equipment or in combination shall not emit a noise level greater than 5dB(A) above the background noise (LA90, 15 min) when measured at the nearest adjoining property boundary. The background (LA90, 15 min) level is to be determined without the source noise present.

**Reason:** To protect the amenity of neighbouring residential occupants and neighbouring properties.

**242. 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.

**243. Loading and unloading**

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

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

**244. 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.

**INTEGRATED REFERRAL CONDITIONS:****245. GENERAL TERMS OF APPROVAL - RURAL FIRE SERVICE**

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted. General Terms of Approval, under Division 4.8 of the *Environmental Planning and Assessment Act 1979*, and a Bush Fire Safety Authority, under section 100B of the *Rural Fires Act 1997*, have been issued that are subject to the following conditions:

**Asset Protection Zones**

**Intent of measures: to provide sufficient space and maintain reduced fuel loads to ensure radiant heat levels at the buildings are below critical limits and prevent direct flame contact.**

8. Prior to the issue of subdivision or construction certificate (whichever occurs first), the areas denoted outer protection area (OPA) and inner protection area (IPA) on the 'Fire Compliance Landscape Plan' prepared by Group GSA Pty Ltd, project no. 180846, dwg no. L-1003, issue F, dated 16/06/2022 must

be managed in perpetuity in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019.

When establishing and maintaining an OPA, the following requirements apply:

- Trees tree canopy cover be less than 30%;
- Canopies are separated by 2 to 5m;
- Shrubs are not form a continuous canopy;
- Shrubs do not form more than 20% of ground cover;
- Grass to be kept mown to a height of less than 100mm; and
- Leaf and other debris are removed; and
- NSW Rural Fire Service's document *Standards for asset protection zones*

When establishing and maintaining an IPA, the following requirements apply:

- Tree canopy cover be less than 15% at maturity;
- Trees at maturity are not touching or overhang the building;
- Lower limbs are removed up to a height of 2m above the ground;
- Tree canopies are separated by 2 to 5m;
- Preference is given to smooth-barked and evergreen trees;
- Large discontinuities or gaps in vegetation are provided to slow down or break the progress of fire towards buildings;
- Shrubs are not located under trees;
- Shrubs do not form more than 10% of ground cover;
- Clumps of shrubs are separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
- Grass to be kept mown (as a guide grass should be kept to no more than 100mm in height);
- Leaves and vegetation debris are removed; and
- NSW Rural Fire Service's document *Standards for asset protection zones*.

### **Construction Standards**

**Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.**

9. New construction (except for the southern elevation/s) must comply with Sections 3 and 7 (BAL 29) of the Australian Standard AS3959-2018 *Construction of buildings in bush fire-prone areas* or NASH Standard (1.7.14 updated) *National Standard Steel Framed Construction in Bushfire Areas – 2014* as appropriate, and Section 7.5 of *Planning for Bush Fire Protection 2019*.
10. New construction on the southern elevation/s must comply with Sections 3 and 6 (BAL 19) of the Australian Standard AS3959-2018 *Construction of buildings in bush fire-prone areas* or NASH Standard (1.7.14 updated) *National Standard Steel Framed Construction in Bushfire Areas – 2014* as appropriate, and Section 7.5 of *Planning for Bush Fire Protection 2019*.

11. Any new Class 10b structures as defined per the *National Construction Code* must be non-combustible.

### **Access – Public Roads**

**Intent of measures: to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area.**

12. The new access road must comply with the following requirements for perimeter roads under Table 5.3b of *Planning for Bush Fire Protection 2019*:
- a two-way sealed road with a minimum 8m carriageway width kerb to kerb;
  - parking is provided outside of the carriageway width;
  - hydrants are located clear of parking areas;
  - all roads are through roads;
  - curves of roads have a minimum inner radius of 6m;
  - the maximum grade road is 15 degrees and average grade of not more than 10 degrees or other gradient specified by road design standards, whichever is the lesser gradient;
  - the road crossfall does not exceed 3 degrees; and
  - a minimum vertical clearance of 4m to any overhanging obstructions, including tree branches, is provided.
  - traffic management devices are constructed to not prohibit access by emergency services vehicles;
  - where kerb and guttering is provided on perimeter roads, roll top kerbing should be used to the hazard side of the road;
  - one way only public access roads are no less than 3.5 metres wide and have designated parking bays with hydrants located outside of these areas to ensure accessibility to reticulated water for fire suppression;
  - the capacity of road surfaces and any bridges/causeways is sufficient to carry fully loaded firefighting vehicles (up to 23 tonnes); bridges/causeways are to clearly indicate load rating;
  - hydrants are located outside of parking reserves and road carriageways to ensure accessibility to reticulated water for fire suppression;
  - hydrants are provided in accordance with the relevant clauses of AS 2419.1:2005 - *Fire hydrant installations System design, installation and commissioning*.

### **Water and Utility Services**

**Intent of measures: to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.**

13. The provision of water, electricity and gas must comply with Table 5.3c of *Planning for Bush Fire Protection 2019*.

**Reason:** To ensure the development is adequately protected from the threat of bush fire.

**Landscaping Assessment**

14. Before the start of building works, a Vegetation Management Plan (VMP), and/or a landscape plan, that can be legally and practically enforced for the life of the development must be produced for the management of the entire site outside of the IPA and OPA specified in Condition 1 above. The VMP, and/or landscape plan, must be certified by an accredited bushfire consultant to ensure that landscaping is designed and managed to ensure that the land does not become a bushfire hazard.