



Ku-ring-gai Council Submission

**Major Project MP08_0244 – Preferred Project Report –
Mixed Use Development - 23-37 Lindfield Avenue and 11 Havilah
Avenue, Lindfield**

August 2011

Introduction

This submission provides comment from Ku-ring-gai Council to the Department of Planning on the *Preferred Project Report* (PPR) for major project MP08_0244 Construction of a Mixed Use Commercial, Retail and Residential Development at 23-37 Lindfield Avenue and 11 Havilah Avenue, Lindfield.

It is noted that the proposal has been modified subsequent to the environmental assessment and that the preferred project now for a mixed use development consisting of 4,231sqm GFA retail floor space, 91 residential apartments (1 x Studio, 45 x 1 bedroom, 38 x 2 bedroom and 7 x 3 bedroom), 206 car parking spaces over 3 levels of basement parking and associated service vehicle facilities. It is also noted that the total FSR has increased from 3.7:1 to 3.8:1 and the overall building height has been increased by 1metre on both residential towers.

This submission identifies Council's concerns with the amended proposal presented in the PPR.

- Relevant EPIs, Guidelines to be addressed
- Amalgamation of No.2 Kochia Lane
- Architectural, Building, Urban Design Impacts and Built Form
- Heritage
- Car Parking and Traffic
- Development Contributions

This submission should be read in-conjunction with Council's submission dated December 2010 in relation to the environmental assessment of the project. Matters not addressed in this current submission but raised in Council's previous submission remain relevant concerns.

Council maintains its opinion that there are two fundamental grounds on which the application should be refused, namely:

- That the project is not a valid project under part 3A of the act as a result of the amendments to the Major Development SEPP on 25 June 2010 to omit Clause 15 from Schedule 2, and;
- The applicant has failed to adequately demonstrate that the isolated site at 2 Kochia Lane can be redeveloped as an economically viable stand alone development in the future in accordance with the planning principles established by the Land and Environment Court.

While Council maintains that the application should be refused, please find at **Attachment 1** a set of without prejudice set of conditions for the proposal as requested.

Relevant EPIs, Guidelines to be addressed

As a consequence of the repeal of State Environmental Planning Policy No. 53 – Metropolitan Residential Development (SEPP 53) on 3 June 2011 and the Land and Environment Court declaring, on 28 June 2011, that Ku-ring-gai Local Environmental Plan (Town Centres) 2010 is of no legal force, the relevant EPIs and guidelines to be addressed by this application are the following:

- Objects of the EP&A Act
- SEPP55, SEPP65, SEPP (Infrastructure) 2007, SEPP(BASIX) 2004
- Ku-ring-gai Planning Scheme Ordinance Council's (KPSO) and associated DCPs
- Ku-ring-gai Town Centres Public Domain Plan 2010

Under the KPSO, the site is zoned Business 3(a) – (A2) – Retail services. While the proposed uses are permissible under the zoning, the table below provides a comparison of the proposed project against the key development standards for the zoning under the KPSO.

Standard	Preferred Project	KPSO standard	Proposed variation
Total FSR	3.8:1	1:1	380%
Residential FSR	2.43:1	0.5:1 max	486%
Building height	26.3 m	8 m	328%

This clearly demonstrates that the development of this scale was never envisaged under the current zoning. The overall negative impact of the preferred project in this context is unacceptable and will create considerable issues in how it relates to and impacts upon the existing and future urban form of Lindfield.

Amalgamation of No.2 Kochia Lane

Both the Department and Council has strongly emphasised the need for the proponent to address the issues and implications of not incorporating the land at No.2 Kochia Lane into the project's site.

It is noted that the PPR provides details of approaches to the owners of No.2 Kochia Lane to incorporate the site. The Department must be satisfied that these approaches represent "*all reasonable attempts*" to do so in accordance with the planning principles established in the Land and Environment Court in *Melissa Grech v Auburn Council [2004] NSWLEC 40*, *Cornerstone Property Group Pty Ltd v Warringah Council [2004] NSWLEC 189* and *Karavellas v Sutherland Shire Council [2004] NSWLEC 251*.

The PPR also attempts to demonstrate that the independent development of 2 Kochia Lane can be achieved. This is done by conceptual plan and elevation diagrams. Council does not believe that the physical plans alone satisfy requirement of the Land and Environment Court's planning principles regard economically viable development. There has been no attempt to demonstrate that such a development proposal would be financially feasible.

There is considerable doubt whether such a development, as presented, would actually be economically viable. Of particular note is that the parking requirements for the concept as presented would be approximately 23 spaces plus loading areas (the presented scheme only shows 9 spaces). This would require 2 to 3 basement levels for parking rendering the proposal cost prohibitive.

