

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSNH-295
DA Number	MOD0219/21
LGA	Ku-ring-gai
Proposed Development	Modification to Land and Environment Court Approval 391613 of 2018 (DA0197/18) proposing changes to conditions to break down the Stage 2 construction works into four phases and internal and external alterations to the approved mixed use building.
Street Address	1 and 1A Balfour Street, Lindfield (formerly known as 376-384 Pacific Highway, 386-390 Pacific Highway and 1 Balfour Street, Lindfield)
Applicant/Owner	Ppi Lindfield Developments Pty Ltd/ Coles Group Property Developments Ltd Vendor Number: 7017713
Date of DA lodgement	12 November 2021
Total number of Submissions Number of Unique Objections	<ul style="list-style-type: none"> Two submissions Two submissions
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	A Section 4.56 modification application to a development with a capital investment value of more than \$30 million.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> Environmental Planning and Assessment Regulation 2000 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Biodiversity & Conservation) 2021 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development State Environmental Planning Policy (Industry and Employment) 2021 Ku-ring-gai Local Environmental Plan 2015 (KLEP) Ku-ring-gai Development Control Plan (KDCP) Ku-ring-gai Contributions Plan 2010
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> Attachment 1 - Location sketch Attachment 2 -Zoning Extract Attachment 3 - Architectural plans Attachment 4 - Landscape plans Attachment 5 - SEPP 65 Design Verification Statement Attachment 6 - Cross Ventilation Assessment Attachment 7 - Traffic letter Attachment 8 - Acoustic letter Attachment 9 - Access Report Attachment 10 - Land and Environment Court Approval 391613 of 2018 conditions of consent Attachment 11 – Land and Environment Court Approval 391613 of 2018 Architectural plans Attachment 12 - modified development consent MOD0117/20
Clause 4.6 requests	Request to breach building height, Clause 4.6 is not applicable to S4.56 application.

Summary of key submissions	<ul style="list-style-type: none"> • Inequitable pedestrian access along the footpath on north side of Balfour Street • Traffic and safety issues on Pacific Highway
Report prepared by	Amy Ayling
Report date	16 June 2022

Summary of S4.15 matters	
Have all recommendations in relation to relevant S4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction	
Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	Yes
Clause 4.6 Exceptions to development standards	
If a written request for a contravention to a development standard (Clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not applicable
Special Infrastructure Contributions	
Does the DA require Special Infrastructure Contributions conditions (S7.24)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	Not applicable
Conditions	
Have draft conditions been provided to the applicant for comment? <i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>	6 July 2022

PURPOSE OF REPORT

This application is reported to the Sydney North Planning Panel (SNPP) for determination as it is a Section 4.56 modification application to a development consent for works with a capital investment value of more than \$30 million. Pursuant to Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011, the SNPP is the consent authority.

INTEGRATED PLANNING AND REPORTING

Places, Spaces & Infrastructure

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

EXECUTIVE SUMMARY

Issues:

- Building height
- Balfour Street setback above podium

Submissions:

- Two objecting to the proposal

Land and Environment Court:

- DA was approved by the LEC court (Appeal No. 18/391613)
- No current matters before LEC

Recommendation:

- Approval

THE DEVELOPMENT CONSENT - DA0197/18, as modified by MOD0117/20

By way of a Section 34 agreement, on 29 August 2019, the Land and Environment Court granted development consent to DA0197/18 (Appeal No. 18/391613) for lot consolidation, demolition of the existing supermarket, partial demolition of a heritage item, relocation of Balfour Lane and construction of a 6 storey mixed use building, comprising shop top housing and including 70 apartments, supermarket, liquor store, coffee shop, office, car parking and associated work.

The Court approved two phases of the development, Stage 1-A and 01-B. Stage 1-A being the relocation of Balfour Lane from its current location to the western side of the site and Stage 01-B, being the demolition of the existing structures and construction of the mixed-use building.

On 29 October 2020, Sydney North Planning Panel granted consent to the modification (MOD0117/20) to Land & Environment Court Consent Proceedings 391613 of 2018 (DA0197/18) to amend Conditions 15, 16, 22, 23, 24, 46, 54, 69, 80, 102, 117, 118 and 124, to accommodate a staged construction process.

On 28 September 2021, Council issued a Subdivision Works Certificate (CC0003/21) for Stage 1-A, including minor earthworks, stormwater drainage works, retaining wall construction, new pavement and concrete works.

On 24 February 2022, the subdivision of the site was endorsed by Council and the site was divided into two lots:

- Lot 11 in DP 1257621 - 1 Balfour Street (future mixed-use building)
- Lot 12 in DP 152532 - 1A Balfour Street (relocated Balfour Lane)

HISTORY

Relevant site and application history

DA0188/19

On 20 September 2019, the Ku-ring-gai Local Planning Panel approved development application DA0188/19 for subdivision of part of the Balfour Lane Road reserve to allow the creation of a new lot in connection with a proposed partial road closure of Balfour Lane.

PRE0033/21

On 28 May 2021, Pre-DA consultation minutes were issued to the applicant for a S4.56 modification to DA0197/18 proposing fewer apartments and significant internal and external alterations and additions.

DA0573/21

On 2 February 2022, Council approved development application DA0573/21 for the installation of a temporary display suite at the rear of the subject site, comprising two shipping containers connected by a covered timber deck.

Current Modification Application

Date	Action
12 November 2021	Application lodged.
25 November 2021	The application was notified to neighbouring property owners for a period of 14 days. Two submissions were received.
3 February 2022	Council sent a letter to the applicant raising the following issues: <ul style="list-style-type: none"> • tree impacts • natural cross ventilation to units • natural ventilation and light to common circulation lobbies and corridors • noise • Units 406 and 407 rooftop terraces • privacy • materials • podium landscape • Design Verification Statement • document inconsistencies • BASIX
14 February 2022	A meeting was held with the applicant to discuss the issues raised in Council's letter of 3 February 2022.

4 March 2022	<p>The applicant responded to Council's letter of 3 February 2022 with additional information and amended plans. The amendments to the application include:</p> <ul style="list-style-type: none"> • retain Tree 19 and the approved location of the fire hydrant booster within the Balfour Street setback • six apartments combined into three to improve natural cross ventilation – net loss 3 apartments, total 59 apartments proposed • additional skylights to improve natural cross ventilation • glazing provided to all open fire stairs, windows to common circulation spaces and glazed lift door to Balfour Street lift. • confirmation that northern lobby is fully glazed • terrace of Units 406 and 407 were pulled back further away from the building's edge • directional windows to the bedrooms of Units 224 and 322 were added • confirmation of proposed materials and detailing of balustrading • confirmation that planter boxes and landscaping within the planter boxes to form part of the common property via a by-law for exclusive use • updated Design Verification Statement • updated BASIX Certificate
8 March 2022	The application was referred to Council's consultant Urban Designer, Heritage Advisor, Development Engineer, Landscape and Tree Assessment Officer, Ecological Officer and Public Domain Coordinator.
8 March 2022	The application was registered with the Sydney North Planning Panel.
30 March 2022	Council briefed the Sydney North Planning Panel on the application.
11 April 2022	<p>Council advised the applicant of the following outstanding issues:</p> <ul style="list-style-type: none"> • inconsistent BASIX certificate • inadequate justification of natural cross ventilation
14 April 2022	The applicant submitted an updated BASIX certificate.
6 May 2022	The applicant submitted a Cross Ventilation Report.
27 June 2022	The applicant submitted an amended architectural plan set, converting the ventilated skylights to Units 307, 308, 310, 317, 318, 319 and 320 into a pop-up roof with clerestory window design for optimal natural cross ventilation to these units.

THE SITE

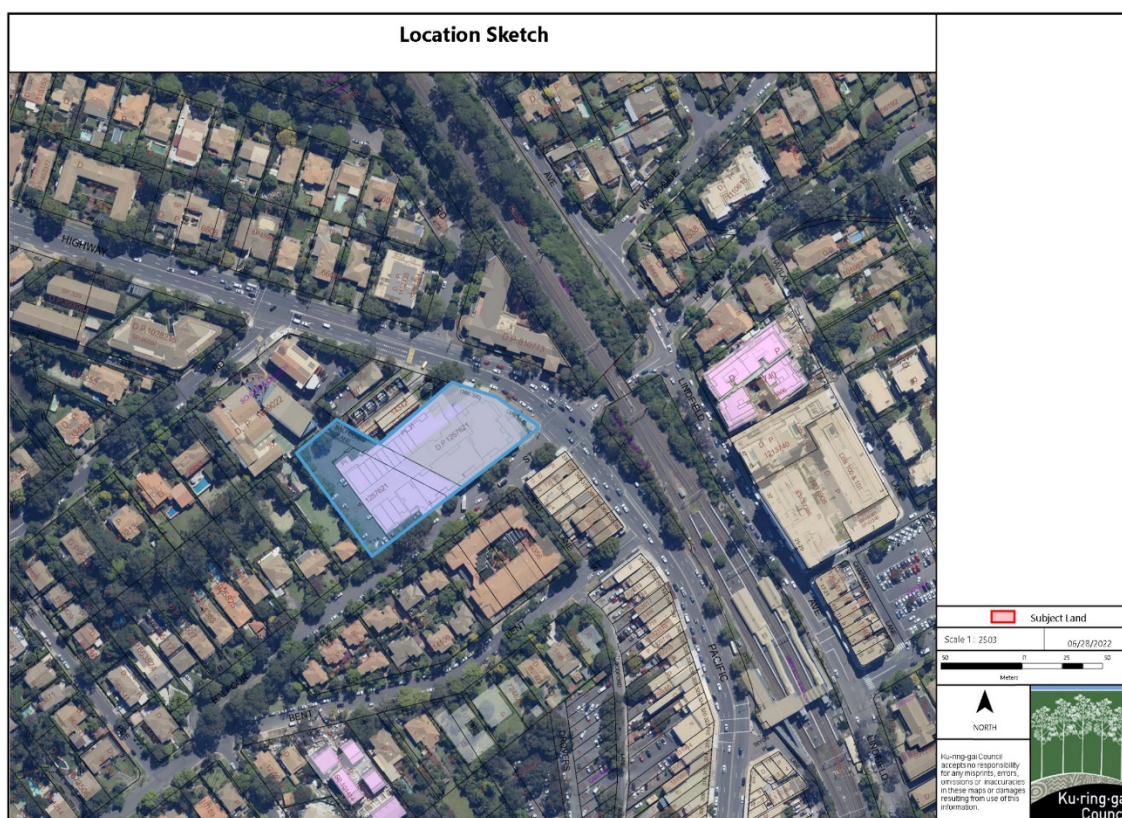


Figure1: Aerial photograph of the site with approved building footprint as highlighted

Site description

Constraint:	Application:
Visual character study category	1920-1945
Easements/rights of way	Yes – Existing Council owned Local Road 'Balfour Lane' is part of the site – this lane has been approved to be relocated to the western side of the site
Heritage Item - Local	Yes - 386-390 Pacific Highway, Lindfield – 'Churchers Restaurant'
Heritage Item - State	No
Heritage conservation area	No
Within 100m of a heritage item	Yes
Bush fire prone land	No
Natural Resources Biodiversity	Yes - overhanging canopy of Blue Gum High Forest (north-western corner of site)
Natural Resources Greenweb	Yes – Canopy Remnant and Landscape Remnant
Natural Resources Riparian	No
Within 25m of Urban Bushland	No
Contaminated land	No

Until recently, the site comprised of six allotments and was known as 376-384 Pacific Highway, 386-390 Pacific Highway and 1 Balfour Street, Lindfield. The site has recently been consolidated into two allotments, described as Lot 11 in DP 1257621 (1 Balfour Street) and Lot 12 in DP 152532 (1A Balfour Street).

The consolidated site has an area of 7090sqm and is irregular in shape.

The site has a combined northern boundary of 92m, an eastern boundary of 61m, a Balfour Street frontage of 130m and a western boundary of 79m. The site slopes down to the west by approximately 7.6m.

The site currently comprises an existing Coles supermarket and smaller retail premises along the Pacific Highway frontage. At the rear of the supermarket, is on-grade parking separated by existing Balfour Lane. Balfour Lane is a no-through road.

Existing Balfour Lane provides access to Holy Family Catholic Primary School, a church and rear access to the electricity substation (No. 402 Pacific Highway) and No. 406 Pacific Highway, which is occupied by a commercial office building. Relocated Balfour Lane will continue to provide access to these properties.

The north-eastern part of the site contains a heritage item.

THE PROPOSAL

Under the provisions of Section 4.56 of the *Environmental Planning and Assessment Act 1979*, it is sought to modify development consent DA0197/18, as modified by DA0117/20.

The application seeks internal and external design amendments and modification of conditions to facilitate staged construction and occupation of the development. The modifications include:

- i. Fire pump and fire tank added to Basement Level
- ii. Minor modifications at Lower Ground 2:
 - a. additional retail car space added
 - b. fire stair and lift core are set back from Balfour Street
 - c. the Balfour Street residential lobby shape is amended
- iii. Minor modifications at Lower Ground 1:
 - a. one retail car parking space deleted
 - b. the fire stair and lift core are set back from Balfour Street
- iv. Upper Ground Level changes including:
 - a. fire stair and lift core setback from Balfour Street
 - b. residential lift along Balfour Street moved to combine with the main residential lobby
 - c. minor adjustment of shape of residential lobby at Pacific Highway, part of lobby is now open to the sky
 - d. external wall and door to the residential lobby at Pacific Highway is replaced with a gate
 - e. *Liquorland* layout amended
 - f. enclosed fire stair and exit next to Pacific Highway moved north and opened to improve circulation and street presence
 - g. door to cafe moved to airlock
 - h. location and size of residential lift pits and supermarket exhaust in ceiling are amended
- v. Level 1 changes:
 - a. fire stair and lift core setback from Balfour Street and addition of vertical screening
 - b. fire stair next to heritage building moved to consolidate with the external fire stair reaching Pacific Highway lobby

- c. re-planning of residential carpark, storage cages
 - d. total number of residential car parking spaces increased from 74 to 86 (including 1 car share space) waste room layout revised to provide caging to chute
 - e. residential internal layouts amended
 - f. residential main switch room added
 - g. reduction of amount of apartments through consolidation of layouts
 - h. external façade adjustments to suit new internal layouts
- vi. Level 2 changes:
- a. stair and ramp to drying area moved north to open up connection of entry stair to podium
 - b. fire stair next to heritage building moved to consolidate with the external fire stair near Pacific Highway lobby
 - c. residential internal layouts amended
 - d. addition of frame structures and splayed ceilings to top floor balconies facing Balfour Street
 - e. lift and fire stair core on Balfour Street set back and changed to glazed wall finish
 - f. residential services lift overrun added in north-western corner
 - g. floor level of northern residential section made the same as the rest of the building
 - h. increase in floor to floor height to 3.15m to capture any thermal/waterproof requirement in design development
 - i. removal of two level apartments and replanned floorplate and core locations to suit double loaded residential
 - j. deeper pergola added to courtyard facing apartment below
 - k. landscape design revised
 - l. reduction in number of apartments through consolidation of layouts
 - m. external façade adjustments to suit new internal layouts
 - n. winter gardens added to Units 201, 202, 203 and partial winter garden to Unit 204
- vii. Level 3 changes:
- a. fire stair and lift core are set back from Balfour Street
 - b. removal of two level apartments and re-planned floorplate and core locations to suit double loaded residential
 - c. addition of frame structures and splayed ceilings to top floor balconies facing Balfour Street
 - d. addition of vertical screening to lift and fire stair core on Pacific Highway
 - e. lift and fire stair core on Balfour Street changed to glazed wall finish
 - f. lift and fire stair in the northern wing changed to be in line with the main building mass
 - g. deeper pergola added to courtyard facing apartment below
 - h. increase in floor to floor height to 3.15m to capture any thermal/waterproof requirement in design development
 - i. solar panels added to roof of Units 215 and 216
 - j. external façade adjustments to suit new internal layouts
 - k. winter gardens added to Units 301, 302, 303 and partial winter garden to Unit 304
- viii. Level 4 changes:
- a. fire stair and lift core are set back from Balfour Street
 - b. removal of two level apartments and re-plan floorplate and core locations to suit double loaded residential

- c. addition of frame structures and splayed ceilings to top floor balconies facing Balfour Street
 - d. addition of vertical screening to lift and fire stair core on Pacific Highway
 - e. lift and fire stair core on Balfour Street changed to glazed wall finish
 - f. increase in floor to floor to 3.15m to capture any thermal/waterproof requirement in design development
 - g. extent of rooftop terrace garden increased towards south-west.
 - h. solar panels added to roof above Units 315, 317, 318, 319 and 320
 - i. reduction in number of apartments through consolidation of layouts
 - j. external façade adjustments to suit new internal layouts
 - k. winter garden added to Unit 403 and partial winter garden added to Unit 404
 - l. landscape design revised
 - m. introduction of two common rooms:
 - dining, kitchen, seating and amenities
 - meeting/study
 - n. extent of rooftop terrace garden increased to south-west, including pergolas, lawn and garden areas, paths, tables and seating
- ix. Level 5 changes:
- a. roof walk-up terrace to Units 406 and 407 below added
 - b. mechanical plant increased
 - c. removal of seesaw roof shape
- x. Modification of 48 conditions (1, 25, 27, 28, 30, 31, 33, 36, 37, 38, 39, 40, 41, 42, 43, 44, 50, 51, 53, 56, 57, 70, 103, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128 and 129) to:
- a. reflect modified internal and external modifications
 - b. break down the Stage 2 construction works (Construction Certificates) into four phases:
 - Phase 1 - Early Works - Demolition, excavation shoring, services diversion and augmentation, footings/piling.
 - Phase 2 - Structure - lower basement slab and above.
 - Phase 3 - Retail (Cold shell only) and retail carparking and facades - Lower Basement 1 and 2. Facades to the whole building.
 - Phase 4 - Residential Apartments and associated carparking including podium and roof top terrace landscaping. Public Domain. Main building surrounds and landscaping.

Note: Coles retail, Liquorland fitouts and Café fitouts will be undertaken via CDC.
 - c. divide the Occupation Certificates into 2 stages:
 - retail
 - residential
- xi. Reduction in total number of apartments from 70 to 59
- xii. Unit mix:
- 1 bed – 24 (40.6%)
 - 2 bed – 14 (23.7%)
 - 3 bed – 18 27.1%
 - 4 bed – 3 (5.1%)
- xiii. LHA housing/universal housing:
- Platinum – 10 (16.9%)
 - Silver – 100%
 - Visitable – 42 (71.2%)

xiv. Total car parking:

- Residential - 85
- Visitor residential – 12
- Retail – 237
- Carshare – 1
- Bicycle – 45

xv. Storage:

- within units 3m³ - 24m³
- additional 46 x storage cages Level 1 car park 3m³ - 5m³

Amended plans dated 4 March 2022

The amended plans proposed the following changes:

- retain Tree 19 and the approved location of the fire hydrant booster within the Balfour Street setback as approved
- six apartments combined into three to improve natural cross ventilation – net loss 3 apartments, total 59 apartments proposed
- additional skylights to improve natural cross ventilation
- glazing provided to all open fire stairs, windows to common circulation spaces and glazed lift door to Balfour Street lift
- confirmation that northern lobby is fully glazed
- terrace of Units 406 and 407 pulled back to be further away from the building's edge
- directional windows added to the bedrooms of Units 224 and 322
- confirmation of proposed materials and detailing of balustrading
- confirmation that planter boxes and landscaping within the planter boxes to form part of the common property via a by-law for exclusive use
- updated Design Verification Statement
- updated BASIX Certificate

Additional information dated 14 April 2022, 6 May 2022 and 27 June 2022

The additional information and amendments included:

- cross ventilation report confirming 62.7% of units achieve natural cross ventilation
- updated BASIX certificate to retain commitment for central rainwater tank of 20,000L and reflect common WC on roof
- confirmation of 2 x electric vehicle charging points in the retail and residential car park
- conversion of the ventilated skylights to Units 307, 308, 310, 317, 318, 319 and 320 into a pop-up roof with clerestory window design

CONSULTATION

Community

In accordance with Appendix 1 of the Ku-ring-gai Community Participation Plan (CPP), owners of surrounding properties were given notice of the application. In response, submissions from the following were received:

1. *Mr P Nicholson - 11 Balfour Street, Lindfield*
2. *Mrs DM Palmer - 14 Highfield Road, Lindfield*

The submissions raised the following issues:

The proposed steps would make pedestrian access along the footpath on the north side of Balfour Street more difficult and almost impossible for people of reduced mobility, those with children in strollers and those using trolley bags.