Council reemphasises its strong opposition to any development that does not incorporate the site at No.2 Kochia Lane.

Architectural, Building, Urban Design Impacts and Built Form

In the absence of any relevant current EPI or DCP, Council have considered the revised architectural, building, urban design impacts and built form against the Urban Design principles identified for *Key Site L4: Tryon Road and Lindfield Avenue Retail Area* as set out in the Town Centres DCP 2010.

Urban Design principles	Applicant's claim	Council's response
Principle 1: Provide active street frontages to Kochia Lane and Lindfield Avenue and to the town square	The proposed development provides active street frontages to both Lindfield Avenue and Kochia Lane.	<p>Does not comply.</p> <p>(A) <i>Dwg. No.5 Ground Floor Plan</i> shows the retail units nos.4 and 5 setback from the property line by about 3 metres. The Plan also notes the line of an after hours security grille along the property line. This will result in a non-active frontage of about 20 or more metres along Lindfield Avenue during the late night and early morning hours.</p> <p>A security grille does not promote a high quality and safe public domain</p> <p>(B) <i>Photomontage no.8</i> shows the 8 storey building to have poor architectural resolution to the southern facade facing the proposed town square.</p> <p>To meet this principle the building requires a well designed and articulated façade with balconies.</p> <p>The photo montage shows an unresolved façade lacking architectural resolution.</p>
Principle 2: Locate and design buildings to retain adequate solar access to the new town square area located on Council's car park off Tryon Road	(Response does not address principle)	<p>Does not comply.</p> <p><i>Dwg. No.20 Shadow Diagrams June</i> show unacceptable overshadowing of the proposed town square in</p>

Urban Design principles	<i>Applicant's claim</i>	<i>Council's response</i>
		winter particularly from the eight storey component of the development.
<p>Principle 3: Establish a consistent 3 storey street wall that is built parallel to the street alignment of Lindfield Avenue to complement the traditional 'main street' facades. All levels above the street wall height are to have a setback.</p>	<p>(Response does not address principle)</p>	<p>Does not comply.</p> <p>(A) The applicants claim has misinterpreted the principle. The principle requires the building, including the residential component, to align with Lindfield Avenue.</p> <p>The <i>Architectural Plans dwg. Nos. 7 to 13</i> clearly show that the residential component of the building is not aligned with Lindfield Avenue.</p> <p>This will cause problems for future developments of sites to the north-west of this site and impact on street character.</p> <p>(B) A 3-storey street wall has not been created. This results in a poor relationship with the adjoining heritage item.</p> <p>This can be seen in <i>Photomontage nos. 1 and 2</i>. The new building is designed with a similar façade treatment over its whole frontage. Colour and material changes respond in a minor way to the heritage item. This principle requires the first 4 storeys of the building to be designed with a more solid base (less glass, enclosed balconies etc.) and more vertical articulation</p>

Urban Design principles	<i>Applicant's claim</i>	<i>Council's response</i>
Principle 4: Provide building setback to Kochia Lane to allow for road modifications and new footpaths. A continuous 10 metre wide right-of-way between Lindfield Avenue and Milray Street is required.	A 4 metre setback is provided within the site	<p>Complies but detail is insufficient</p> <p>A 4 metre setback is proposed within the site.</p> <p>Council's expectation is that the development will re-align the Kochia Lane kerb to widen the laneway and dedicate the land area within the setback to Council.</p> <p>Council's preference is the construction work is undertaken as part of the redevelopment process.</p>
Principle 5: Provide building setback to Havilah Lane to allow for road modifications and new footpaths. A continuous 13 metre right-of-way between Kochia Lane and Havilah Street is required.	No setback will be provided to Havilah Lane. This will allow for appropriate vehicle access and servicing arrangements to be accommodated at the rear of the site away from active street frontages.	<p>Does not comply.</p> <p>The applicant has misinterpreted the principle which is aimed at ensuring both adequate vehicle and servicing arrangements, as well as new pedestrian footpaths, on both sides of the Lane.</p> <p>The 1 metre setback is considered the minimum to achieve the principle</p> <p>The applicant has not demonstrated whether they comply with SEPP 65. An 18 metre separation is required between habitable rooms in the new development and the habitable rooms within the building at 2-6 Milray Street.</p>
Principle 6: Provide internal retail arcade linking Lindfield Avenue with Havilah Lane	Due to servicing requirements and linkages from Havilah Lane to Lindfield Avenue cannot be achieved	<p>Does not comply.</p> <p>Does not address principle</p>

Urban Design principles	Applicant's claim	Council's response
Principle 7: Provide private garden courtyards between the residential buildings on the podiums for residential amenity.	The communal open space area has increased to 620sqm and will provide adequate soil depth to provide soil and drainage requirements	Appears to comply with principle. Condition of consent should be included to support provision of adequate depth to slab to provide soil and drainage requirements for landscape.