The stairs along the northern side of Balfour Street were approved under DA0197/18. The proposed modifications do not seek to alter this part of the development.

The traffic and safety issues caused by narrowing of lane on Pacific Highway should be fixed with this development.

Traffic and safety were considered under DA0197/18 and the Roads and Maritime Services (RMS) specifically considered the development under the traffic generating development standards within SEPP Infrastructure (that applied at the time of determination). The RMS imposed concurrence conditions and these remain within Condition 1 of the development consent. The proposed modifications do not seek to make any further modifications to the Pacific Highway road reserve.

Amended plans dated 4 March 2022

In accordance with the criteria in Appendix 1 of the CPP, Council's Development Assessment Team Leader determined that notification of the amended plans was not required as the amendments were unlikely to detrimentally affect the enjoyment of adjoining or neighbouring land.

Additional information dated 14 April 2022, 6 May 2022 and 27 June 2022

In accordance with the criteria in Appendix 1 of the CPP, Council's Development Assessment Team Leader determined that notification of the additional information was not required as the amendments were unlikely to detrimentally affect the enjoyment of adjoining or neighbouring land.

Internal Referrals

Urban design

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

1 Context and Neighbourhood Character	ADG to be addressed
<p>a) <u>Streetscape form – Main residential entry lift lobbies - northern corner addressing the Pacific Highway and heritage item</u></p> <p><i>Modifications to the relationship between the new construction and heritage item have generally improved the streetscape presentation and functionality of both the item and new residential entry.</i></p> <p><i>The open-air lobby ground level character incorporates some landscape and a stair to the podium level that doubles as egress. This engages the podium level with the</i></p>	<p><i>Satisfied</i></p>

street and creates a more welcoming entry as a 'place' in its own right. Further amendments to the open northern lift lobbies above ground propose glazing in addition to the screening. This achieves the intended open appearance while mitigating noise impacts and dirt blowing into the spaces.

b) Elevations

Modifications generally have sought to present a composition of elevations and use of materials that are significantly more cohesive compared to the original DA. This is an improved public outcome. Further amendments have clarified Pacific Highway balcony treatments and winter gardens.

c) Awnings

Proposed modifications to the Pacific Highway awnings improve the streetscape character. Their integration with the architectural treatment above podium has been improved. Materiality has been better integrated between ground treatments, podium presentation and above podium.

d) Balfour Street residential entry and setbacks

The residential entry is retained and amendments to the lift and egress stair have reduced the previously approved encroachments into the street setback. Balconies for the Balfour Street units now project into the approved setback above ground but remain well inboard of the podium edge and strengthen the alignment with the relocated lift and stair. This has improved the public domain interface condition and improved the modulation above podium of an otherwise long, unarticulated residential street wall.

2 Built Form and Scale	ADG to be addressed
<p>a) <u>Floor-to-Floor height</u></p> <p>The ADG requires a minimum 3.1m floor-to-floor height. Proposed modifications have sought to increase floor-to-floor height of some levels. This is acceptable and it is noted that the increase represents a minor variation to height with a variation limited to the south-western side and southern corner area addressing Balfour Street.</p> <p>The increase is acceptable because of the vertical relationship of internal layouts between each level. It is not unexpected to find 3.1m floor-to-floor heights are insufficient for achieving the SEPP 65 development</p>	<p>Satisfied, subject to condition</p>

standard of a minimum 2.7m unobstructed floor-to-ceiling height for habitable rooms where additional structure, insulation, and effective waterproofing must be accommodated, particularly arising where large terrace areas and/or generally wet areas are above habitable rooms of units below.

b) Height – rooftop communal open space

Extension of the rooftop communal area results in a further minor height variation that does not impact on the approved built form and scale overall with the exception of a pergola still located near the south-western edge.

Generally, the relocation of functional recreation from the lower podium level space to the expanded rooftop will result in significantly improved communal amenity and provide improved options for residents and their visitors to use the spaces in a variety of ways. The rooftop balustrade is located inboard of the building edge, which is acceptable. Rooftop pergolas are acceptable in principle (shade protection is needed) but should be located further inboard of the south-western building edge (**Conditions 53A and 53E(a)**). This is to ensure rooftop elements are not seen from the public domain, particularly from Balfour Street where the impacts of height are more noticeable due to the sloping topography and interface with low density housing.

c) Townhouse/2-storey unit type – north-western building

The DA was approved with townhouse type/2-storey dwellings with a saw-tooth roof accommodated in the north-western building. The modification replaces the saw tooth with a flat roof type and the dwellings are modified to be single level regular apartment types.

Generally, the modified roof form is simpler and achieves a more restrained and cohesive form that is better integrated with the dominant residential form to the north-east and south-east on the podium. Further amendments to the rooftop private terraces (Units 406 and 407) have brought the stairs and balustrading inboard of the building edge so will not be seen from the Pacific Highway (the parapet also hiding the mechanical plant).

3 Density

a) FSR

Proposed GFA has not significantly changed. It is noted the winter gardens were excluded from GFA in the original approval. From an urban design perspective, there is no

Satisfied

material change to the building bulk if wintergardens are to be included in GFA under KLEP 2015 definition.

b) Yield

Proposed reduction to the number of dwellings from the approved 70 to 59, and modified mix of units is generally acceptable.

4 Sustainability

a) Natural cross ventilation

The cross ventilation assessment, prepared by SLR Consulting Pty Ltd dated 6 May 2022, confirms 62.7% (37/59) of the apartments in the development will be naturally cross ventilated.

Satisfied

b) Noise, natural ventilation and natural cross ventilation – apartments

The design can resolve natural ventilation to all habitable rooms including those that are noise impacted so that residents are not forced to use air-conditioning over the life cycle of the development.

c) Noise, natural ventilation - lobbies

Providing natural ventilation to all common circulation spaces has become increasingly important through the pandemic experience. The modification has sought to increase daylight and natural ventilation opportunities for stairs linked to the podium level central communal space.

Additional information has confirmed access to daylight and natural ventilation to those stairs and into the residential common corridors.

Further amendments have resolved the extent of openness of the northern lobby that was exposed to the full impact of the traffic noise. The lobby retains its external screening and will include glazing with options for some natural ventilation.

d) Electric Vehicle (EV) charging

NSW policy direction and increasing public demand result in the need to accommodate EV charging for the life cycle of the development. Considering Ku-ring-gai's Towards Zero Emissions 2030 Action Plan and NSW Government's Net Zero Plan 2020-2030, charging stations should be accommodated in the original construction of the development to ensure the life-cycle operational carbon footprint adequately mitigates climate risk and does not result in avoidable costs retrofitting infrastructure or that it is not possible to do so (**Condition 122(8)**).

5 Landscape

- | | |
|--|-----------|
| <ul style="list-style-type: none"> a) <u>Communal open space</u> – proposed areas are generous, provide options for residents and their visitors and will provide high levels of amenity. b) <u>Maintenance access</u> – podium edge planting in common ownership is to confirm access is via a common area or if via units, is enforceable (Condition 142). c) <u>Fencing/screening</u> – fencing or screens for podium level units must terminate at the terrace paver edge. No screens or fencing is to be above the podium planter edge height and extend through the planters to the podium edge. This is to ensure over the long term the podium edge retains a clean street edge form and consistency for the setback line of built form above podium (Condition 53A). | Satisfied |
|--|-----------|

6 Amenity

- | | |
|---|-----------|
| <ul style="list-style-type: none"> a) <u>Natural cross ventilation</u>
The Cross Ventilation Assessment, prepared by SLR Consulting Pty Ltd dated 6 May 2022, confirms that 62.7% (37/59) of the apartments in the development will be naturally cross ventilated. b) <u>Natural ventilation and daylight to common circulation lobbies and corridors</u>
Further information has clarified that natural light and ventilation is being provided via the open fire stairs, from the breezeway lobbies, FS03 and FS04, and FS05 and FS06 for the smaller building. d) <u>Privacy</u>
Units 224 and 322 - bedroom window facing the Highway – directional privacy screens required for privacy between living rooms of Units 205 and 305, respectively. This has been resolved with a pop-out window type. e) <u>Daylight</u>
Units 101, 201, 301 and 401 and 402 propose studies with no access to natural daylight or ventilation. The approved DA had included a study type similar to Unit 402 that was fully open to the living room and not deep within the unit. Units 101, 201, 301 and 401 should be deleted or reconfigured to improved storage and study location (Condition (53E(c))). | Satisfied |
|---|-----------|

7 Safety

Satisfactory.

Satisfied

8 Housing Diversity and Social Interaction

a) Unit mix

Satisfied

Further amendments have improved the apartment mix by slightly decreasing the dominance of 1-bedroom types and better balancing the modified unit mix. Previously noted is that a predominance of 1-bedroom types can skew to suit investor product that often is not conducive to community-building and, in recent times, does not adequately consider the need to support working from home options.

The introduction of 3 x 4-bedroom units is welcomed as a new offering of apartment housing suitable for families with children, and/or intergeneration living, and/or functional options for working from home.

Proposed			Approved		
1-bed	24	40.7%	1-bed	15	21%
2-bed	14	23.7%	2-bed	37	53%
3-bed	18	30.5%	3-bed	18	26%
4-bed	3	5.1%			
Total	59		Total	70	

b) Platinum Level housing

Platinum units and their car spaces are to be confirmed and note their certification needs to comply with the Livable Housing Design two-part system. The construction certificate demonstrates Provisional Certification is demonstrated at design stage and Final Certification confirms the as-built compliance.

9 Aesthetics

a) Facades/Elevations

Satisfied

Generally, the proposed amendments have sought to create a more cohesive architectural expression and composition of what had been quite a busy composition of approved elevations, particularly addressing the Pacific Highway and Balfour Street, and the previously approved roof form of the northern building.

b) Materials

Further information has clarified materials. Overall, the proposed use and composition of materials has achieved a

more disciplined and cohesive architectural outcome around all elevations and for the ground plane treatments.

In principle, the solidity of the balustrades is supported as a needed 'defensive' design approach to achieve both acoustic and privacy amenity in response to the harsh environment.

It is recommended that the following conditions are incorporated into the modified consent:

- 2 x electric vehicle charging points are provided prior to the issue of any Occupation Certificate and the car parking to be designed and constructed so that electric vehicle charging points can be installed at a later time (**Condition 122(8 and 9)**).
- Amended Landscape plans and Architectural plans to relocate south-west pergola 2 metres towards north-east (**Conditions 53A and 53E(a)**).
- Amended Architectural plans to delete study and replace with storage in Units 101, 201, 301 and 401 (**Condition (53E(b))**).
- Amended Architectural plans to replace study door with bi-fold door to enable the study to open up into living area in Unit 402 (**Condition 53E(c)**).

Heritage

Council's Heritage Advisor commented on the proposal as follows:

Heritage Status

<i>Local Heritage Item</i>	<i>The site includes a heritage item at No 390 Pacific Highway, Lindfield</i>
<i>Heritage Conservation Area</i>	<i>No</i>
<i>Immediate vicinity of a heritage item</i>	<i>No</i>
<i>Immediate vicinity of a HCA</i>	<i>Yes C29</i>

Statement of Significance

The existing State Heritage Inventory (SHI) form for Churcher's Restaurant states the following statement of significance:

Reasons for listing; architectural, rarity value, municipal significance.

As a sufficient statement of significance has not been developed for the heritage item, the following statement of significance has been prepared by CPH as part of the draft Conservation Management Strategy prepared in 2015 and finalised in 2018.

"The "Churchers Restaurant" is an architecturally-distinctive commercial building in Lindfield. The building is a good representative example of the Inter-War Old English Style architectural style, providing a historic built element within the Lindfield commercial precinct along the Pacific Highway.

The "Churchers Restaurant" site is of some research significance, as there is potential for subsurface remnants of a number of outbuildings, previously extant on the site, to be present."

Heritage Item description

The Heritage Item at No.390 Pacific Highway, Lindfield and is known as “Churcher’s Restaurant” and dates from the Inter-war period (1920-1940) and is designed in the Inter-war Old English style. The exterior of the building is substantially intact. The place is considered significant for its aesthetic and representative qualities owing to its overall form and detailing, as an excellent example of an Inter-war Old English style commercial building.

The building has a front, recessed middle and rear section and was originally constructed as one building, not two sections as indicated in City Plan Heritage Review. The front ground floor section is currently used as a restaurant, with the recessed centre section containing original fireplaces and the rear section with kitchen and bathroom. The interior finishes appear to be original with painted panelled walls half-way up the wall with a patterned dado rail. There is a recessed timber sliding door with glass panels. The double hung timber framed windows appear original.

The shopfront facade appears in its original form, the ground floor level has ceramic floor tiles that are not original. Research is necessary to determine the original material.

The first-floor level appears to have intact ceilings. The windows appear to have been replaced with single panes of fixed glass.

Development Control		Complies
19F.3 Gardens and Landscaping		
Gardens, Setting and Curtilage		
1 Development in the vicinity of a Heritage Item or an HCA is to:		
i) retain original or significant landscape features associated with the Heritage Item or HCA, or which contribute to its setting		YES
ii) retain the established landscape character of the Heritage Item or HCA.		YES
iii) include appropriate screen planting on side and rear boundaries.		YES

Conclusion and recommendation

The proposed amendments will have a minimal impact on the heritage item and heritage conservation area in the vicinity and are acceptable on heritage grounds.

Landscaping

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

KDCP Part 14E

The site is identified as Core Urban Precinct L1

14E.3 and 14.8 Control 4

Amended plans have included tree replenishment within the Pacific Highway road reserve surrounded by paving. Ku-ring-gai Council's Operations department do not permit street tree planting within the Pacific Highway road reserve. The proposed Pacific Highway planting is not acceptable as it conflicts with existing underground

infrastructure, has insufficient soil volume and moisture availability and the proximity to the traffic results in wind shear and poor structural outcomes. A condition is recommended to delete the Pacific Highway street planting (**Condition 53A**).

Replenishment plantings are proposed within the Balfour Street road reserve. The proposed plantings are inconsistent with the previous LEC negotiated outcomes and conflict with the proposed awning.

It is conditioned for the street tree plantings to be as per previous LEC negotiated outcomes, consistent with **Condition 70**.

14E.8 Control 6 vi)

Planting within the northern podium planters has not adequately considered required amenity planting to screen the neighbouring substation, as required by KDCP. Proposed plantings consist primarily of groundcover species. A condition is recommended to amend the proposed planting species to evergreen shrubs for improved amenity (**Condition 53A**).

KDCP Part 8

8A.1 Objectives 1 and 2

The planting height of the proposed landmark planting of a *Phoenix canariensis* (Canary Island Date Palm) has not been specified, beyond a 1.2m root ball. The development consent approves the palm as having a 4-5m high trunk at the time of planting. It is conditioned that this minimum planting height be maintained (**Condition 53A**).

8C.8 Communal open space

Useable communal open space has been provided at Level 2 (Podium level) and Level 4 (Rooftop).

Public Domain Plan 2010

Part 2E.4

Figure 2E.4-1 Section A-A details the re-aligned Balfour Lane with a 3.5m landscaped verge adjacent to the southwest site boundary and a 2.0m wide footpath.

The realigned Balfour Lane construction has been completed as part of the Stage 1 works.

Tree impacts

- No further tree removal is proposed.
- T19 is a mature *Eucalyptus pilularis* (Blackbutt) located within the Balfour Street road reserve. The tree has high landscape and ecological significance being an endemic species consistent with the critically endangered Blue Gum High Forest Plant community. The application includes a significant increase of paving within the road reserve and within the trees structural root zone (SRZ) and tree protection zone (TPZ), significantly increasing development encroachment and tree impact with modifications to the trees growing environment. No updated arboricultural impact assessment has been provided and there is no consideration of the steep crossfall within the nature

*strip. To minimise tree impact a condition is recommended for the additional paving to be deleted and maintained as soft landscape area at existing grades consistent with the LEC approved design (**Condition 53A**).*

BASIX

Certificate 1235564M_04 dated 14/04/22 is submitted with the application. Numerous commitments for common area landscape have been made with a total water score of 40.

The following commitments are made:

- *Common area of garden - 1340sqm*
- *Common area of lawn – 96sqm*
- *Area of indigenous/low water use planting – 1074sqm*

The BASIX certificate and development are generally consistent in terms of landscape area.

The proposal is satisfactory, subject to:

- *amendments to **Conditions 1, 4, 62, 65, 66, 67, 69, 70, 72, 103 and 113***
- *delete **Conditions 3 and 102***
- *introduce new conditions:*
 - *Amendments to approved landscape plan*
 - *Paving near trees*

Engineering

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

Water management

An amended BASIX Certificate No. 1235564M_04 dated 14 April 2022 has been submitted. The BASIX water commitments are consistent with the approved Stormwater Management Plans proposing a central rainwater tank of 20,000L to collect run-off from at least 5183m² of roof area for the irrigation of 1436m² of common landscaped area on the site. The 20,000L rainwater storage volume also satisfies Council's streamflow objectives under Part 24C.3 of the Ku-ring-gai Local Centres DCP.

Rainwater harvesting will be primarily used for toilet flushing and irrigation purposes.

Traffic and parking

A traffic and parking letter has been prepared by Colston Budd Rogers & Kafes, which reviews the potential traffic effects of the proposed modifications.

The parking has been designed in accordance with Part 22 – 'General Access and Parking' - Section 22R.1 and Part 8 – 'Mixed Use Development' - Section 8B.2. Applying Council's DCP requirements.

With respect to traffic the proposed modifications include:

- *minor changes in retail floor area*
- *change in the number and mix of residential units*

	<u>Approved</u>	<u>Proposed</u>
Number of Apartments	1 bed – 15	1 bed – 24
	2 bed – 37	2 bed – 14
	3 bed – 18	3 bed – 18
	Total - 70	4 bed – 3
		Total 59

For the retail component, Section 8B of Ku-ring-gai DCP sets out a rate of 1 space per 26m² GFA for retail development within mixed use developments and 1 space per 33m² GFA for commercial development. The provision of 237 retail spaces is a rate of 1 space per 26m² GFA which satisfies the above requirements.

For the residential component, the DCP sets out the following minimum/maximum parking requirements:

- 0.6/1.0 space per 1 bedroom unit; (min. $24 \times 0.6 = 14.4$ and max. $24 \times 1 = \mathbf{24}$)
- 0.9/1.25 spaces per 2 bedroom unit; (min. $14 \times 0.9 = 12.6$ and max. $14 \times 1.25 = \mathbf{17.5}$)
- 1.0/2.0 spaces per 3 / 4 bedroom unit; (min. $21 \times 1 = 21$ and max. $21 \times 2 = \mathbf{42}$)
- 1 visitor space per 6 units. ($59/6 = \mathbf{10}$ rounded up)

Applying these rates the modified residential component of 59 units would require a minimum of 48 spaces and a maximum of 84 spaces. The proposed modification seeks provision of 85 residential spaces plus 1 car share space located on Level 1 which satisfies the DCP requirement. It is also noted that there are 12 spaces provided as tandem spaces that will be allocated to the same unit. The Lower Ground 1 also provides 12 residential visitor spaces, which is compliant, however these spaces are unidentified.

Retail parking will be provided within two basement car park levels (237 - 1 car share) accessed off a relocated Balfour Lane and Balfour Street with service access provided from Balfour Lane:

- Lower Ground Floor 1: shows 137 spaces in total. 12 spaces are allocated to residential visitor spaces. These dedicated visitor spaces will need to be marked and sign posted (**Conditions 44 and 122(7)**). 125 retail spaces are proposed.
- Lower Ground Floor 2: shows 111 spaces

The oversupply of 1 residential space can be dedicated to an electric vehicle charging station in addition to 1 x retail space (**Condition 122(8)**).

Access, parking layout and servicing

There are no changes to the approved access arrangements, retail car park layout or service arrangements are proposed as part of the application.

In order to accommodate the additional 12 x tandem spaces in the residential car park, some minor changes are proposed to the Level 1 car park. There are no objections to the proposed reconfiguration of the car parking layout which complies with the requirements of AS2890.1-2004 and AS2890.6-2009 with respect to parking bay dimensions, aisle widths, ramp grades and height clearances.

Revised conditions

The Construction Certificates for the Stage 2 works are proposed to be phased as follows:

1. Phase 1 - Early Works - Demolition, excavation shoring, services diversion and augmentation, footings/piling
2. Phase 2 - Structure - lower basement slab and above
3. Phase 3 - Retail (Cold shell only) and retail carparking and facades - Lower Basement 1 & 2. Facades to the whole building.
4. Phase 4 - Residential Apartments and associated carparking including podium and roof top terrace landscaping. Public Domain. Main building surrounds and landscaping.

It is recommended **Conditions 43, 44, 115, 116, 117, 118, 119, 120, 121, 122, 123 and 124** are amended to reflect the construction staging.

Ecology

Council's Ecological Assessment Officer commented on the proposal as follows:

Biodiversity Conservation Act 2016		
Section 7.3	Proposed	Complies
<i>The purpose of the Act is to maintain a healthy, productive and resilient environment</i>	<p><i>The Balfour Street frontage supports a remnant tree "19"-Blackbutt which is mapped as plant community type (PCT) 1281- Turpentine - Grey Ironbark open forest on shale in the lower Blue Mountains, Sydney Basin Bioregion.</i></p> <p><i>PCT 1281 is representative of Sydney Turpentine Ironbark Forest (STIF) listed as a Critically Endangered Ecological Community (CEEC) under the Biodiversity Conservation Act 2016.</i></p> <p><i>The proposal does not trigger entry into the biodiversity offset scheme (BOS) for the following reasons:</i></p> <ul style="list-style-type: none"><i>• The proposal will not result in the removal of native vegetation from the biodiversity land values map.</i><i>• The proposal will not result in clearing of native vegetation beyond the designated threshold of 0.25ha.</i> <p><i>All STIF is identified for retention and protection under the development consent. The proposal will not result in significant impacts upon STIF.</i></p> <p><i>No biodiversity development assessment report is deemed to be necessary.</i></p>	YES

KDCP COMPLIANCE TABLE		
Control	Proposed	Complies
Part 18 Biodiversity Controls		
18.4 Category – Landscape Remnant	<p>The native vegetation “STIF” within the Balfour street frontage has been mapped Canopy Remnant.</p> <p>The proposed development will not result in the removal of native vegetation from lands mapped under this part therefore the proposal is considered to be consistent with the objectives.</p>	YES

Health

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

Condition number	modified condition name	Reason for modification
<i>Conditions to be satisfied prior to the issue of the Construction Certificate</i>		
Condition 25	Acoustic design report-Supermarket	<p>Wording concerning timing for issue of Construction Certificate for Stage 02- Phase 3 modified.</p> <p>Minor updates made to reflect Council's current wording for this condition thereby making this condition clearer.</p>
Condition 36	Outdoor lighting	<p>Wording concerning timing for issue of Construction Certificate for Stage 02- Phase 3 modified.</p> <p>Updated condition to refer to current Australian Standard.</p>
Condition 40	Noise from road and rail (residential only)	Wording concerning timing for issue of Construction Certificate for Stage 02 - Phase 4 modified.
Condition 41	Location of plant	Wording concerning timing for issue of Construction Certificate for Stage 02 - Phase 3 modified
Condition 42	Acoustic design report-residential	<p>Wording concerning timing for issue of Construction Certificate for Stage 02- Phase 4 modified</p> <p>Minor updates made to reflect Council's current wording for this condition thereby making this condition clearer.</p>
Condition 50	Design and construction of food premises-supermarket	Wording concerning timing for issue of Construction Certificate for Stage 02- Phase 3 modified.
Condition 51	Waste and recycling storage facilities	Wording concerning timing for issue of Construction Certificate for Stage 02- Phase 2 modified.

	<i>- commercial premises</i>	
Condition 53	<i>Design and construction of food premises- Coffee shop</i>	<p><i>Wording concerning timing for issue of Construction Certificate for Stage 02 – Phase 3 modified.</i></p> <p><i>Reference to mechanical exhaust removed. The café is approved for coffee and pre-packaged food only.</i></p>
New condition 53C	<i>Design and construction of mechanical ventilation</i>	<i>Council's current condition for mechanical ventilation inserted to be satisfied prior to Construction Certificate for Stage 02- Phase 3.</i>
New condition 53D	<i>Waste and recycling storage facilities- residential</i>	<i>Council's current condition for residential waste storage facilities for RFBs inserted to be satisfied prior to Construction Certificate for Stage 02- Phase 2.</i>
<i>Conditions to be satisfied prior to the issue of an Occupation Certificate</i>		
Condition 105	<i>Construction of commercial food preparation premises- Supermarket</i>	<i>Wording concerning timing for issue of Occupation Certificate for Stage 02 modified.</i>
Condition 112	<i>Mechanical noise control</i>	<p><i>Wording concerning timing for issue of Occupation Certificate for Stage 02 modified.</i></p> <p><i>Minor updates made to reflect Council's current wording for this condition and make condition clearer.</i></p>
Condition 125	<i>Mechanical ventilation</i>	<i>Updated to Council's current condition for this matter which reflects current standards.</i>
Condition 127	<i>Construction of food premises- Coffee shop</i>	<i>Wording concerning timing for issue of Occupation Certificate for the coffee shop modified.</i>
Condition 128	<i>Waste and recycling storage facilities- commercial premises</i>	<p><i>Wording concerning timing for issue of Occupation Certificate for Stage 02 modified.</i></p> <p><i>Condition separated out into separate conditions for the residential and commercial components.</i></p>

Condition 129	<i>Trade waste permit/consent – food premises</i>	<i>Wording concerning timing for issue of Occupation Certificate for Stage 02 modified.</i>
New condition 129A	<i>Location of plant</i>	<i>New condition added to reinforce Condition 41.</i>
New condition 129B	<i>Noise from road and rail (residential only)</i>	<i>New condition added to reinforce Condition 40.</i>
New condition 129C	<i>Waste and recycling storage facilities-residential</i>	<i>This is Council's current condition for residential waste storage facilities for RFBs prior to OC. Previously this matter was covered by condition 128, however, now separated the commercial and residential components for clarity.</i>
New condition 129D	<i>Outdoor lighting</i>	<i>New condition to reinforce the lighting conditions 26 and 144.</i>
<i>Condition to be satisfied at all times</i>		
Condition 147	<i>Loading and unloading</i>	<i>Condition slightly modified to ensure no storage in parking spaces.</i>
New condition 152	<i>No goods displayed outside the premises</i>	<i>Condition appropriate as the applicant is proposing to make changes to building façade.</i>
New condition 153	<i>Prohibition of flashing lights</i>	<i>Condition appropriate as the applicant is proposing to make changes to building façade.</i>

The recommended amendment to conditions and new conditions are acceptable and contained within the modified consent conditions.

Building

Council's Senior Building Inspector commented on the proposal as follows:

The minor alterations to the proposed building design will comply in general with Building Code of Australia (BCA) requirements. Detail BCA assessment will be undertaken by the Principal Certifying Authority at the CC stage.

Public Domain

Council's Public Domain Co-ordinator commented on the proposal as follows:

- 1. Timber finish for the planting bed retaining wall is not suitable. It is high maintenance material for this location.*
- 2. The tile finish for the supermarket forecourt is acceptable, however, it must have a 'P5' slip resistance.*

3. *All retaining walls should have a consistent finish rather than three different finishes. The preferred finish is sandstone to match the other retaining walls in the project.*

*With regard to the landscape package, the new Ku-ring-gai public domain paving being used for the footpaths along Pacific Highway and Balfour Street frontages is satisfactory, subject to **Condition 53A** for pervious material within tree protection zones.*

Conditions are recommended to require a sandstone retaining wall finish to the retaining walls within the main forecourt and a slip resistant floor tile finish within the main forecourt (**Condition 53A**).

External Referrals

The development application was referred to Transport for NSW (TfNSW) for comment in accordance with Clause 104 Traffic generating development and Column 3 of Schedule 3 of *State Environmental Planning Policy (Infrastructure) 2007*. The proposed modifications do not increase the commercial area or number of dwellings, as such, re-referral is not necessary and compliance with Roads and Maritime Services letter reference SYD18/00918/04 (A26045482) continues to apply under Condition 1.

STATUTORY PROVISIONS

Section 4.56 of the Environmental Planning and Assessment Act 1979 - Modification of consents granted by the Court

Subsection (1)(a): Substantially the same development

The development, as proposed to be modified, is substantially the same development as that approved. The proposed modifications do not alter the essence or character of the development in any materially significant way for the following reasons:

- (i) The use of the development continues to be a shop top housing, with a supermarket and specialty retail premises on the upper ground floor, and residential apartments on the floors above.
- (ii) The modifications do not intensify the approved use, rather, reduce the dwelling yield from 70 to 59 by consolidating units and deleting the two-storey unit typology.
- (iii) There are minor changes to the bulk and scale of the proposed development, and there are negligible changes to the character of the proposed development.
- (iv) There are minor changes to the FSR of the development, and minor changes to the height of the roof in portions of the development, however they will not cause any significant adverse environmental impacts.
- (v) The modifications cause no additional adverse impacts on neighbouring properties such as overshadowing, visual and acoustic privacy, traffic generation or changes to stormwater patterns.

Subsection (1)(b): Notification

The application was notified in accordance with the Appendix 1 of Ku ring gai's Community Participation Plan.

Subsection (1)(c) Notification of previous submitters

Each person who made a submission in respect of the original development application has been notified or a reasonable attempt has been made to notify each person by sending a written notice to the last known address.

Subsection (1)(d): Submissions

Two submissions were received and addressed within the Consultation section earlier in this report.

Subsection (1A): Section 4.15(1) considerations and consideration of reasons for granting of the consent

The reasons for the Court granting consent to the development application included:

- (i) *The proposal is permissible under B2 Local Centres zone under the KLEP (Local Centres) 2012.*
- (ii) *Commissioner Walsh stated “the applicant’s written request pursuant to Clause 4.6 of the KLEP (Local Centres) 2012 seeking to justify the breach of the height of buildings development standard pursuant to Clause 4.3 of LEP 2012, dated February, has been considered and I have formed the necessary opinion of satisfaction under Clause 4.6 (4) of the KLEP 2012. Consequently, the Applicant’s written request is well founded and is upheld.”*
- (iii) *The development complies with the floor space ratio standard at Clause 4.4 of the KLEP.*
- (iv) *Appropriate consideration has been given to earthworks (Clause 6.1 of the KLEP), and stormwater and water sensitive urban design (Clause 6.2 of the KLEP).*
- (v) *The proposal meets the requirements in regard to ground floor development in business zones under Clause 6.6 of the KLEP.*
- (vi) *The development complies with the requirements of the minimum street frontages for lots in business zone provision at Clause 6.7 of the KLEP.*
- (vii) *The development complies with the provision of SEPP 65- Design Quality of Residential Apartment Development and prepared a design verification statement in satisfaction of clause 50(1AB) of the Environmental Planning and Assessment Regulation 2000.*
- (viii) *Pursuant to SEPP (Building Sustainability Index: BASIX) 2004, a BASIX certificate has been submitted. In combination with the conditions of consent, this satisfies the requirements of that instrument.*
- (ix) *Consideration has been given as to whether the subject site is contaminated as required by cl 7(1) of State Environmental Planning Policy No 55 - Remediation of Land. A phase 1 Environmental Site Assessment Report prepared by Geo-Logix dated 14 May 2018 in respect of the suitability of the site for the proposed use. This report recommends that further investigatory works to assess the presence or otherwise of contamination should be completed as a pre-construction certificate consent condition. The Commissioner of the Court was satisfied in regard to Clause 7(1) of SEPP 55.*

The proposed modifications do not result in a development that is contrary to the reasons that informed the decision of the court. The proposed modifications have been assessed against the relevant environmental planning instruments and policies and have been found to be acceptable.

The matters for consideration in section 4.15 of the Act are addressed as follows:

State Environmental Planning Policy (Resilience and Hazards) 2021 - Chapter 4 Remediation of land

The provisions of Chapter 4 require consent authorities to consider the potential for a site to be contaminated. A Phase 1 Environmental Site Assessment Report (Stage 1 Preliminary Investigation) was provided with the original application and **Condition 24** of the consent requires that further assessments be carried out prior to the issue of a construction certificate for both stages of the development. The proposed modifications do not affect existing **Condition 24**.

State Environmental Planning Policy (Transport and Infrastructure) 2021 – Division 17 Roads and traffic

The property has a frontage to a classified road, being the Pacific Highway and consideration is required pursuant to Division 17 of the SEPP.

The modified development continues to satisfy Clause 2.118 Development with frontage to classified road of the SEPP for the following reasons:

- the modifications do not cause change to the approved vehicular access
- the modifications do not intensify the nature, volume or frequency of vehicles using the development
- the modifications include winter gardens to some units fronting the Pacific Highway to improve the amenity and minimise potential traffic noise and vehicle emissions.

The modified development continues to satisfy Clause 2.119 Impact of road noise or vibration on non-road development of the SEPP, noting **Condition 40** requires compliance with maximum noise standards and the guidelines to be demonstrated prior to the issue of any Construction Certificate.

Further consideration under Clause 2.121 Traffic-generating development is not required as the proposed modifications do not increase the commercial area or number of dwellings. The original application was referred to Transport for NSW for comment in accordance with Clause 104 Traffic generating development and Column 3 of Schedule 3 of *State Environmental Planning Policy (Infrastructure) 2007* (former SEPP). Compliance with the Roads and Maritime Services letter reference SYD18/00918/04 (A26045482) continues to apply under **Condition 1**.

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

An amended BASIX certificate has been submitted and is consistent with the amended drawings.

State Environmental Planning Policy (Industry and Employment) 2021 – Chapter 3 Advertising and signage

The proposed modifications do not alter the approved signage scheme under the development consent. A new condition is recommended requiring the prohibition of flashing lights within approved signage to minimise any adverse impacts on public amenity (**Condition 153**).

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

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

Under Schedule 6 of the Environmental Planning and Assessment Regulation 2021 (new Reg), where a modification application has been submitted before 1 March 2022 and not finally determined by 1 March 2022, the Environmental Planning and Assessment Regulation 2000 continues to apply instead of the new Reg. As such the Environmental Planning and Assessment Regulation 2000 continues to apply to this modification application.

Clause 115(3) of the Environmental Planning and Assessment Regulation 2000 requires the submission of a statement by a qualified designer that satisfies the requirements specified in subclause (3A). The submitted statement includes an assessment of the modification against the ADG and satisfactorily demonstrates that the relevant design principles of SEPP 65 and the objectives of the ADG are satisfied by the modification.

Pursuant to Clause 29 of SEPP 65 in determining an application for the modification of a development consent, the consent authority is required to take into consideration the design quality of the development (as modified) when evaluated against the design quality principles and the ADG. An assessment against the design quality principles is provided in the Urban Design comments above. An assessment against the ADG is contained below:

Apartment Design Guide

The following table is an assessment of the proposed modifications against the relevant controls within the Apartment Design Guide.

ADG COMPLIANCE TABLE	
Guideline	Compliance
<i>Objective 3B-2</i> Overshadowing of neighbouring properties is minimised during mid-winter	YES Unchanged
<i>Objective 3C-1</i> Transition between private and public domain is achieved without compromising safety and security	YES
<i>Objective 3C-2</i> Amenity of the public domain is retained and enhanced	YES
<i>Objective 3D-1</i> An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping	YES Multiple recreation spaces and opportunity for landscaping

ADG COMPLIANCE TABLE			
Guideline			Compliance
Design criteria			
1. Communal open space has a minimum area equal to 25% of the site (see figure 3D.3) 2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)			YES 1832.7sqm or 25.8% > 50% sunlight for 2 hours to main area
Objective 3D-2 Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting			YES
Objective 3D-3 Communal open space is designed to maximise safety			YES
Objective 3D-4 Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood			YES
Objective 3F-1 Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy			YES
Design criteria			
Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:			YES Unchanged
Building height	Habitable rooms and balconies	Non-habitable rooms	
up to 12m (4 storeys) up to 25m (5-8 storeys)	6m 9m	3m 4.5m	
Objective 3F-2 Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space			YES
Objective 3G-1 Building entries and pedestrian access connects to and addresses the public domain			YES
Objective 3G-2 Access, entries and pathways are accessible and easy to identify			YES
Objective 3J-1 1. Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas			YES

ADG COMPLIANCE TABLE	
Guideline	Compliance
Design criteria	
<p>1. For development in the following locations:</p> <ul style="list-style-type: none"> on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre <p>the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less</p> <p>DCP:</p> <ul style="list-style-type: none"> Residential – 48-84 Visitor - 10 <p>The car parking needs for a development must be provided off street.</p>	<p>YES</p> <p>Residents – 85 Visitors - 12</p>
<p>Objective 3J-2</p> <p>Parking and facilities are provided for other modes of transport</p>	YES
<p>Objective 3J-3</p> <p>Carpark design and access is safe and secure</p>	YES
<p>Objective 4A-1</p> <p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space</p>	YES
Design criteria	
<p>1 Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas</p>	<p>YES</p> <p>44/59 = 74%</p>
<p>3 A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter</p>	<p>NO</p> <p>10/59 = 17%</p>
<p>Objective 4A-2</p> <p>Daylight access is maximised where sunlight is limited</p>	YES
<p>Objective 4A-3</p> <p>Design incorporates shading and glare control, particularly for warmer months</p>	YES
<p>Objective 4B-1</p> <p>All habitable rooms are naturally ventilated</p>	YES
<p>Objective 4B-2</p> <p>The layout and design of single aspect apartments maximises natural ventilation</p>	YES