Summary

Overall the proposal does not address the Urban Design Principles for the site.

A number of the non-compliances can be conditioned to achieve the outcomes

Principles 2, 3 and 6 relate to more fundamental design changes

Heritage

The site adjoins a heritage item – 1-21 Lindfield Avenue, Lindfield. Clause 61 E of the KPSO requires an assessment and consideration of the impacts of development on the listed item.

The site was formerly included in the Ku-ring-gai Town Centres LEP & DCP. Due to a recent court determination the LEP is invalid and management of the site reverts to the KPSO.

Statement of Heritage Significance (SOS) (from Robert Moore 2003)

No 1 – 21 Lindfield Avenue is a highly significant Inter-War Spanish Mission styled residential / commercial development with Romanesque styled influences. It demonstrates many distinctive and original features, and as such has rarity value in Ku-ring-gai, and is likely to have a rarity value beyond Ku-ring-gai. Its rarity value is enhanced by the fact that it is the earliest commercial/residential complex built in Ku-ring-gai, and probably the earliest three-storey complex.

Its distinctive architecture provides important facades on all four sides of the building, and provides excellent views from its roof terrace, accessible to flats in the north and south wings.

It holds a dominant position in relation to the Federation era Lindfield Railway station, and to the earlier two storey commercial/residential developments to the north, and compliments the Federation and Inter-War styled domestic buildings which characterise Lindfield.

The development also provides evidence of the homogeneity of the Lindfield community in the first thirty years of the twentieth century and expresses a robust confidence in building patens which evolved in the Inter-War years.

Proposed Works

Multi-storey mixed use development of two retail levels and 6 residential levels.

Applicant's Statement of Heritage Impact (HIS)

The applicant submitted a revised HIS prepared by Graham Brooks & Associates dated April 2011. It contains a site description and an assessment of the impacts of the development on the adjoining heritage item at 1 – 21 Lindfield Avenue. The report was prepared prior to the Court determination making the Town Centres LEP invalid and considers the zoning of the site to be B2, which permits up to 6 storeys in height and a floor space ratio of 2.5 to 1. However this is incorrect. The zoning is 3(a) (A2) which allows a two storey height and floor space ratio of 1:1. The development is thus not permissible.

The report accepts a statement of significance prepared by Robert Moore for the adjoining heritage item at 1 – 21 Lindfield Avenue.

Conclusions in HIS

The proposed development will have no adverse impact on the established heritage significance of the adjoining heritage item.

Recommendations in HIS

Graham Brooks and Associates has no hesitation, from a heritage perspective, in recommending the application for approval

It recommends undertaking an archival photographic recording of the Ramsay Building, in its context, documenting the Lindfield Avenue streetscape prior to commencement of any works.

Comments on applicant's heritage report

The HIS is not helpful in providing a critical assessment of the impacts of the proposed development on the heritage significance of the adjoining heritage item.

The conclusion that the proposed development “has no adverse impact” on the adjoining heritage item is a cursory conclusion and is not based on sound assessment principles. It states the future character of the zoning envisages the heritage item will be retained as an example of an Inter War Mediterranean style commercial building, with the adjacent site to be a higher mixed use development. Given the recent Court determination the Town Centres objectives can not be applied to the site.

Furthermore the significant elements of the item are not adequately discussed. The SOS identifies the dominant position the building has in relation to the Federation era Lindfield Railway station, and to the two storey commercial/residential developments and its relationship to the Federation and Inter-War styled domestic buildings which characterise Lindfield. This development would completely alter this significant relationship. The dominant building in Lindfield Avenue would be the proposed development which dwarfs the 2 to 3 storey scale of the heritage item. Even considering the scale of the item in terms of its length this development would overwhelm it.

The SOS places much emphasis on the item being designed with 4 main elevations, which are seen in the round and the views from it, particularly from the roof terraces.

The proposed building, while being setback slightly from the lane and its northern elevation would almost completely block views of it from the northern parts of the Lindfield commercial precinct, block views from the northern windows to the dwellings in the item and reduce the amenity of the roof terraces by overshadowing them and reducing views to the north. The items would still be able to be seen from the corner of Tryon Road and the carpark and from Lindfield Railway Station but it would be physically and visually dominated.

The report does not suggest any measures to mitigate impacts of the development on the nearby heritage items, or discuss any alternative options that might provide more sympathetic solutions for the proposed development. It simply supports the proposed development. It claims the lane is sufficient to provide visual separation which will minimise visual impacts and the heritage building which has sufficient bulk and scale in its own right to ensure it will not be visually dominated by the proposed development. The HIS also considers that the materials and finishes reflect the adjoining heritage building without mimicking it.