ADG COMPLIANCE TABLE											
Guideline		Compliance									
Objective 4B-3 The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents		YES									
Design criteria											
1	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed	YES 37/59 = 62.7%									
2	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	YES									
Objective 4C-1 Ceiling height achieves sufficient natural ventilation and daylight access		YES									
Design criteria											
Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <table><tr><th colspan="2">Minimum ceiling height for apartment and mixed use buildings</th><th>Proposal</th></tr><tr><td>Habitable rooms</td><td>2.7m</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td><td>2.7m</td></tr></table>		Minimum ceiling height for apartment and mixed use buildings		Proposal	Habitable rooms	2.7m	2.7m	Non-habitable	2.4m	2.7m	YES
Minimum ceiling height for apartment and mixed use buildings		Proposal									
Habitable rooms	2.7m	2.7m									
Non-habitable	2.4m	2.7m									
Objective 4C-2 Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms		YES									
Objective 4D-1 The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity		YES									

ADG COMPLIANCE TABLE																				
Guideline		Compliance																		
Design criteria																				
<p>Apartments are required to have the following minimum internal areas:</p> <table> <tr> <th>Apartment type</th><th>Minimum internal area</th><th>Proposal</th></tr> <tr> <td>Studio</td><td>35m²</td><td>N/A</td></tr> <tr> <td>1 bedroom</td><td>50m²</td><td>> 50m²</td></tr> <tr> <td>2 bedroom</td><td>70m²</td><td>> 70m²</td></tr> <tr> <td>3 bedroom</td><td>90m²</td><td>> 90m²</td></tr> <tr> <td>4 bedroom</td><td>102m²</td><td>> 102m²</td></tr> </table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each</p> <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms</p>		Apartment type	Minimum internal area	Proposal	Studio	35m ²	N/A	1 bedroom	50m ²	> 50m ²	2 bedroom	70m ²	> 70m ²	3 bedroom	90m ²	> 90m ²	4 bedroom	102m ²	> 102m ²	YES
Apartment type	Minimum internal area	Proposal																		
Studio	35m ²	N/A																		
1 bedroom	50m ²	> 50m ²																		
2 bedroom	70m ²	> 70m ²																		
3 bedroom	90m ²	> 90m ²																		
4 bedroom	102m ²	> 102m ²																		
Objective 4D-2 Environmental performance of the apartment is maximised		YES																		
Design criteria																				
1 Habitable room depths are limited to a maximum of 2.5metres x the ceiling height 2 In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window		YES																		
Objective 4D-3 Apartment layouts are designed to accommodate a variety of household activities and needs		YES																		

ADG COMPLIANCE TABLE			
Guideline			Compliance
Design criteria			
1	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space)		YES
2	Bedrooms have a minimum dimension of 3m (excluding wardrobe space)		YES
3	Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none">3.6m for studio and 1 bedroom apartments4m for 2 and 3 bedroom apartments		YES
4	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts		YES
Objective 4E-1 Apartments provide appropriately sized private open space and balconies to enhance residential amenity			YES
Design criteria			
All apartments are required to have primary balconies as follows:			YES
Dwelling type	Minimum area	Minimum depth	All units exceed minimum except 307 (2 bed unit) - 9.7sqm The minor 0.3sqm non-compliance acceptable in this instance as the unit is north facing and overall provides good occupant amenity.
Studio apartments	4m ²	-	
1 bedroom apartments	8m ²	2m	
2 bedroom apartments	10m ²	2m	
3+ bedroom apartments	12m ²	2.4m	
The minimum balcony depth to be counted as contributing to the balcony area is 1m		Balconies width 2m	
For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m			
Objective 4E-2 Primary private open space and balconies are appropriately located to enhance liveability for residents			YES
Objective 4E-3 Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building			YES
Objective 4E-4 Private open space and balcony design maximises safety			YES

ADG COMPLIANCE TABLE		
Guideline		Compliance
Objective 4F-1 Common circulation spaces achieve good amenity and properly service the number of apartments		YES
Design criteria		
1. The maximum number of apartments off a circulation core on a single level is eight		YES
Objective 4F-2 Common circulation spaces promote safety and provide for social interaction between residents		YES
Objective 4G-1 Adequate, well designed storage is provided in each apartment		YES
Design criteria		
In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:		YES
Dwelling type	Storage size volume	
Studio apartments	4m ³	
1 bedroom apartments	6m ³	
2 bedroom apartments	8m ³	
3+ bedroom apartments	10m ³	
At least 50% of the required storage is to be located within the apartment		
Objective 4G-2 Additional storage is conveniently located, accessible and nominated for individual apartments		YES
Objective 4H-2 Noise impacts are mitigated within apartments through layout and acoustic treatments		YES
Objective 4J-2 Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission		YES
Objective 4K-1 A range of apartment types and sizes is provided to cater for different household types now and into the future		YES
Objective 4K-2 The apartment mix is distributed to suitable locations within the building		YES
Objective 4M-1 Building facades provide visual interest along the street while respecting the character of the local area		YES

ADG COMPLIANCE TABLE	
Guideline	Compliance
<i>Objective 4M-2</i> Building functions are expressed by the façade	YES
<i>Objective 4N-1</i> Roof treatments are integrated into the building design and positively respond to the street	YES
<i>Objective 4N-2</i> Opportunities to use roof space for residential accommodation and open space are maximised	YES
<i>Objective 4N-3</i> Roof design incorporates sustainability features	YES
<i>Objective 4O-1</i> Landscape design is viable and sustainable	YES
<i>Objective 4O-2</i> Landscape design contributes to the streetscape and amenity	YES
<i>Objective 4P-1</i> Appropriate soil profiles are provided	YES
<i>Objective 4P-2</i> Plant growth is optimised with appropriate selection and maintenance	YES
<i>Objective 4P-3</i> Planting on structures contributes to the quality and amenity of communal and public open spaces	YES
<i>Objective 4Q-1</i> Universal design features are included in apartment design to promote flexible housing for all community members	YES
<i>Objective 4Q-2</i> A variety of apartments with adaptable designs are provided	YES
<i>Objective 4Q-3</i> Apartment layouts are flexible and accommodate a range of lifestyle needs	YES
<i>Objective 4S-2</i> Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents	YES
<i>Objective 4U-3</i> Development incorporates passive environmental design	YES

ADG COMPLIANCE TABLE	
Guideline	Compliance
Objective 4U-2 Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer Adequate natural ventilation minimises the need for mechanical ventilation	YES
Objective 4X-3 Material selection reduces ongoing maintenance costs	YES

4A-1 Solar and daylight access

The modified development results in 10 units that receive no direct sunlight between 9 am and 3 pm at mid-winter, equating to 17% where design criteria 4A-1(3) of the ADG requires a maximum of 15%. The objective of 4A-1 is to

To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.

The variation to the ADG control is acceptable in this instance for the following reasons:

- (i) The units have been re-designed to have a shallower depth and living rooms and bedrooms with large external windows addressing the street. These design improvements afford these units with a good level of natural daylight, despite their minimal solar access.
- (ii) Compared to the approved development, the modified development results in an improved and superior amenity outcome for a greater proportion of units, particularly those on the northern side of the building.

Ku-ring-gai Local Environmental Plan 2015

Zoning and permissibility:

The site is zoned B2 Local Centre. The proposed modification does not seek to change the approved *shop top housing* land use.

The objectives of this zone are:

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

The modified proposal remains consistent with the zone objectives given that it continues to deliver a mixed-use building with retail, housing and employment opportunities within an accessible location.

Development standards:

Development standard	Proposed	Complies
CI 4.3 - Height of buildings: Maximum Building Height - 20.5 metres	Approved - 23.16m Proposed – 23.16m	NO NO
CI 4.4 - Floor space ratio (FSR): Maximum total FSR - 2.5:1 Maximum commercial premises FSR Area 4 – 1.2:1	Approved total - 1.83:1 Proposed total - 1.89:1 <ul style="list-style-type: none"> Residential – 6659.9sqm Commercial – 6156.9sqm or 0.87:1 Total = 13,416.8sqm GFA includes enclosable wintergardens and 1 x excess residential space above DCP maximum	YES YES

YES		
CI 6.7 - Active street frontages in certain business zones: Ground floor of the building— <ul style="list-style-type: none"> will not be used for the purposes of residential accommodation or a car park or to provide ancillary car parking spaces, and will consist of design elements that encourage interaction and flow between the inside of the building and the external public areas of the building, and will be used for purposes that encourage the movement and flow of people between the internal and the external public areas of the building. 	<ul style="list-style-type: none"> <i>Liqourland</i> retail frontage to Pacific Highway increased multiple egress routes consolidated Pacific Highway residential lobby located behind <i>Liqourland</i> and pedestrian access now via open to sky external lobby Balfour Street residential lobby slightly increased in width and conceals fire stairs Ground floor street activation considered improved by modifications and consistent with objective of the standard.	YES
CI 6.8 - Minimum street frontages for lots in Zone B2: Primary street frontage of at least 20m	>20m	YES

Clause 4.3 - Height of buildings

The approved development has a maximum building height of 23.16 metres and contravened the maximum 20.5 metres height limit under Clause 4.3 of KLEP. This amounts

to 2.66 metres or a 13% contravention of the building height development standard and the applicant's Clause 4.6 variation request was supported by the Land and Environment Court.

The current modifications to the proposal result in new built elements that also breach the maximum 20.5 metres height limit. The modifications do not to further exceed the 23.16 metres height as approved.

The new built elements are:

- pergolas and part of the common rooms on the communal roof terrace
- lift over run
- roof slab

The additional built elements continue to be isolated non-compliances on the roof top, with most of them centrally located and not visible from the public domain.

The pergolas are lightweight, open structures and subject to the south-western pergola being set back a further 2 metres away from the roof edge (**Condition 53E(a)**), these elements would not be readily visible from the public domain. The provision of shading structures on the roof top are necessary for usability especially during summer.

The common rooms on the roof top are also desirable communal facilities, consistent with KDCP objectives for encouraging interaction and versatile spaces for future occupants.

The minor increase in internal floor-to-floor heights and subsequent increase in height of the roof slab has been generally accommodated with the approved building envelope.

The additional elements do not cause unreasonable overshadowing of proposed units or neighbouring properties.

Whilst the applicant did submit a Clause 4.6 variation request, the provisions of Clause 4.6 do not apply to applications to modify a development consent.

Part 5 Miscellaneous provisions

Clause 5.10 – Heritage conservation

The subject site contains a heritage item, is located within 100m of an Item and is not within a heritage conservation area.

The proposed modifications have been considered by Council's Heritage Advisor and were found to be acceptable.

Part 6 Additional local provisions

Clause 6.2 - Earthworks

The proposed modifications do not significantly affect the extent of the approved earthworks.

Clause 6.3 - Biodiversity protection

The site is mapped as land comprising biodiversity significance. The proposed modifications have been considered by Council's Ecological Officer as being acceptable as they do not adversely impact the native vegetation in the vicinity of the site.

Clause 6.5 - Stormwater and water sensitive urban design

The application does not propose to amend the approved stormwater management design. The BASIX water commitments are consistent with the approved stormwater management plans.

Ku-ring-gai Development Control Plan

Part 1A.5 General aims of the DCP

The proposed modifications have been assessed against the general aims of this DCP and is found to be acceptable in all relevant respects for the reasons given throughout this report.

Part 8 - Mixed use development and Part 14E - Lindfield Local Centre

The proposed modifications have been assessed against the relevant controls in Part 8 and Part 14E. The modifications not addressed in the SEPP 65 and ADG assessment above are addressed below:

- **8A.3 and 14E.4 - Building Setbacks**

The amended design maintains the approved ground level setbacks including the 15m setback to the rear (across Balfour Lane) and the 10m varied setback at the Pacific Highway and Balfour Street corner.

- **14E.5 Built Form**

The amended design maintains the approved three storey street wall, however, a variation is proposed to the upper level setback above street wall along Balfour Street. The balconies on Levels 2 and 3 are 3 metres from the Balfour Street boundary, where KDCP requires a minimum 4m setback.

The variation to the control is acceptable in this instance for the following reasons:

- (i) As a whole, the Balfour Street elevation has been refined and is an improved public domain interface than that approved.
- (ii) The originally approved lift core and residential entry had a nil setback to Balfour Street, these elements are now 3 metres from the boundary, removing a bulky, projecting element from the streetscape and integrating it into the building.
- (iii) The balcony projections align with the lift core and strengthen the alignment of the building.
- (iv) The balconies are set back off the podium edge and will not result in any adverse amenity impacts.

- **8B.3 Bicycle Parking and Support Facilities Provision**

The provision of 45 x bicycle spaces within the parking areas is satisfactory. It is recommended that **Condition 44** is updated to provide all on-site bicycle parking spaces and storage are to be designed to AS2890.3.

- **8C.4 Apartment Mix and Accessibility**

The modified development proposes the following unit mix:

- 1 bed – 24 (40.7%)

- 2 bed – 14 (23.7%)
- 3 bed – 18 (27.1%)
- 4 bed – 3 (5.1%)

The range of sizes included in the modified development achieve a suitable mix.

The proposed modifications include 100% Silver Level and 16.9% Platinum Level under the Liveable Housing Design Guidelines and complies. 71.2% of all units are also visitable. It is recommended that the **Conditions 28** and **107** are updated to reflect the current, standard condition wording.

- **8C.5 – Building Entries**

The proposed changes to the main entrances to lift lobbies along Pacific Highway and Balfour Street provide improved interface with the active street frontages and the heritage item.

It is recommended that **Condition 129E** is added to ensure the entries have street numbering that is clearly visible from the street.

- **8C.7 Roof Forms and Podiums and 8C.8 Communal Open Space**

The proposed modifications to the roof top terrace and podium include increased passive and active communal open space consistent with the controls. The introduction of lightweight pergolas to the communal roof terrace is acceptable as they provide shading and are suitably integrated into the built form, subject to a greater setback being provided to the south-western pergola (**Condition 53E(a)**). The primary and active open space on the roof terrace will provide outlook, shading, internal facilities, amenities and maintains the privacy of residents on adjoining lower density residential dwelling sites.

- **8C.11 Awnings**

Under KDCP a continuous awning is required to run the full length of the principal active street frontage. The approved design complied with this control.

The proposed modification includes a break in the awning adjacent to the Pacific Highway residential lobby and heritage item. The variation to the control is acceptable in this instance as the break in the awning provides visual separation between the new building and the heritage item, enables an open-to-sky residential lobby and improved public domain outcome.

Part 18 – Biodiversity

Council's Ecological Assessment Officer is satisfied that the proposed modifications will not result in a significant detrimental impact contrary to the objectives of these provisions.

Part 19 – Heritage and Conservation Areas

The proposed modifications have been considered by Council's Heritage Advisor and were found to be acceptable.

Part 20 – Development near Road or Rail noise

The proposed amendments to the development seek to improve the acoustic performance

requirements and treatments to the units along the Pacific Highway frontage. The proposed wintergardens/semi-enclosed balconies will improve acoustic amenity for future residents while still allowing sunlight and ventilation into the apartments.

Part 23 – Building Design and Sustainability

The proposed modifications to the building materials and finishes result in an improved aesthetic and are considered durable and of high quality. The proposed larger roof terrace and common rooms encourage social interactions between occupants and considered to be a high-quality space to encourage usage.

Part 24 – Water Management

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

Ku-ring-gai Contributions Plan 2010

The proposed modifications alter the approved dwelling mix and an amended s7.11 development contribution amount based upon the following arises:

- Existing Retail – 2105sqm
- Existing Business – 831sqm
- Proposed retail - 4624sqm
- Proposed business – 190sqm
- Proposed 1 bed - 24
- Proposed 2 bed - 14
- Proposed 3+ bed – 21

The development attracts an amended Section 7.11 contribution of **\$2,349,431.89**. It is proposed to update the **Condition 59** to reflect the Ministerial Direction, which allows the s7.11 payment to be deferred to prior to the issue of an Occupation Certificate if the relevant Construction Certificate in respect of the erection of any building is obtained before 25 September 2022. Otherwise, payment is required prior to the issue of the first Construction Certificate Stage 02 – Phase 1.

EPA REGULATION 2000

Under Schedule 6 of the Environmental Planning and Assessment Regulation 2021 (new Reg), where a modification application has been submitted before 1 March 2022 and not finally determined by 1 March 2022, the Environmental Planning and Assessment Regulation 2000 continues to apply instead of the new Regulation. As such, the Environmental Planning and Assessment Regulation 2000 continues to apply to this modification application.

Clause 92(1)(b), 93 and 94 of the Environmental Planning and Assessment Regulation are applicable to the modification application and relate to compliance with the Building Code of Australia and the Australian standards relating to demolition of structures. Existing conditions will remain on the development consent in this respect.

The modification relates to development for which the development application was required to be accompanied by a BASIX certificate. The current BASIX certificate is no longer consistent with the proposed development and a new BASIX certificate has been provided. Accordingly, the requirements of Clause 115(6) are satisfied.

The modification relates to residential apartment development and the development application was required to be accompanied by a Design Verification Statement from a qualified designer under Clause 50(1A). A design verification statement for the proposed modification has been prepared by a qualified designer and submitted with the application per the requirements of Clause 115(3A).

LIKELY IMPACTS

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

SUITABILITY OF THE SITE

The site is suitable for the proposed modified development.

PUBLIC INTEREST

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments and ensuring that any adverse effects on the surrounding area and the environment are minimised. The modified proposal has been assessed against the relevant environmental planning instruments and is deemed to be acceptable. On this basis, the proposal is not considered to raise any issues that are contrary to the public interest.

CONCLUSION

Having regard to the provisions of Section 4.56 of the Environmental Planning and Assessment Act 1979, the proposed modifications to the development consent are considered to be satisfactory.

RECOMMENDATION

PURSUANT TO SECTION 4.56 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

THAT the Sydney North Planning Panel, as the consent authority, being satisfied that the proposed modification is acceptable in terms of S4.56 of the Environmental Planning and Assessment Act 1979 and that it will be in the public interest, modifies the Development Consent to DA0197/18 for a mixed use development of 2 and 2A Balfour Street, Lindfield in the manner proposed by the modification of consent application MOD0219/21 and, subject to the following amended conditions.

CONDITIONS THAT IDENTIFY APPROVED PLANS:

1. **Approved architectural plans and documentation (*modified - MOD0117/20 and MOD0219/21*)**

The development must be carried out in accordance with the plans and documentation listed below and endorsed with Council's stamp:

Plan no.	Drawn by	Dated
<i>Architectural Plans</i>		

DA-00-01 Revision DA4	Christiansen Obrien Architects	4/07/2019
DA-01-02 Revision DA5	Christiansen Obrien Architects	4/07/2019
DA-01-03 Revision DA5	Christiansen Obrien Architects	4/07/2019
DA-01-04 Revision DA5	Christiansen Obrien Architects	4/07/2019
DA-01-05 Revision DA5	Christiansen Obrien Architects	4/07/2019
DA-01-06 Revision DA5	Christiansen Obrien Architects	4/07/2019
DA-01-07 Revision DA5	Christiansen Obrien Architects	4/07/2019
DA-01-08 Revision DA5	Christiansen Obrien Architects	4/07/2019
DA-01-09 Revision DA3	Christiansen Obrien Architects	31/05/2019
DA-01-10 Revision DA3	Christiansen Obrien Architects	5/07/2019
DA-02-1 Revision DA5	Christiansen Obrien Architects	4/07/2019
DA-02-2 Revision DA5	Christiansen Obrien Architects	4/07/2019
DA-02-3 Revision DA5	Christiansen Obrien Architects	5/07/2019
DA-03-1 Revision DA4	Christiansen Obrien Architects	5/07/2019
DA-03-2 Revision DA3	Christiansen Obrien Architects	5/07/2019
DA-03-3 Revision DA2	Christiansen Obrien Architects	5/07/2019
DA-04-1 Revision DA1	Christiansen Obrien Architects	29/01/2019
DA-04-2 Revision DA1	Christiansen Obrien Architects	29/01/2019
DA-04-3 Revision DA1	Christiansen Obrien Architects	29/01/2019
DA-04-4 Revision DA1	Christiansen Obrien Architects	29/01/2019
DA-04-5 Revision DA1	Christiansen Obrien Architects	29/01/2019
DA-04-6 Revision DA2	Christiansen Obrien Architects	5/07/2019
DM-01 Revision DA1	Christiansen Obrien Architects	18/05/2018
SK-IMG-01 Revision DA2	Christiansen Obrien Architects	5/07/2019
SK-IMG-02 Revision DA2	Christiansen Obrien Architects	5/07/2019
SK-IMG-03 Revision DA2	Christiansen Obrien Architects	5/07/2019
SK-IMG-04 Revision DA2	Christiansen Obrien Architects	5/07/2019
SK-IMG-05 Revision DA2	Christiansen Obrien Architects	5/07/2019
<i>Subdivision Plan</i>		
PS01 Revision B	Trehy Ingold Neate	25/05/2018
<i>Staging Plans</i>		
ST-01-A Revision DA2	Christiansen Obrien Architects	29/01/2019
ST-01-B Revision DA2	Christiansen Obrien Architects	29/01/2019
ST-02 Revision DA2	Christiansen Obrien Architects	29/01/2019
<i>Landscape Plans</i>		
Existing Vegetation Management and Tree Survey	Conzept Landscape Architects	4/07/2019
LPDA 18-154 Page L101 Revision I	Conzept Landscape Architects	7/06/2019
LPDA 18-154 Page L102 Revision I	Conzept Landscape Architects	4/07/2019
LPDA 18-154 Page L103 Revision H	Conzept Landscape Architects	7/06/2019
LPDA 18-154 Page L104 Revision H	Conzept Landscape Architects	4/07/2019
LPDA 18-154 Page L105 Revision H	Conzept Landscape Architects	4/07/2019
LPDA 18-154 Page L106 Revision F	Conzept Landscape Architects	4/07/2019
LPDA 18-154 Page L108 Revision E	Conzept Landscape Architects	24/06/2019
LPDA 18-154 Page L109 Revision C	Conzept Landscape Architects	24/06/2019
LPDA 18-154 Page L110 Revision D	Conzept Landscape Architects	4/07/2019
<i>Civil Drawings</i>		
14888_DA_C000 Revision 05	Henry & Hymas	28/05/2019
14888_DA_C100 Revision 12	Henry & Hymas	23/01/2019
14888_DA_C110 Revision 07	Henry & Hymas	7/06/2019
14888_DA_C111 Revision 09	Henry & Hymas	3/07/2019
14888_DA_C112 Revision 06	Henry & Hymas	3/07/2019
14888_DA_C200 Revision 05	Henry & Hymas	11/01/2019
14888_DA_C201 Revision 05	Henry & Hymas	c/01/2019

14888_DA_C250 Revision 07	Henry & Hymas	11/06/2019
14888_DA_C500 Revision 08	Henry & Hymas	29/05/2019
14888_DA_SE01 Revision 06	Henry & Hymas	30/01/2019
14888_DA_SE02 Revision 04	Henry & Hymas	11/01/2019
14888_DA_SE03 Revision 01	Henry & Hymas	11/01/2019
14888_DA_BE01 Revision 05	Henry & Hymas	30/01/2019

Document(s)	Dated
Accessibility Assessment Report prepared by City Plan Revision 05	21/01/2019
Wind Impact Assessment prepared by Vipac Engineers and Scientists	29/10/2018
Coles Supermarket Lindfield - Residential Component - Acoustic Assessment for DA prepared by Renzo Tonin & Associates Report Revision 4	1/02/2019
Coles Lindfield - Supermarket Component - Acoustic Assessment for DA prepared by Renzo Tonin & Associates Report Revision 2	23/01/2018
Basix certificate No. 755527M_04	8/07/2019
Nathers Certificate No. 0004005920	8/07/2019
Coles Lindfield Supermarket Operations Management Plan	30/04/2018
Development Application Report for Building Services Revision C	29/01/2019
Ausgrid letter	31/07/2018
Roads and Maritime Services letter reference SYD18/00918/04 (A26045482)	6/03/2019
Design Verification Statement prepared by Neil Christiansen of Christiansen Obrien Architects	10/07/2019
Apartment Design Guide - Compliance Assessment prepared by Christiansen O'Brien Revision DA4	31/05/2019
Air Quality Assessment prepared by Pacific Environment	8/05/2018
ESD and Green Star Strategy Report Revision B prepared by Donnelley Simpson Cleary	24/05/2018
Letter from Geo-Logix to Howard Hathorn regarding satisfaction of SEPP 55 requirements	14/05/2018
Phase 1 Environment Site Assessment Report prepared by Geo-Logix Revision V02	21/03/2017
Geotechnical Advice for Proposed Mixed Use Redevelopment of Existing Supermarket Site prepared by Geo-Logix - including Attachment A - Geotechnical Investigation prepared by JK Geotechnics dated 9/12/2014	21/03/2017
Conservation Management Strategy prepared by City Plan Revision 02	13/12/2018
Waste Management Statement prepared by Christiansen Obrien Architects Revision C	July 2019
Engineering Report - Commercial Development prepared by Henry & Hymas (not including Appendix C)	January 2019

Except where amended by the s4.56 (MOD0117/20) document endorsed with Council's stamp as listed below and except where amended by other conditions of this Development Consent:

Section 4.56 (MOD0117/20) Document	Dated
Geo-Logix Letter prepared by Geo-Logix Pty Ltd	21 July 2020

Except where amended by the s4.56 (MOD0219/21) plans and documentation endorsed with Council's stamp as listed below and except where amended by other conditions of this Development Consent:

Section 4.56 (MOD0219/21) Plans		
Plan no.	Drawn by	Dated

<i>Architectural Plans</i>		
DA-00-1 Cover sheet B	Rothelowman	24 June 2022
DA-01-1 Basement	Rothelowman	7 October 2021
DA-01-2 Lower Ground 2 A	Rothelowman	23 February 2022
DA-01-3 Lower Ground 1 A	Rothelowman	23 February 2022
DA-01-4 Upper Ground A	Rothelowman	23 February 2022
DA-01-5 Level 1 A	Rothelowman	23 February 2022
DA-01-6 Level 2 A	Rothelowman	23 February 2022
DA-01-7 Level 3 A	Rothelowman	23 February 2022
DA-01-8 Level 4 B	Rothelowman	24 June 2022
DA-01-9 Roof B	Rothelowman	24 June 2022
DA-01-10 Signage B	Rothelowman	24 June 2022
DA-02-1 Elevations A	Rothelowman	23 February 2022
DA-02-2 Elevations A	Rothelowman	23 February 2022
DA-03-1 Sections A	Rothelowman	23 February 2022
DA-03-2 Sections A	Rothelowman	23 February 2022
DA-03-3 Sections	Rothelowman	7 October 2021
DA-04-1 Detail Sections	Rothelowman	7 October 2021
DA-04-6 Acoustic Louvre Detail	Rothelowman	7 October 2021
TP10.04 A Storage plans	Rothelowman	23 February 2022
<i>Landscape Plans</i>		
000 Cover sheet Issue E	Arcadia	3 January 2022
101 Landscape Masterplan Upper Ground Level Issue E	Arcadia	3 January 2022
102 Landscape Masterplan Issue E	Arcadia	3 January 2022
103 Landscape Masterplan Issue E	Arcadia	3 January 2022
104 Landscape Masterplan Issue E	Arcadia	3 January 2022
400 Plant Schedule Issue E	Arcadia	3 January 2022
401 Softworks Plan Issue E	Arcadia	3 January 2022
402 Softworks Plan Issue E	Arcadia	3 January 2022
403 Softworks Plan Issue E	Arcadia	3 January 2022
404 Softworks Plan Issue E	Arcadia	3 January 2022
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408 Softworks Plan Issue E	Arcadia	3 January 2022
409 Softworks Plan Issue E	Arcadia	3 January 2022
410 Softworks Plan Issue E	Arcadia	3 January 2022
411 Softworks Plan Issue E	Arcadia	3 January 2022
412 Softworks Plan Issue E	Arcadia	3 January 2022
601 Landscape Details Issue E	Arcadia	3 January 2022
701 Landscape Specification Issue E	Arcadia	3 January 2022

Section 4.56 (MOD0219/21) Documents	Dated
External Finishes Schedule DA-02-3 A prepared by Rothelowman	23 February 2022
Access Report prepared by iAccess Residential Revision A	7 October 2021
BASIX certificate No. 1235564M_04	14 April 2022
Nathers Certificate No. NXDPVOTWNH	3 March 2022
Design Verification Statement prepared by of Rothelowman	3 March 2022

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

1A. Staged construction and occupation – stage 2 (added – MOD0219/21)

- (a) Stage 02-04 works as per the approved staging plans referred to in Condition 1, may be carried out in stages with the relevant conditions being satisfied prior to the issue of a construction certificate for each stage as follows:

Stage 02 (Stage 02-04 on approved staging plans)	New mixed use building works
Phase 1	Early Works: <ul style="list-style-type: none"> • demolition • excavation shoring • services diversion and augmentation • footings/piling
Phase 2	Structure - lower basement slab and above
Phase 3	Retail (Cold shell only) and retail carparking and facades: <ul style="list-style-type: none"> • Lower Basement 1 and 2 • Facades to the whole building
Phase 4	Residential Apartments: <ul style="list-style-type: none"> • associated carparking • podium and roof top terrace landscaping • public domain • main building surrounds and landscaping

- (b) Any reference to a construction certificate or an occupation certificate relates to the first construction certification and/or occupation certificate unless a stage is nominated elsewhere in that particular condition.

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 DEMOLITION, EXCAVATION OR CONSTRUCTION:

3. ~~Tree protection fencing (deleted – MOD0219/21)~~

~~Prior to the commencement of any Stage 01 (A&B) 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 Stage 01 (A&B) demolition/building work.~~

Tree/location	Radius in metres
T1 <i>Phoenix canariensis</i> (Canary Island Date Palm) Adjacent to northwest boundary/Balfour lane	Edge of proposed garden bed
T2 <i>Syncarpia glomulifera</i> (Turpentine) Adjacent to northwest site boundary/relocated Balfour Lane	Edge of proposed garden bed
T18 <i>Angophora costata</i> (Sydney Red Gum) Balfour St road reserve	Top of kerb, edge of proposed retaining wall, southeast edge of pedestrian path, 4.5m elsewhere
T19 <i>Eucalyptus pilularis</i> (Blackbutt) Balfour St road reserve	Top of kerb, southeast edge of pedestrian path, 10.0m elsewhere

Reason: ——— To protect existing trees.

4. Tree protection fencing (*modified – MOD0219/21*)

Prior to the commencement of any Stage 02 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 Stage 02 demolition/building work.

Tree/location	Radius in metres
T18 <i>Angophora costata</i> (Sydney Red Gum) Balfour St road reserve	Top of kerb, edge of proposed , top of existing retaining wall, southeast edge of pedestrian path, 4.5m elsewhere
T19 <i>Eucalyptus pilularis</i> (Blackbutt) Balfour St road reserve	Top of kerb, southeast edge of pedestrian path, 10.0m elsewhere
Pyrus calleryana 'Capital' (Capital Ornamental Pear) x 7 Eastern side of Balfour Lane	Top of kerb to north south and west; western site boundary for the length of the garden bed
T1 <i>Phoenix canariensis</i> (Canary Island Date Palm) Adjacent to northwest boundary/Balfour lane	Edge of proposed garden bed
T2 <i>Syncarpia glomulifera</i> (Turpentine) Adjacent to northwest site boundary/relocated Balfour Lane	Edge of proposed garden bed

Reason: To protect existing trees.

5. 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.

6. 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.

7. 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.

8. Ground protection - avoiding soil compaction

Prior to the commencement of any works, temporary measures, to avoid root damage and soil compaction, are to be installed in accordance with Section 4.5.3 (figure 4) of the current version AS4970 Protection of trees on development sites, within the specified radius of the following listed tree/s where pedestrian access is required (outside tree protective fencing):

Tree/Location	Radius in metres
T18 <i>Angophora costata</i> (Sydney Red Gum) Balfour St road reserve	4.5m
T19 <i>Eucalyptus pilularis</i> (Blackbutt) Balfour St road reserve	10.0m

Reason: To protect existing trees.

9. Inspection of tree protection measures

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

Reason: To protect existing trees.

10. 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 existing trees.

11. Asbestos works

All work involving asbestos products and materials, including asbestos-cement-sheeting (ie. Fibro), must be carried out in accordance with the guidelines for asbestos work published by WorkCover Authority of NSW.

Reason: To ensure public safety.

12. 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.

13. 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.

14. Dilapidation survey and report (public infrastructure)

Prior to the commencement of any works, the Applicant must obtain a dilapidation report on the public infrastructure and the Principal Certifier shall be satisfied that a dilapidation report on the visible and structural condition of all structures of the following public infrastructure has been completed and submitted to Council:

Public infrastructure

- full road pavement width, including kerb and gutter, of Pacific Highway and Balfour Street over the site frontage,
- all driveway crossings and laybacks opposite the subject site

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

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

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

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

15. Archival recording of buildings (heritage items) (*modified - MOD0117/20*)

Prior to the commencement of Stage 02 works on site, the Principal Certifier shall be satisfied that an archival report has been completed and submitted to Council's Heritage Advisor for 386-390 Pacific Highway Lindfield (Churchers Restaurant).

The report must be a bound A4 report, prepared by a recognised NSW Heritage Office heritage consultant and must contain the following minimum requirements:

- title page
- statement of reasons the recording was made
- outline history of the item (including title records, subdivision plans, water and sewerage plans and any archival documents such as family records, old photographs, etc)
- statement of a heritage significance (to accepted Heritage Council criteria)
- specialised reports such as heritage assessments, dilapidation report, and builders or engineers reports
- location plan showing relationship of site to nearby area
- site plan to scale (1:200 - 1:500) showing all structures and site elements
- measured drawing including site survey, floor plans, all elevations, roof plan and one cross section (1:00)
- drawings of specific interiors or details nominated by Council's Heritage Advisor
- room inventories noting materials, profile of nominated decorative elements (1:2) and nominated by Council's Heritage Advisor
- archival quality colour photographs, contact prints, and selected prints (one copy of contact sheets and selected prints)
- digital images and archival quality DVD, CD or USB may be submitted as supplementary information.

All photographs in the report are to be mounted, labelled and cross-referenced to the relevant site plan and floor plans and showing position of camera. A photographic recording sheet must be included. Photographs of the following must form part of the archival report:

- each elevation
- each interior room
- photographs of specific details nominated by Council's Heritage Advisor
- all structures on site, such as sheds, outhouses and significant landscape features
- several photographs of house from public streets or laneways including several views showing relationship to neighbouring buildings

Two copies of the report must be submitted to Council's Heritage Advisor. A written acknowledgment from Council must be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifier prior to the commencement of any works.

Reason: To ensure the preservation and proper management of historical artefacts through comprehensive historical recording prior to any alteration being undertaken.

16. Dilapidation survey and report (private property) (modified - MOD0117/20)

Prior to the commencement of each of the following stages:

1. Stage 01 works (01-A and 01-B)
2. Stage 02 works

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

Address:

- 2-4 Highfield Road (southern side of the main school building)
- 2-4 Highfield Road (existing structures within the playground including retaining structures and COLA)
- 402 Pacific Highway
- 406 Pacific Highway

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

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

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

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

17. Construction traffic management plan

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

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

The report is to contain commitments which must be followed by the demolition and excavation contractor, builder, owner and subcontractors. The CTMP applies to all persons associated with demolition, excavation and construction of the development.

The report is to contain construction vehicle routes for approach and departure to and from all directions.

The report is to contain a site plan showing entry and exit points. Swept paths are to be shown on the site plan showing access and egress for a 12.5 metres long heavy rigid vehicle and 19.0 metres articulated vehicle.

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

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

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

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

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

For safety and amenity, no construction vehicle movements are to occur in Balfour Street 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.

18. Work zone

Prior to the commencement of any works, a works zone is to be provided in Balfour Street, subject to the approval of the Ku-ring-gai Local Traffic Committee.

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

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

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

19. 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.

20. 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.

21. 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.

22. Noise and vibration management plan (*modified - MOD0117/20*)

Prior to the commencement of Stage 01 (01-A and 01-B) and Stage 02 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, relating to the relevant stage only. The management plan is to identify amelioration measures to achieve the best practice objectives of AS 2436-2010 and NSW Department of Environment and Climate Change Interim Construction Noise Guidelines. The report shall be prepared in consultation with any geotechnical report that itemises equipment to be used for excavation works.

The noise and vibration management plan shall address, but not be limited to, the following matters, where relevant to each stage of the development only:

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

- x. restrictions, respite periods and frequency
- x. procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration
- xi. contingency plans to be implemented in the event of non-compliances and/or noise complaints

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

23. Support for Council roads, footpaths, drainage reserves (*modified - MOD0117/20*)

Council property adjoining the construction site must be fully supported at all times during all demolition, excavation or building works, associated with the relevant stage only. Details of shoring, propping and anchoring of works adjoining Council property, prepared by a qualified structural engineer and/or geotechnical engineer, must be submitted to and approved by the Principal Certifier, before the commencement of any works. A copy of these details must also be forwarded to Council. Backfilling of excavations adjoining Council property or any void remaining at completion of construction between the building and Council property must be fully compacted prior to the completion of works.

Reason: To protect Council's infrastructure.

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

24. SEPP 55 'Remediation of land' investigation requirements (*modified - MOD0117/20*)

In accordance with the Geo-Logix letters, dated 14/05/2018 and 21/07/2020, and the staging plans referred to in condition 1 of the development consent, prior to the issue of a construction certificate for Stage 01-A and 01B (new Balfour Lane) the following must occur:

- i. Detailed Site Investigation (DSI) comprising soil, groundwater and soil vapour testing in relation to Stage 01; and
- ii. Preparation of a Remedial Action Plan for Stage 01 if required;

Prior to the issue of a Subdivision Certificate for the approved subdivision (new Balfour Lane) the following must occur:

- iii. Remediation and Validation if required to confirm the Stage 1 area shown on the approved staging plan drawings Nos ST-01-A and ST-01-B as suitable for redevelopment.

Prior to the issue of any Construction Certificate for Stage 02 (Mixed use development) the following must occur:

- i. Detailed Site Investigation (DSI) comprising soil, groundwater and soil vapour testing in relation to Stage 02;
- ii. Preparation of a Remedial Action Plan for Stage 02 if required; and
- iii. Remediation and Validation if required to confirm the Stage 02 (Mixed use development) area shown on the approved staging plan drawing No. ST-02 as suitable for redevelopment.

A Certifier must not issue a Construction Certificate unless they have received written confirmation from a land contamination expert that the requirements of this condition have

been satisfied.

A consent authority must not issue a Subdivision Certificate unless they have received advice from a land contamination expert that the requirements of this condition have been satisfied.

For the avoidance of any doubt, nothing in this condition requires any Construction Certificate prior to the commencement of:

- i. demolition;
- ii. site clearing;
- iii. hoarding;
- iv. fencing; and
- v. excavation and other work that is for the purposes of investigation, remediation or validation .

Reason: To ensure compliance with SEPP 55.

25. Acoustic design report- supermarket (*modified– MOD0219/21*)

An acoustic design report shall be prepared by an appropriately qualified acoustic consultant and submitted to the Certifier with the application for the Construction Certificate for Stage 02- Phase 3. 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 associated with rainwater reuse systems 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 for Stage 02- Phase 3 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.

26. Compliance with approved staging plans

Existing access arrangements for properties which rely upon the existing Balfour Lane shall be maintained until such time that the new Balfour Lane is operating as a public road. A construction certificate shall not be issued for any works identified as 03 and 04 in Stage 02 of the approved staging plan drawing No. ST-02 unless all earlier works have been completed and the new Balfour Lane is operating as a public road.

Reason: To ensure that access to properties which rely upon the existing Balfour Lane is maintained until such time that the new Balfour Lane is operating as a public road.

27. Amendments to conservation management strategy (*modified – MOD0219/21*)

Prior to the issue of a Construction Certificate for Stage 02 - Phase 3 the approved Conservation Management Strategy is to be amended to include the following works:

- i. The existing north-east facade is to have the air-conditioning units and ducting removed and the brickwork behind is to be repaired to match the existing.
- ii. The existing south-east facade is to have the graffiti removed with appropriate cleaning methods endorsed by a heritage consultant.
- iii. The existing north-west facade is to have the paintwork removed with appropriate cleaning methods endorsed by a heritage consultant. The signs are to be removed and the existing brickwork repaired to match the existing.

Reason: To protect and enhance the heritage significance of the heritage item.

28. Livable housing units - construction certificate stage liveable housing guidelines- platinum and silver level (*modified – MOD0219/21*)

~~Silver Level and Platinum Level Livable Housing units are to satisfy Livable Housing Australia (LHA) certification as follows:~~

- ~~i. Prior to the issue of a Construction Certificate for Stage 02, all Silver Level and Platinum Level units are to acquire Livable Housing Design Provisional Stage Certification (DA and CC design) from an accredited LHA assessor.~~

~~**Reason:** To ensure compliance with the Livable Housing requirements of the Ku-ring-gai Development Control Plan.~~

Prior to the issue of any Construction Certificate for Stage 02 – Phase 4, detailed plans and construction drawings shall be prepared as follows:

- (a) Apartments identified as Silver - showing compliance with the Silver Level requirements of the Livable Housing Australia Livable Housing Guidelines.
- (b) Apartments 101, 102, 103, 104, 201, 202, 203, 204, 303 and 304 identified as Platinum - showing compliance with the Platinum Level requirements of the Liveable Housing Australia Liveable Housing Guidelines.

The detailed plans and construction drawings showing full compliance with the requirements of each standard within the Liveable Housing Guidelines and as identified within the access report prepared by Access Report, prepared by iAccess Residential Revision A dated 7 October 2021 listed in condition 1 of the consent, shall be certified as compliant by an accredited Liveable Housing Australia assessor and provided to the Certifier for inclusion with the Construction Certificate documentation.

Reason: Equitable access.

29. Road markings

The plans submitted with the Construction Certificate application for Stage 01-A are to show *Keep Clear* markings in the new Balfour Lane across the southbound lanes, corresponding with the loading dock entrance.

Reason: The location of the loading dock/servicing entrance is supported, but *Keep Clear* markings are needed across southbound lanes in the new Balfour Lane, to minimise the possibility of queued vehicles from obstructing arriving/entering service vehicles.

30. Shower facilities (*modified – MOD0219/21*)

The plans submitted with the Construction Certificate application for Stage 02 – Phase 3 are

to include shower facilities (as part of bicycle support facilities for mixed-use developments) in accordance with control 3 in Part 8B.3 of the Ku-ring-gai DCP.

Reason: Lockers are provided for staff, but no shower facilities are provided. These facilities are required to support and encourage bicycle travel for staff of the retail component.

31. Electrolysis risk (*modified – MOD0219/21*)

Prior to the issue of a Construction Certificate for Stage 02 – Phase 2 an Electrolysis Expert is to prepare a report on the Electrolysis Risk to the development from stray currents. All the measures (if any) recommended in the report to control that risk are to be incorporated into the development and detailed in the documentation submitted with the Construction Certificate. A copy of the report is to be provided to the Certifier with the application for a Construction Certificate.

Reason: To manage electrolysis risk.

32. Use of cranes

If a crane or other equipment capable of intruding into the airspace above the rail corridor and or operating over any overhead wiring or transmission lines is to be used at any stage of the proposed works, a plan showing all craneage and other aerial operations for the development must be submitted to Sydney Trains for assessment. The Certifier shall not issue a Construction Certificate until written confirmation has been received from Sydney Trains confirming that the craneage and aerial operations plan has been approved (if such a plan is required to be submitted to Sydney Trains).

Reason: To manage risks associated with the use of cranes.

33. Compliance with BASIX certificate (*modified – MOD0219/21*)

Prior to the issue of any Construction Certificate for Stage 02 – Phase 4, the Certifier shall be satisfied that all commitments listed in approved BASIX Certificate (referred to under Condition 1) have been complied with.

Reason: Statutory requirement.

34. 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.

35. 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.

36. Outdoor lighting (*modified– MOD0219/21*)

Prior to the issue of any Construction Certificate for Stage 2 - Phase 3, 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 Stage 2 - Phase 3 Construction Certificate.

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

37. Access for people with disabilities (commercial) (*modified – MOD0219/21*)

Prior to the issue of any Construction Certificate for Stage 02 - Phase 3, the Certifier shall be satisfied that access for people with disabilities from the public domain and all car parking areas on site to all tenancies within the building is provided. Consideration must be given to the means of dignified and equitable access.

Compliant access provisions for people with disabilities shall be clearly shown on the plans submitted with the Construction Certificate. All details shall be provided to the Certifier prior to the issue of any Construction Certificate. All details shall be prepared in consideration of the Disability Discrimination Act and the relevant provisions of AS1428.1, AS1428.2, AS1428.4 and AS 1735.12.

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

38. Green star certification - construction certificate stage (*modified – MOD0219/21*)

Prior to the issue of any Construction Certificate for Stage 02 – Phase 3, the Certifier must be satisfied that:

1. The Construction Certificate plans include all the matters referred to in the ESD and Green Star Strategy Report prepared by Donnelley Simpson Cleary project no 7853 dated 24/05/2018, and any additional ESD measures proposed for the achievement of the required 4 (or greater) Green Star - Design & As Built certification;
2. The plans for development have been registered with Green Building Council of Australia (GBCA) for a Green Star- Design & As Built Certification (including the provision of a registration notice and invoice for registration payment); and
3. A copy of the letter and invoices from the GBCA to the applicant, confirming the project is registered and will progress in assessment of the “As Built” component of the Green Star - Design and As Built Certification.

Reason: To ensure compliance with Part 23.2 Green Buildings of the Ku-ring-gai Development Control Plan.

39. Heritage conservation works (*modified – MOD0219/21*)

Prior the issue of any Construction Certificate for Stage 02 – Phase 3, a schedule of conservation works to be undertaken concurrent with the development works is to be submitted to Council's Heritage Advisor for approval addressing the following:

- (b) The schedule is to detail the conservation of the front facade, any intact internal spaces, the shopfronts and the front portion of the roof (all fabric identified as having heritage significance)].
- (c) The schedule is to be supported by outline specifications, methodologies and detailed architectural sections, elevations and plans at 1:20 and 1:5 scales. The details should incorporate any structural and/or building services design for the building.
- (d) The proposed works are to be carried out in a manner that minimises demolition, alterations and new penetrations/fixings to the significant fabric of the existing building.
- (e) All conservation and adaptation works are to be in accordance with the Articles of the Australian ICOMOS Burra Charter 2013. Appropriately qualified contractors and tradespersons are to be commissioned who are skilled in traditional building and engineering trades to carry out the proposed scope of works within the heritage building.

Reason: To protect the significance of heritage items and conservation areas.

40. Noise from road and rail (residential only) (*modified– MOD0219/21*)

Prior to the issue of any Construction Certificate for Stage 02 - Phase 4, the Certifier shall be satisfied that the development will be acoustically designed and constructed to ensure that the following LAeq levels are not exceeded:

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

Plans and specifications of the required acoustic design shall be prepared by a practicing acoustic engineer and shall be submitted to the Certifier prior to the issue of any Stage 02- Phase 4 Construction Certificate. The Certifier shall also be satisfied that the development will comply with the Department of Planning document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".

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

41. Location of plant (residential flat buildings) (*modified – MOD0219/21*)

Prior to the issue of any Construction Certificate for Stage 02 - Phase 3, the Certifier shall be satisfied that all plant and equipment (including but not limited to air conditioning equipment) is located within the basement (except for the plant and equipment approved to be located elsewhere).

Architectural plans identifying the location of all plant and equipment shall be provided to the Certifier prior to the issue of any Stage 02 - Phase 3 Construction Certificate.

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

42. Acoustic design report- residential (*modified– MOD0219/21*)

An acoustic design report shall be prepared by an appropriately qualified acoustic consultant and submitted to the Certifier with the application for the Construction Certificate for Stage 02- Phase 4. 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 associated with rainwater reuse systems 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 for Stage 02 - Phase 4 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.

43. Driveway grades - basement carpark (*modified – MOD0219/21*)

Prior to the issue of any Construction Certificate for Stage 02 – Phase 2, longitudinal driveway sections are to be prepared by a qualified civil/traffic engineer and be submitted to and approved by the Certifier. These profiles are to be at 1:100 scale along both edges of the proposed driveway, starting from the centreline of the frontage street carriageway to the proposed basement floor level. The civil/traffic engineer shall provide specific written certification on the plans that:

- vehicular access can be obtained using grades of 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.

44. Basement car parking details (*modified – MOD0219/21*)

Prior to issue of any Construction Certificate for Stage 02 – Phase 2, 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 of 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.
- the 12 x residential visitor spaces on Lower Ground Floor 1 are marked and signposted.
- 1 x residential space and 1 x retail space is converted to a 24 hour electric vehicle charging station and is marked and signposted accordingly.
- The car parking is to be designed so that additional electric vehicle charging points can be installed at a later time.
- All on-site bicycle parking spaces and storage are to be designed to AS2890.3.

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

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

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

- Design details of the footpath in Balfour Street.
- Details and sections of the retaining walls within the road reserve designed in accordance with the Earth Retaining Structures Code. The external presentation of the retaining wall within the heritage conservation area (to the south-west of the new Balfour Lane) is to be traditional sandstone coursed block work wall rough split face dimensioned sandstone block 200-250mm wide. On the opposite side of the intersection the external appearance of the retaining wall (also known as shoring wall) shall match the retaining walls on the western side of the new Balfour Lane (i.e. sandstone faced and capped wall).
- Full drainage details including kerb inlet pit in Balfour Street;
- Details of the balustrades in Balfour Street.
- Streetscape improvement works across the Balfour Street and Pacific Highway frontages;
- New kerb and gutter and layback for the full frontage of Balfour Street.

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

A minimum of three weeks will be required for Council to assess the *Roads Act 1993* applications. Early submission is recommended to avoid delays in obtaining a Construction Certificate. For the purpose of inspections carried out by Council Engineers, the corresponding fees set out in Council's current Fees and Charges Schedule are payable to Council prior to issue of any Construction Certificate. An engineering plan assessment fee is also applicable.

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

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

46. Ausgrid requirements (*modified - MOD0117/20*)

Prior to issue of any Construction Certificate for each stage of the development (i.e. Stage 01-A and 01-B and Stage 02), Ausgrid must be contacted regarding power supply only relative to each individual stage, 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 prior to issue of any Construction Certificate for the relevant stage only.

Any structures or other requirements of Ausgrid shall be indicated on the plans issued with any Construction Certificate (for the relevant stage only), to the satisfaction of the Certifier and Ausgrid. The requirements of Ausgrid must be met in full prior to issue of a Subdivision Certificate (for Stage 01-A and 01-B) and an Occupation Certificate (for Stage 02).

Reason: To ensure compliance with the requirements of Ausgrid.

47. Utility provider requirements

Prior to issue of any Construction Certificate for Stage 2, 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.

48. Underground services

All electrical services (existing and proposed) shall be undergrounded from the proposed building on the site to the appropriate power pole(s) or other connection point. Undergrounding of services must not disturb the root system of existing trees and shall be undertaken in accordance with the requirements of the relevant service provided. Documentary evidence that the relevant service provider has been consulted and that their requirements have been met is to be provided to the Certifier prior to the issue of any Construction Certificate for Stage 02. All electrical and telephone services to the subject property must be placed underground and any redundant poles are to be removed.

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

49. Telecommunications infrastructure

Prior to the issue of any Construction Certificate for Stage 02, satisfactory documentary evidence shall be provided to the Principal Certifier that arrangements have been made for the installation of fibre-ready facilities to all individual lots and/or premises so as to enable fibre to be readily connected to any dwelling or unit that is being or may be constructed.

Prior to the issue of any Construction Certificate for Stage 02, the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or dwellings shall be demonstrated to the Principal Certifier through a written agreement between the developer/owner and a carrier. The agreement will also confirm that the carrier is satisfied the fibre ready facilities are fit for purpose.

Reason: To ensure that telecommunications infrastructure is provided in accordance

with the Commonwealth Telecommunications Act 1997.

50. Design and construction of food premises - supermarket (*modified – MOD0219/21*)

Plans and specifications complying with the requirements of the Food Act 2003, Food Standards Code 3.2.3 Food Premises and Equipment, Australian Standard AS 4674 2004 – Design, construction and fit-out of food premises and National Construction Code shall be submitted to and approved by the Certifier prior to the issue of any Construction Certificate for Stage 02 - Phase 3. Plans and specifications shall address the following:

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

Note: A “Design and fit-out guide for food businesses” is available on Council’s website.

Reason: To ensure compliance with standards for food premises.

51. Garbage and recycling facilities - Commercial premises (*modified – MOD0219/21*)

Details of the waste storage facilities shall be submitted to the Certifier prior to the issue of any Construction Certificate for Stage 02 - Phase 2, the Certifier must be satisfied that waste storage facilities shall be enclosed, adequately contain the garbage and recycled waste bins and all internal walls will be rendered and coved at the floor/wall intersections. 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.

Reason: To protect amenity and to prevent environmental pollution.

52. Registration of subdivision

Prior to issue of any Construction Certificate for Stage 02, the approved subdivision shall be registered with NSW Land Registry Services.

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

53. Design and construction of food premises-coffee shop (*modified – MOD0219/21*)

Plans and specifications complying with the requirements of the Food Act 2003, Food Standards Code 3.2.3 Food Premises and Equipment, Australian Standard AS 4674 2004 – Design, construction and fit-out of food premises and National Construction Code shall be submitted to and approved by the Certifier prior to the issue of any Construction Certificate for Stage 02 – Phase 3. Plans and specifications shall address the following:

- wash up sinks, hand basins and equipment such as coffee machines and dishwashers are to be connected to sewerage for the disposal of waste water

- the food handling areas are to have accessible hand basin(s) dedicated for the sole purpose of washing hands, face and arms. Hand basins are to be supplied with warm water through a single mixer tap, soap and single-use paper towels
- staff, accessible and public toilet facilities
- that the food handling area has a double bowl sink where the largest piece of equipment is capable of being immersed inside OR a single bowl sink and dishwasher where all equipment intended to be sanitised in the dishwasher is capable of fitting inside of the dishwasher
- floor plans, showing the layout of the fixtures and fittings, food storage and staff personal effects storage areas
- elevations and sections showing floor, wall and ceiling construction and finishes (floors in food handling areas are to be coved)
- elevations and sections showing the installation of fixtures and fittings
- garbage and recycling storage areas;
- grease trap areas (if applicable).

Note: A “Design and fit-out guide for food businesses” is available on Council’s website.

Reason: To ensure compliance with standards for food premises.

53A. Amendments to approved landscape plan (*added – MOD0219/21*)

Prior to the issue of any Construction Certificate for Stage 02 - Phase 4, the Certifier shall be satisfied that the approved landscape plan(s), listed below and endorsed with Council’s stamp, have been amended in accordance with the requirements of this condition as well as other conditions of this Development Consent:

Plan no.	Drawn by	Dated
L101 Rev E Landscape Master Plan L-400 Rev E Plant Schedule L-401 Rev E Softworks Plan L-402 Rev E Softworks Plan L-403 Rev E Softworks Plan L-404 Rev E Softworks Plan L-405 Rev E Softworks Plan L-406 Rev E Softworks Plan L-407 Rev E Softworks Plan	Arcadia	03/01/22

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

- The proposed street tree plantings within the Pacific Highway road reserve shall be deleted.
- The proposed Balfour Street tree plantings shall be amended to be consistent with Condition 70: 6 x *Pyrus calleryana* ‘Capital’ evenly spaced within the Balfour Street road reserve, with two located between the substation and the Pacific Highway.
- The area of proposed paving within the Balfour Street road reserve that is within 12.0 metres of Tree 19 *Eucalyptus pilularis* (Blackbutt) shall include a notation that the paving is to be constructed as per Council’s Public Domain Plan Volume 3: Technical Manual for porous paving (Pages 44 & 45) at or above existing grades (no excavation).
- The area of proposed paving within 12.0 metres of Tree 19 *Eucalyptus pilularis* (Blackbutt) located within the Balfour Street road reserve shall be reduced in area to be consistent with the approved architectural plan/s DA-01-2, prepared by Christian O’Brien Architects. The area of paving shall be limited to a 1.2 metres width adjacent to the site boundary and not expand further than the overhanging residential lobby awning.

- For improved residential amenity, the proposed plant species located within the north-western planters for Level 2 Dwellings: 217, 220, 222, 223, and 224 shall be amended to an evergreen shrub species capable of attaining a minimum height of 1.0 metre.
- Notation shall be placed on plan that the proposed planting of the *Phoenix canariensis* (Canary Island Date Palm) shall have a minimum trunk height of 4.0 – 5.0 metres at the time of planting.
- The plant schedule shall be amended to be consistent with the above requirements.
- The tile finish for the supermarket forecourt is notated as having a 'P5' slip resistance.
- All retaining walls within the forecourt area on the corner of the Pacific Highway and Balfour Street must have a consistent sandstone finish.
- The roof top pergola along the south-western edge of the terrace is relocated 2 metres to the north-east, away from the south-western edge of the roof slab and planter.
- No screens or fencing is to be above the podium planter edge height and extend through the planters to the podium edge.

Prior to the issue of any Construction Certificate for Stage 02 - Phase 4, the Certifier shall be satisfied that the landscape plan has been amended as required by this condition.

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

Reason: To ensure adequate landscaping of the site.

53B. Paving near trees (added – MOD0219/21)

Prior to the issue of any Construction Certificate, the Certifier shall be provided with and approve a paving design endorsed by an arborist with a minimum AQF Level 5 qualification. The paving works within the specified radius of the trunk/s of the following tree/s shall be constructed at or above existing grades and be of a design that ensures adequate water infiltration and gaseous exchange to maintain the tree/s root system is maintained as per Council's Public Domain Plan Volume 3: Technical Manual pages 44, 45:

Tree/Location	Radius in metres
T19 <i>Eucalyptus pilularis</i> (Blackbutt) Balfour St road reserve	12.0m
T19 <i>Angophora costata</i> (Sydney Red Gum) Balfour St road reserve	5.0m

Reason: To protect existing trees.

53C. Design and construction of mechanical ventilation (added – MOD0219/21)

Prior to the issue of any Construction Certificate for Stage 02 - Phase 3, 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.

53D. Waste and recycling storage facilities- residential (added – MOD0219/21)

Details of the waste storage facilities shall be submitted to the Certifier prior to the issue of any Construction Certificate for Stage 02 - Phase 2. The Certifier must be satisfied that

waste storage facilities shall be enclosed, adequately contain the garbage and recycled waste bins and all internal walls will be rendered and coved at the floor/wall intersections. 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.

Reason: To protect amenity and to prevent environmental pollution.

53E. Amended architectural plans (*added – MOD0219/21*)

Prior to the issue of any Construction Certificate for Stage 02 – Phase 4, the Certifier shall be satisfied that the approved plans listed in Condition 1 above, have been amended in accordance with the requirements of this condition as well as other conditions of this Development Consent:

- (a) The roof top pergola along the south-western edge of the terrace is relocated 2 metres to the north-east, away from the south-western edge of the roof slab and planter.
- (b) The study area in Units 101, 201, 301 and 401 are deleted and replaced with additional storage.
- (c) The doorway to the study in Unit 402 is converted to a wider bi-fold door so this space can be opened up into the living area.

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

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

54. Infrastructure damage security bond and inspection fee (*modified - MOD0117/20*)

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 for each stage of the development (i.e. Stage 01-A & 01-B and Stage 02) by the applicant prior to both the issue of the Construction Certificate for that stage and the commencement of any earthworks or construction. The fee will be determined on the construction works relevant to each stage of the development.
- (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** (i) Upon completion of Stage 01-A & 01-B works and receipt of a Subdivision Certificate for the approved subdivision, Council will undertake an inspection of Council's Infrastructure and release the Stage 01-A & 01-B bond if no damage is found. (ii) Upon receipt of the Occupation Certificate for Stage 02 Council will undertake an inspection of Council's Infrastructure and release the Stage 02 bond if no damage is found.

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

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

- (f) In this condition:

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

"Infrastructure damage security bond and infrastructure inspection fee" means the Infrastructure damage security bond and infrastructure inspection fee as calculated in accordance with the Schedule of Fees & Charges adopted by Council as at the date of payment and the cost of any inspections required by the Council of Council property associated with this condition.

Reason: To maintain public infrastructure.

55. Structural adequacy of Churchers Restaurant heritage item

Prior to commencement of any work associated with Stage 02, the Principal Certifier shall be satisfied that those components of the building to be retained and/or altered will be structurally sound and able to withstand the excavation and demolition process.

Reason: To ensure that the development can be undertaken in accordance with accepted construction practices as indicated on the endorsed development plans.

56. Heritage interpretation strategy (*modified – MOD0219/21*)

Prior to the issue of any Construction Certificate for Stage 02 – Phase 1, the Certifier shall be satisfied a Heritage Interpretation Strategy has been developed for the whole subject site to ensure that the sites past is understood and conveyed into the future.

Reason To convey the collective history of the subject site

57. Temporary protection plan (*modified – MOD0219/21*)

Prior to the issue of any Construction Certificate for Stage 02 – Phase 1, the Certifier shall be satisfied that a temporary protection plan has been developed to ensure that all retained heritage fabric is protected during the works.

Reason: To protect the significance of the heritage item.

58. Construction certificate plans (~~deleted~~– MOD0219/21)

The Construction Certificate plans must not be inconsistent 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.~~

59. Section 7.11 contributions – centres (*modified* – MOD0219/21)

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	\$141,391.36
Local roads, local bus facilities & local drainage facilities (new roads and road modifications)	\$662,074.84
Local parks and local sporting facilities	\$964,787.94
Local roads, local bus facilities & local drainage facilities (townscape, transport & pedestrian facilities)	\$555,129.43
Total:	\$2,323,383.57

~~The contribution shall be paid to Council prior to the issue of any Construction Certificate for Stage 02 in accordance with Ku-ring-gai Contributions Plan 2010. The certifier shall not issue a construction certificate for any of the works shown on the approved Staging Plan ST-02 Revision DA2 unless they have received confirmation from Ku-ring-gai Council that the contributions required by this condition have been paid in full.~~

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

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

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

(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	\$119,035.23
Local roads, local bus facilities & local drainage facilities (new roads and road modifications)	\$995,059.07
Local parks and local sporting facilities	\$767,983.01
Local roads, local bus facilities & local drainage facilities (townscape, transport & pedestrian facilities)	\$467,354.58

Total:	\$2,349,431.89
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The contribution specified above is subject to indexation and will continue to be indexed to reflect changes in the Consumer Price Index (All Groups Sydney) and Established House Price Index (Sydney) until paid in accordance with Ku-ring-gai Contributions Plan 2010. Prior to payment, please contact Council directly to verify the current contribution payable.

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

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

60. No demolition of extra fabric

Alterations to, and demolition of, the existing building shall be limited to that documented on the approved plans (by way of notation). No approval is given or implied for removal and/or rebuilding of any portion of the existing building which is shown to be retained.

Reason: To ensure compliance with the Development Consent.

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

61. Arborist's inspection and reporting

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

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

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

Tree/location	Time of inspection
T1 <i>Phoenix canariensis</i> (Canary Island Date Palm) Adjacent to northwest boundary/Balfour lane	*Tagging and identification of all trees to be removed ad
T2 <i>Syncarpia glomulifera</i> (Turpentine)	

Adjacent to northwest site boundary/relocated Balfour Lane	retained consistent with the consent. *Certification and recording of tree protective fencing and protection consistent with the consent, prior to the commencement of any works. *Direct supervision of excavation works within the identified tree protection zone/TPZ. *At three monthly intervals during development works *Following the removal of tree protective measures. *Prior to the issue of the Occupation Certificate
T18 <i>Angophora costata</i> (Sydney Red Gum) Balfour St road reserve	
T19 <i>Eucalyptus pilularis</i> (Blackbutt) Balfour St road reserve	

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.

62. Trees on nature strip (*modified – MOD0219/21*)

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

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
T14 <i>Ligustrum</i> sp (Privet) Balfour St road reserve
T15 <i>Alectryon tomentosus</i> (Woolly Rambutan) Balfour St road reserve
T16 <i>Alectryon tomentosus</i> (Woolly Rambutan) Balfour St road reserve
T17 <i>Alectryon tomentosus</i> (Woolly Rambutan) Balfour St road reserve
T20 <i>Alectryon tomentosus</i> (Woolly Rambutan) Balfour St road reserve
T21 <i>Cinnamomum camphora</i> (Camphor laurel) Balfour St road reserve
T22 <i>Cinnamomum camphora</i> (Camphor laurel) Balfour St road reserve
T23 <i>Platanus orientalis</i> 'Digitata' (Oriental Plane) Balfour St road reserve
T24 <i>Platanus orientalis</i> 'Digitata' (Oriental Plane) Balfour St road reserve
T25 <i>Platanus orientalis</i> 'Digitata' (Oriental Plane) Balfour St road reserve
T26 <i>Pittosporum rhombifolium</i> (Diamond Leaf Pittosporum) Pacific Highway road reserve
T27 <i>Pittosporum rhombifolium</i> (Diamond Leaf Pittosporum) Pacific Highway road reserve

Reason: To protect existing trees.

63. Canopy/root pruning

Canopy and/or root pruning of the following tree/s which is necessary to accommodate the approved building works shall be undertaken by an experienced arborist/horticulturist, with a minimum qualification of a horticulture certificate or tree surgery certificate. All pruning works shall be undertaken as specified in Australian Standard 4373-2007 - Pruning of Amenity Trees.

Tree/location	Tree works
T19 <i>Eucalyptus pilularis</i> (Blackbutt) Balfour St road reserve	Canopy reduction of spatially conflicting limbs only. Root pruning of spatially conflicting tree roots

Reason: To protect existing trees.

64. Cutting of tree roots and branches

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

Reason: To protect existing trees.

65. Retention of tree roots (*modified – MOD0219/21*)

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 without first being exposed unharmed, being assessed by an AQF Level 5 arborist and a report submitted to Council.

Tree/location	Radius in metres
T1 <i>Phoenix canariensis</i> (Canary Island Date Palm) Adjacent to northwest boundary/Balfour lane	5.0m
T2 <i>Syncarpia glomulifera</i> (Turpentine) Adjacent to northwest site boundary/relocated Balfour Lane	9.6m
T18 <i>Angophora costata</i> (Sydney Red Gum) Balfour St road reserve	4.5m
T19 <i>Eucalyptus pilularis</i> (Blackbutt) Balfour St road reserve	9.0m northeast, 12.0m elsewhere

Reason: To protect existing trees.

66. Approved tree works (*modified – MOD0219/21*)

Prior to the commencement of any Stage 04-02 works, the following is to be undertaken to the specified trees:

Tree/location	Approved tree works
T3 <i>Cinnamomum camphora</i> (Camhor Laurel) Adjacent to southwest site boundary	Removal
T4 <i>Cinnamomum camphora</i> (Camhor Laurel) Adjacent to southwest site boundary	Removal
T5 <i>Phoenix canariensis</i> (Canary Island Date Palm) Adjacent to southwest site boundary	Removal
T6 <i>Cinnamomum camphora</i> (Camhor Laurel) Adjacent to southwest site boundary	Removal
T7 <i>Cinnamomum camphora</i> (Camhor Laurel) Adjacent to southwest site boundary	Removal
T8 <i>Cinnamomum camphora</i> (Camhor Laurel) Adjacent to southwest site boundary	Removal
T9 <i>Lagerstroemia indica</i> (Crepe Myrtle) Adjacent to southwest site boundary	Removal
T10 <i>Callistemon salignus</i> (Willow Bottlebrush) Adjacent to southwest site boundary	Removal
T11 <i>Melaleuca armillaris</i> (Bracelet Honey Myrtle) Adjacent to southwest site boundary	Removal
T12 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to southwest site boundary	Removal
T13 <i>Chamaecyparis obtusa</i> (Hnoki Cypress) Adjacent to southern site corner	Removal

T14 <i>Ligustrum sp</i> (Privet) Balfour St road reserve	Removal
T15 <i>Alectryon tomentosus</i> (Woolly Rambutan) Balfour St road reserve	Removal
T16 <i>Alectryon tomentosus</i> (Woolly Rambutan) Balfour St road reserve	Removal
T17 <i>Alectryon tomentosus</i> (Woolly Rambutan) Balfour St road reserve	Removal
T20 <i>Alectryon tomentosus</i> (Woolly Rambutan) Balfour St road reserve	Removal
T21 <i>Cinnamomum camphora</i> (Camphor laurel) Balfour St road reserve	Removal
T22 <i>Cinnamomum camphora</i> (Camphor laurel) Balfour St road reserve	Removal
T23 <i>Platanus orientalis</i> 'Digitata' (Oriental Plane) Balfour St road reserve	Removal
T24 <i>Platanus orientalis</i> 'Digitata' (Oriental Plane) Balfour St road reserve	Removal
T25 <i>Platanus orientalis</i> 'Digitata' (Oriental Plane) Balfour St road reserve	Removal
T26 <i>Pittosporum rhombifolium</i> (Diamond Leaf Pittosporum) Pacific Highway road reserve	Removal
T27 <i>Pittosporum rhombifolium</i> (Diamond Leaf Pittosporum) Pacific Highway road reserve	Removal
T19 <i>Eucalyptus pilularis</i> (Blackbutt) Balfour Street road reserve	Canopy and root pruning of spatially conflicting limbs and roots only

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

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

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

67. Hand excavation (*modified – MOD0219/21*)

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
T1 <i>Phoenix canariensis</i> (Canary Island Date Palm) Adjacent to northwest boundary/Balfour lane	5.0m
T2 <i>Syncarpia glomulifera</i> (Turpentine) Adjacent to northwest site boundary/relocated Balfour Lane	9.6m
T18 <i>Angophora costata</i> (Sydney Red Gum) Balfour St road reserve	4.5m

T19 <i>Eucalyptus pilularis</i> (Blackbutt) Balfour St road reserve	9.0m north-east, 12.0m elsewhere
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Reason: To protect existing trees.

68. 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.

69. Tree planting on nature strip (~~modified – MOD0117/20~~) (~~deleted – MOD0219/21~~)

~~Prior to the issue of the Subdivision Certificate for Stage 01-B the following species shall be planted, at no cost to Council, in the nature strip fronting the property along Balfour Street. The tree/s used shall be a minimum 25 litres and massed planting 200mm container size specimen/s:~~

Tree/species	Quantity	Location
<i>Lagerstroemia indica</i> (Crape Myrtle) Hot Pink <i>Agapanthus</i> 'White' mass planting	2 5 per m²	Evenly spaced within Balfour Street road reserve, in front of the neighbouring school property.

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

70. Tree planting on nature strip (~~modified – MOD0219/21~~)

Prior to the issue of an Occupation Certificate for Stage 02, the following tree species shall be planted, at no cost to Council, in the nature strip fronting the property along Balfour Street. The tree/s used shall be a minimum 45 litres container size specimen/s:

Tree/species	Quantity	Location
<i>Pyrus calleryana</i> 'Capital'	6	Evenly spaced within Balfour Street road reserve, with two located between the substation and Pacific Highway

Reason: To provide appropriate landscaping within the streetscape.

71. 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.

72. Landscape works near trees (~~modified – MOD0219/21~~)

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
T1 <i>Phoenix canariensis</i> (Canary Island Date Palm)	5.0m

Adjacent to northwest boundary/Balfour lane	
T2 <i>Syncarpia glomulifera</i> (Turpentine) Adjacent to northwest site boundary/relocated Balfour Lane	9.6m
T18 <i>Angophora costata</i> (Sydney Red Gum) Balfour St road reserve	4.5m
T19 <i>Eucalyptus pilularis</i> (Blackbutt) Balfour St road reserve	12.0m

Reason: To protect existing trees.

73. 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.

74. Vibration

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

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

75. No demolition of extra fabric to Churchers Restaurant heritage item

During any demolition, excavation and construction the Principal Certifier shall be satisfied alterations to, and part demolition of the existing building shall be limited to that documented on the approved plans (by way of notation). No approval is given or implied for removal and/or rebuilding of any portion of the existing building which is shown to be retained.

Reason: To ensure compliance with the development consent.

76. 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.

77. Construction noise

During excavation, demolition and construction phases, noise generated from the site shall be controlled in accordance with best practice objectives of AS 2436-2010 and NSW Environment Protection Authority Interim Construction Noise Guidelines and the recommendations of the approved noise and vibration management plan.

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

78. 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.

79. 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 minimise 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
- no advertising or signage is permitted to be attached to dust cloth material.

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

80. Post-construction dilapidation report (*modified - MOD0117/20*)

A suitably qualified person shall prepare a post construction dilapidation report at the completion of the each of the following stages;

1. Stage 01 works (01-A and 01-B)
2. Stage 02 works

Each report is to ascertain whether the construction works created any structural damage to adjoining buildings, infrastructure and roads. The report is to be submitted to the Principal Certifier. In ascertaining whether adverse structural damage has occurred to adjoining buildings, infrastructure and roads, the Principal Certifier must:

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

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

Reason: Management of records.

81. Compliance with submitted geotechnical report

A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee the excavation.

Geotechnical aspects of the development work, namely:

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

must be undertaken in accordance with the recommendations of the Geotechnical Investigation by JK Geotechnics dated 9/12/2014 and peer review by Geo-Logix dated 21 March 2017.

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

Reason: To ensure the safety and protection of property.

82. 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.

83. Toilet facilities

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

Reason: Statutory requirement.

84. 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.

85. 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.

86. Construction signage

All construction signs must comply with the following requirements:

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

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

87. Maintenance period for works in public road

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

Reason: To protect public infrastructure.

88. 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.

89. 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.

90. Erosion control

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

Reason: To protect the environment from erosion and sedimentation.

91. Sydney Water Section 73 Compliance Certificate

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

Reason: Statutory requirement.

92. 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.

93. 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.

94. Survey and inspection of waste collection clearance and path of travel

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

1. Ascertain the reduced level of the underside of the slab at the driveway entry.
2. Certify that the level is not lower than the level shown on the approved DA plans.
3. Certify that the minimum headroom of 2.6 metres will be available for the full path of travel of the small waste collection vehicle from the street to the collection area.

This certification is to be provided to Council's Development Engineer prior to any concrete being poured for the ground floor slab.

No work is to proceed until Council has undertaken an inspection to determine clearance and path of travel.

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

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

95. On site retention of waste dockets

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

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

Reason: To protect the environment.

96. 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.

97. 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.

98. Prescribed conditions

The applicant shall comply with any relevant prescribed conditions of development consent under clause 98 of the Environmental Planning and Assessment Regulation.

For the purposes of section 4.17 (11) (previously s80A (11)) of the Environmental Planning and Assessment Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:

- the work must be carried out in accordance with the requirements of the Building Code of Australia
- in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any works commence
- if the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (a) protect and support the building, structure or work from possible damage from the excavation, and
 - (b) where necessary, underpin the building, structure or work to prevent any such damage.

Reason: Statutory requirement.

99. Hours of work

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

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

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

machinery, tower cranes, pre-cast panels, beams, tanks or service equipment to or from the site, approval for such activities will be subject to the issue of an "outside of hours works permit" from Council as well as notification of the surrounding properties likely to be affected by the proposed works.

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

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

100. External walls and cladding flammability

The external walls of the building including attachments must comply with the relevant requirements of the *National Construction Code (NCC)*. Prior to the issue of a Construction Certificate and Occupation Certificate the Certifying Authority and Principal Certifying Authority must:

- (a) 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 claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
- (b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

Reason: Statutory requirement to ensure the safety of occupants.

101. 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:

102. Completion of landscape works (~~modified – MOD0117/20~~) (~~deleted – MOD0219/21~~)

~~Prior to the issue of the Subdivision Certificate for the approved subdivision, the Principal Certifier is to be satisfied that all landscape works within the new Balfour Lane, including the removal of all environmental weed species as listed in Council's Weed Management Policy and/or species listed within Council's Development Control Plan, have been undertaken in accordance with the approved plan(s) and conditions of consent.~~

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

103. Completion of landscape works (*modified – MOD0219/21*)

Prior to the issue of the relevant Occupation Certificate for Stage 02, the Principal Certifier is to be satisfied that all landscape works, have been undertaken in accordance with the approved plan(s) and conditions of consent.

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

104. Dedication of land as a public road

Prior to any Occupation Certificate being issued for any part of the development the new part of Balfour Lane is to be dedicated to the Council as a public road.

Reason: To ensure that the new road is created prior to the issue of any Occupation Certificate.

105. Construction of commercial food preparation premises - supermarket (*modified – MOD0219/21*)

Prior to the issue of any Occupation Certificate for Stage 02, the Principal Certifier shall be satisfied that the construction of the food premises and all food storage areas is in accordance with the requirements of the Food Act 2003, Food Standards Code 3.2.3 Food Premises and Equipment, Australian Standard AS 4674 2004 – Design, construction and fit-out of food premises and National Construction Code.

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

Reason: To ensure compliance with standards for food premises.

106. Shopping trolley management (*modified – MOD0219/21*)

Prior to the issue of any Occupation Certificate for Stage 02, a Plan of Management (POM) for the on-site storage, collection, (both on and off site) and the management of shopping trolleys shall be submitted to Council for the approval of Council's Manager Compliance and Regulation.

The POM shall include:

1. the location and design principles for trolley storage bays.
2. a trolley containment system that encourages the confinement of trolleys to the site. Containment systems may include the following (but not limited to):
 - coin/token operated systems with refund
 - trolleys with wheel locks activated by radio signal or magnetic strip
 - specialised paving, installation of bollards or other physical barriers that limit the removal of trolleys from the centre
3. a map and written schedule of surveillance and collection schedules detailing abandoned trolley services around the local town centres and neighbouring residential areas is to be supplied. This service map and schedule to be reviewed and updated, at least on an annual basis. In particular, the schedule of surveillance and collection should detail the style of service to be offered and the relevant contact details of service provider. Particular attention should be given to those areas known to regularly attract abandoned trolleys, such areas are to be provided with a service at least every 24 hours.

The POM shall also include reference regarding the intended signage and public education programs which may include (but not limited to):

- signage within stores and car parks
- signage at entry and exit points of stores and car parks
- signage on trolleys
- pamphlets in stores explaining the need for customer co-operation
- local newspaper publicity
- in-store messaging over PA systems

The POM should include the commitment of the retailer or shopping centre management to the implementation of actions identified within the POM.

If containment systems are required to be installed in public land, these works shall be at no cost to Council and be the responsibility of the retailer to maintain at all times. If any part of the containment system is required to be installed on private lands, the written consent of the landowner shall be furnished with the initial submission of the Plan of Management.

The Principal Certifier shall not issue any Occupation Certificate unless they have received written confirmation from Council that a POM has been approved by Council's Manager Compliance and Regulation.

Reason: To ensure the amenity of the area. To provide for the safety of shoppers, pedestrians and road users. To recognise and respond to community expectations in minimising the problem of abandoned shopping trolleys.

107. ~~Livable Housing Units – Occupation Certificate Stage silver and platinum units~~ (modified – MOD0219/21)

~~Silver Level and Platinum Level Livable Housing units are to satisfy Livable Housing Australia (LHA) certification as follows:~~

- ~~i. Prior to the issue of an Occupation Certificate for Stage 02, all Silver Level and Platinum Level units are to acquire Livable Housing Design Final Stage Certification (as-built) from an accredited LHA assessor.~~

Reason: ~~To ensure compliance with the Livable Housing requirements of the Ku-ring-gai Local Centres Development Control Plan.~~

Prior to the issue of an Occupation Certificate for Stage 02, an accredited Liveable Housing

Australia assessor shall certify that:

- (a) Apartments identified as Silver - comply with the Silver Level requirements of the Liveable Housing Australia Liveable Housing Guidelines and as detailed on the Construction Certificate plans.
- (b) Apartments 101, 102, 103, 104, 201, 202, 203, 204, 303 and 304 identified as Platinum - comply with the Platinum Level requirements of the Liveable Housing Australia Liveable Housing Guidelines and as detailed on the Construction Certificate plans.

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

Reason: To ensure equitable access.

108. Parking restrictions (*modified – MOD0219/21*)

Prior to the issue of any Occupation Certificate for Stage 02 ,.the following must occur:

1. The operator of the premises shall seek approval from Ku-ring-gai Council to provide enforcement of parking restrictions within the retail car park.
OR
2. A number plate recognition, boom gate and parking fee payment system to discourage the use of the retail car park for long term parking (i.e. greater than 3 hours) shall be installed.

Reason: A system of parking management of the retail/public parking spaces is needed to prevent long stay parking by commuters and employees in the Lindfield local centre.

109. Storage (*modified – MOD0219/21*)

Prior to the issue of any Occupation Certificate for Stage 02, all storage required by the Apartment Design Guideline Parts 4G-1 and 4G-2 is to be constructed within all dwellings at the following rates:

studio apartments	4m ²
1 bedroom apartments	6m ²
2 bedroom apartments	8m ²
3+-bedrooms apartments	10m ²

And,

- ii. A maximum of 50% of the requirement identified above may be located outside the dwelling;
- iii. All storage is to be full-height and a minimum depth of 600mm; and
- iv. Storage calculations must not include bedroom wardrobes, kitchen cupboards (including pantries), bathrooms, and space within laundry cupboards accommodating appliances and tub.

Reason: To ensure all dwellings provide adequate minimum storage for bulkier items such as vacuum cleaners, ironing boards, linen, general household possessions and items such as sports equipment and larger infrequently used items.

110. Compliance with BASIX Certificate (*modified – MOD0219/21*)

Prior to the issue of any Occupation Certificate for Stage 02, the Principal Certifier shall be satisfied that all commitments listed in the approved BASIX Certificate (referred to under Condition No 1) have been complied with.

Reason: Statutory requirement.

111. Clotheslines and clothes dryers (*modified – MOD0219/21*)

Prior to the issue of any Occupation Certificate for Stage 02, the Principal Certifier shall be satisfied that the units have access to an external clothes-line located in a common area.

Reason: To provide access to clothes drying facilities.

112. Mechanical noise control (*modified – MOD0219/21*)

Prior to the issue of any Occupation Certificate for Stage 02, 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 associated with rain water reuse systems 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 properties.

113. Completion of landscape works (*modified – MOD0219/21*)

Prior to the issue of any Occupation Certificate for Stage 02, the Principal Certifier is to be satisfied that all landscape works, including the removal of all environmental weed species as listed in Council's Weed Management Policy and/or species listed within Council's Development Control Plan, have been undertaken in accordance with the approved plan(s) and conditions of consent.

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

114. Green star rating - occupation certificate – stage 02 (*modified – MOD0219/21*)

- a) Prior to the issue of any Occupation Certificate for Stage 02, an up to date green star credit schedule demonstrating sufficient credits to achieve a GBCA certified outcome of 4 (or greater) stars for the "as built" component of the constructed development is to be provided to the Certifier. A supporting statement from a GBCA accredited project ESD consultant is to accompany the schedule stating that the contractor (and associated sub-contractors) has carried out the works in accordance with the green star standards required to achieve the green star - design & as built certification.
- b) Prior to the issue of any Occupation Certificate for Stage 02, the Owner is to provide to the Principal Certifier a notice from GBCA confirming documentation has been submitted for the final "As Built" component of the Certification.

- c) Within 3 months of any Occupation Certificate for Stage 02 being issued, the Owner is to submit to Council a copy of the GBCA green star - design & as built certificate confirming the achievement of a 4 (or greater) green star rating.

Reason: To ensure compliance with Part 23.2 Green Buildings of the Development Control Plan.

115. Easement for waste collection (*modified – MOD0219/21*)

Prior to the issue of any Occupation Certificate for Stage 02, an easement for waste collection is to be lodged under Section 88B of the Conveyancing Act 1919. The terms of the easement are to be generally in accordance with Council's draft terms for an easement for waste collection and shall be to the satisfaction of Council's Development Engineer.

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

116. Retention and re-use positive covenant (*modified – MOD0219/21*)

Prior to issue of any Occupation Certificate for Stage 02, a positive covenant and restriction on the use of land under Section 88E of the Conveyancing Act 1919, burdening the property with the requirement to maintain the site stormwater retention and re-use facilities on the property shall be lodged.

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

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

Reason: To ensure appropriate storm-water management.

117. Certification of drainage works (*modified - MOD0117/20*) (*modified – MOD0219/21*)

Prior to issue of the Subdivision Certificate for Stages 01-A and 01-B and any Occupation Certificate for Stage 02, the Principal Certifier is to be satisfied that:

1. The relevant 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 Local Centres 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.

118. Works as executed plans for stormwater management and disposal (*modified - MOD0117/20*) (*modified – MOD0219/21*)

Prior to issue of the Subdivision Certificate for Stage 01-A and 01-B and any Occupation Certificate for Stage 02, a registered surveyor must provide a works as executed survey of the relevant completed stormwater drainage and management systems. The survey must be submitted to and approved by the Principal Certifier prior to issue of the relevant Subdivision or any Occupation Certificate. The survey must indicate:

- as built (reduced) surface and invert levels for all drainage pits
- gradients of drainage lines, materials and dimensions
- as built (reduced) level(s) at the approved point of discharge to the public drainage system
- as built location and internal dimensions of all detention and retention structures on the property (in plan view) and horizontal distances to nearest adjacent boundaries and structures on site
- the achieved storage volumes of the installed retention and detention storages and derivative calculations
- as built locations of all access pits and grates in the detention and retention system(s), including dimensions
- the size of the orifice or control fitted to any on-site detention system
- dimensions of the discharge control pit and access grates
- the maximum depth of storage possible over the outlet control
- top water levels of storage areas and indicative RL's through the overland flow path in the event of blockage of the on-site detention system

The works as executed plan(s) must show the as built details above in comparison to those shown on the drainage plans approved with the Construction Certificate prior to commencement of works. All relevant levels and details indicated must be marked in red on a copy of the Certifier stamped construction certificate stormwater plans.

Reason: To ensure appropriate stormwater management.

119. OSD positive covenant/restriction (*modified – MOD0219/21*)

Prior to issue of any Occupation Certificate for Stage 02, a positive covenant and restriction on the use of land under Section 88E of the Conveyancing Act 1919, burdening the owner with the requirement to maintain the on-site stormwater detention facilities on the lot shall be lodged.

The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" and to the satisfaction of Council (refer to the Water Management Part 24R.8.1 of the relevant Ku-ring-gai Development Control Plan). For existing titles, the positive covenant and the restriction on the use of land is to be created through an application to the NSW Land Registry Services in the form of a request using forms 13PC and 13RPA. The relative location of the

on-site detention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.

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

Reason: To ensure appropriate stormwater management.

120. Sydney Water Section 73 Compliance Certificate (*modified – MOD0219/21*)

Prior to issue of any Occupation Certificate for Stage 02, the Section 73 Sydney water Compliance Certificate must be obtained and submitted to the Principal Certifier.

Reason: Statutory requirement.

121. On-site detention system marker plate (*modified – MOD0219/21*)

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 for Stage 02.

The marker plate can be purchased from Council.

Reason: To prevent unlawful alteration.

122. Certification of as-constructed driveway/carpark – RFB (*modified – MOD0219/21*)

Prior to issue of any Occupation Certificate for Stage 02, 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:
 - 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.
7. The 12 x residential visitor spaces on Lower Ground Floor 1 are marked and signposted as *Residential Visitor Spaces*.
8. 1 x residential space and 1 x retail space is dedicated to a 24 hour electric vehicle charging station and is marked and signposted accordingly.
9. Each car parking space is to be designed and constructed so that additional electric vehicle charging points can be installed at a later time to each space.

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 any Occupation Certificate.

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

123. Construction of works in public road - approved plans (*modified – MOD0219/21*)

Prior to issue of any Occupation Certificate for Stage 02, 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 any Occupation Certificate being issued.

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

124. Infrastructure repair (*modified - MOD0117/20*) (*modified – MOD0219/21*)

Prior to issue of a Subdivision Certificate for Stage 01-A and 01-B or any Occupation Certificate for Stage 02 of the development 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.

125. Mechanical ventilation (*modified – MOD0219/21*)

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 for Stage 02.

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

126. Fire safety certificate (*modified – MOD0219/21*)

Prior to the issue of any Occupation Certificate for Stage 02, 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.

127. Construction of food premises- coffee shop (*modified – MOD0219/21*)

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

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

Reason: To ensure compliance with standards for food premises.

128. ~~Garbage and recycling facilities~~ Waste and recycling storage facilities-commercial premises (*modified – MOD0219/21*)

Prior to the issue of any Occupation Certificate for Stage 02, the Principal Certifier shall be satisfied that waste storage facilities have been installed and adequately contain the waste bins. All internal walls must be 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 of the waste bins and waste storage facilities.

Reason: To protect amenity and prevent environmental pollution.

129. Trade waste permit/consent - food premises (*modified – MOD0219/21*)

Prior to the issue of the relevant Occupation Certificate for Stage 02, evidence of a Sydney Water permit or consent for the discharge of wastewater into the sewer shall be submitted to the Principal Certifier. Where a permit or consent may not be required from Sydney Water, certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.

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

129A. Location of plant (*added – MOD0219/21*)

Prior to the issue of any Occupation Certificate for Stage 02, the Principal Certifier shall be satisfied that all plant and equipment (including but not limited to air conditioning equipment) is located in the basement (except for plant and equipment approved to be located elsewhere).

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

129B. Noise from road and rail (residential only) (*added – MOD0219/21*)

Prior to the issue of any Occupation Certificate for Stage 02, the Principal Certifier shall be satisfied that acoustic treatments required to attenuate road and rail noise for future occupants of the development have been installed. Written advice from an acoustic engineer is to be submitted to the Principal Certifier confirming that the acoustic measures installed ensure that the following internal LAeq noise levels are not exceeded:

- a) in any bedroom in the building 35 dB(A) at any time between 10 pm and 7 am; and

- b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway) 40 dB(A) at any time.

Reason: To protect the amenity of occupants of the approved development.

129C. Waste and recycling storage facilities- residential (added – MOD0219/21)

Prior to the issue of any Occupation Certificate for Stage 02, the Principal Certifier shall be satisfied that the waste storage facilities have been installed and adequately contain the waste bins. All internal walls 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 of the waste bins and waste storage facilities.

Reason: To protect amenity and prevent environmental pollution.

129D. Outdoor lighting (added – MOD0219/21)

Prior to the issue of any Occupation Certificate for Stage 02, 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.

129E. Street/shop number required (added – MOD0219/21)

A street/shop number must be clearly displayed at the ground level frontages of the building to the satisfaction of the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To identify each lot.

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

130. Special conditions to be satisfied prior to the issue of a subdivision certificate

1. The Application for the subdivision certificate is to show the new Balfour Lane being dedicated to Council as public road; and
2. Prior to the release of any subdivision certificate the new part of Balfour Lane is to be constructed and landscaped to the Council's satisfaction.

Reason: To ensure that the new public road is dedicated and constructed to an appropriate standard.

131. Sydney Water Section 73 compliance certificate

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

Reason: Statutory requirement.

132. Requirements of public authorities for connection to services

Prior to the issue of a Subdivision Certificate, Council shall be satisfied that the requirements of any public authorities (e.g. Energy Australia, Sydney Water, Telstra Australia, AGL, etc) in regard to the connection, relocation and/or adjustment of the services affected by the proposed subdivision have been complied with. All costs related to the relocation, adjustment or support of services are the responsibility of the Applicant.

Note: Details of compliance with the requirements of any relevant public authorities are to be submitted to Council.

Reason: To ensure that services are available to the allotments of land.

133. Provision of services

Prior to issue of a Subdivision Certificate, separate underground electricity, gas and phone or appropriate conduits for the same, must be provided to each allotment to the satisfaction of the utility provider. A suitably qualified and experienced engineer or surveyor is to provide certification that all new lots have ready underground access to the services of electricity, gas and phone. Alternatively, a letter from the relevant utility provider stating the same may be submitted to satisfy this condition.

Reason: Access to public utilities

134. Issue of subdivision certificate

The Subdivision Certificate must not be issued until all conditions required to be satisfied prior to the release of the subdivision certificate have been satisfied.

Reason: To ensure that the requirements for the Subdivision Certificate are completed prior to transfer of responsibility for the site and development to another person.

135. Submission of 88b instrument

Prior to the issue of a Subdivision Certificate, an original instrument under Section 88B of the Conveyancing Act with the plan of subdivision, plus three (3) 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.

136. Submission of plans of subdivision (Torrens title)

For endorsement of a Subdivision Certificate, an original plan of subdivision plus 3 copies, suitable for endorsement by Council shall be submitted to Council. The following details must be submitted with the plan of subdivision and its copies:

1. The endorsement fee current at the time of lodgement.
2. The 88B instrument plus 3 copies.
3. The Section 73 (Sydney Water) Compliance Certificate for the subdivision (if required).

Council will check the conditions on the Development Consent for subdivision. Failure to submit the required information will delay endorsement of the linen plan and may require

payment of rechecking fees. **Plans and copies of subdivision must not be folded. Council will not accept bonds in lieu of completing subdivision works.**

Reason: Statutory requirement.

137. General easement/R.O.W. provision and certification

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

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:

138. The use of the loading dock

The use of the loading dock is restricted to 7.00am to 10.00pm. Between 6.00pm and 10.00pm the roller door of the loading dock shall be closed except for temporary opening to allow for the entry and exit of vehicles. The roller door of the loading dock shall be closed whilst the loading dock is not in operation between the hours of 10.00pm to 7.00am.

Reason: To protect residential amenity.

139. Shopping trolley plan of management

The requirements of the approved Shopping Trolley Plan of Management are to be complied with at all times.

Reason: To ensure the effective management of shopping trolleys.

140. First use of ground floor of heritage item (Churchers Restaurant)

Development consent shall be obtained prior to the use of the ground floor of the heritage item.

Reason: To ensure that an assessment of the impact of the proposed use on the heritage significance of the heritage item is undertaken prior to the use commencing.

141. Residential waste arrangements

Access to the residential waste collection area shall be configured to accommodate the use of Council's Master Key. Residential waste management and handling processes shall not include the compaction of any waste or recyclables.

Reason: To ensure that practical arrangements for the management and collection of waste are maintained.

142. Maintenance of podium edge planters (*modified – MOD0219/21*)

This condition applies to the raised planters of Units 101-108 (inclusive) and Unit 110. The

maintenance of these planters shall be subject to a strata by-law that requires each strata owner to be responsible for maintaining the planting in each planter to a consistent planting type and style per the approved landscape plans referred to in Condition 1. The strata by-laws for the residential component of the development shall enable the body corporate to rectify any deficiency or departure from the maintenance requirement.

Reason: To ensure the ongoing maintenance of the planting in the raised planters and to maintain the design quality of the development.

143. Restriction on permitted cooking equipment - coffee shop

The coffee shop is approved for the sale of only hot and cold drinks and pre-packaged non-potentially hazardous food that requires no further food preparation such as pre-packaged muffins, biscuits and cakes. The equipment installed in the premises for the purpose of preparation of food for sale is limited to coffee machines, coffee grinders, refrigerators and freezers. Deep fryers, conventional ovens, stoves/portable stoves or other food cooking and heating equipment is not permitted.

Reason: To ensure compliance with standards for food premises.

144. 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.

145. Noise control - plant and machinery

Noise levels associated with mechanical ventilation system/s, any plant, machinery or other equipment on any part of the site, including the supermarket and retail, shall not be audible within any habitable room in any residential premises before 7am and after 10pm. Outside these restricted hours the operation of mechanical ventilation system/s, any plant, machinery or other equipment on any part of the site, including the supermarket and retail shall emit a noise level of not greater than 5dB(A) above the background noise (LA90, 15 min) when measured at the boundary, balcony or external living area of the nearest affected residential occupancies. The background (LA90, 15 min) level is to be determined without the source noise present.

Reason: To protect the amenity of surrounding residents.

146. Noise control - rainwater re-use system

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

Reason: To protect the amenity of surrounding residents.

147. Loading and unloading (*modified – MOD0219/21*)

At all times, all loading and unloading of service vehicles (including waste collection) in connection with the use of the premises must be carried out wholly within the site. Car spaces must not be obstructed by vehicles loading or unloading and stock, supplies, crates, bins or other items for the business must not be stored in car parking spaces.

Reason: To ensure safe traffic movement and that parking spaces are used in accordance with the Development Consent.

148. Hours of trading for the supermarket and coffee shop

At all times the hours of trading are restricted to 6am to 12am. Cleaning, bakery activities and fresh food preparation may be undertaken at any time.

Reason: To protect the amenity of the area.

149. Hours of trading for the liquor store

At all times the hours of operation are restricted to:

Monday to Wednesday	9am to 9pm
Thursday to Friday	9am to 10pm
Saturday	8am to 10pm
Sunday	10am to 8pm

Reason: To protect the amenity of the area.

150. 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.

151. Waste and recycling collection times - commercial

All waste/recycling collection services for the site's commercial uses shall be carried out only between 7.00am and 8.00pm Monday to Saturday and between 8.00am to 8.00pm Sunday.

Reason: To protect the amenity of the surrounding area.

152. No goods displayed outside the premises (*added – MOD0219/21*)

No goods are to be displayed outside the boundary of the premises, unless separate approval has been obtained from Council.

Reason: To protect public places.

153. Prohibition of flashing lights (*added – MOD0219/21*)

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

Reason: To protect residential amenity.