The only recommendation in the report is that the heritage building in its existing context should be photographed before the development commences is a relatively meaningless recommendation as no work on the heritage item is proposed. The only purpose of such a recommendation is to record the streetscape and note the dominance of the existing item in the streetscape.

Response in the HIS to guideline questions.

With regard to the detailed questions in the Heritage Council guidelines, the report offers the following comments:

HIS:

“Impact on the heritage item is minimised because the proposed development is separated by Kochia Lane and is clad predominantly with face brickwork.”

Comment:

This is a simplistic statement. The site is physically separated from the heritage building by Kochia Lane. This is an existing site condition. The use of complimentary building materials can assist in reducing impacts on heritage items but as proposed there is no consideration of the scale, detailing, setbacks, character of the streetscape or rhythm of facades.

HIS:

“The future character of the Lindfield Town Centre envisages the heritage item will be retained as an example of an Inter War Mediterranean style commercial building with the adjacent site to be a higher density mixed use development.”

Comment:

The Town Centre is now invalid however when considering the objectives and controls in the Town Centre DCP for urban/commercial context the proposed development is clearly non-compliant.

The DCP requires the scale of the existing streetscape to be retained and new large scale development to set back behind the streetscape to retain a pedestrian building scale. This requires a 2-3 storey scale at the street to retain the existing pedestrian scale and to be sympathetic to the heritage buildings with any higher scale development setback behind the lower scale component.

HIS:

“The separation provided by the roadways surrounding the heritage building allows appreciation of the building’s architectural presentation and features from all sides”.

Comment:

This is an existing site condition. The amended scheme provides a further side setback to the top 3 floors but this is above the roof line of the heritage building and provides no benefit in terms of improving the scale differences, visual mitigation or improving amenity. The Lindfield Avenue and Tryon Road elevations will have good presentation to the public realm, but with the scale of the proposed development it would be dominant and not allow an appreciation of the heritage item. The north façade would only have a limited presentation from the actual laneway and not from the area to the north along Lindfield Avenue and the surrounding commercial area.

HIS:

“The proposed development will limit some views of the northern facade. It is considered to be a minor impact. Views to the north from the upper floor of 21 Lindfield Avenue may be restricted by the proposed development. This is considered acceptable from a heritage perspective as this view is not considered to be an integral part of the significance of this heritage item”.

Comment:

Views of the northern façade will be almost eliminated from the surrounding areas but would still be possible from the lane. The significance of this building is that all facades are important as the building is viewed “in the round”. Views from rooms along the north façade of the heritage items would be eliminated. This is not a minor impact.

HIS:

“The materials selected for the finishes to the proposed new development reflect those of the adjacent heritage item. The contemporary design does not mimic the heritage item or challenge its architectural significance”.

Comment:

There is some similarity with the cladding materials but there is a poor relationship in terms of architectural design, façade rhythms, fenestration patterns etc. The architectural significance of the heritage item is challenged and overwhelmed by the scale of the proposed development. Generally it has an unarticulated rectangular form with horizontal lines formed by the cantilevered slab edges and lacks respect to the streetscape or the adjoining heritage item.

HIS:

“The Town Centres DCP requires new development to be stepped down in the vicinity of a heritage item. This is not considered applicable to the subject development as it is separated from the heritage item by a roadway. Reducing the height of the proposed building at its south west corner would not provide a significant improvement in the visual relationship between these buildings.

The heritage listed building at 1 -21 Lindfield Avenue has sufficient bulk and scale in its own right to ensure it will not be visually dominated by the proposed development”.

Comment:

The Town Centres is now invalid. However, increasing building separation and stepping down to buildings of lower scale is an appropriate way to deal with scale conflicts. The amended scheme proposes setting the upper 3 floors further back near the lane which adjoins the heritage item. The additional setback is above the roof line of the heritage item and is ineffective. Any stepping back should be made at the second floor level and further setback above this level. In addition to this any higher component should be also setback behind a 2 to 3 storey scale at the streetscape to maintain the streetscape integrity of the heritage item.

HIS:

“The public and users of the Ramsay Building will still be able to view and appreciate its significance”.

Comment:

The significance of the item is related to its dominant location in Lindfield Avenue and from the public realm, particularly from the Railway Station. Views from the north will be diminished and its scale overwhelmed by the proposed development.

Summary

The proposed development would have unacceptable impacts on the heritage significance of the heritage building at 1-21 Lindfield Avenue.

The proposed development is not permissible given the current zoning of the site. If the development is assessed against the objectives and controls of the now invalid Town Centres LEP it would still be unacceptable. It does not retain the existing 2 – 3 storey streetscape scale and the higher component is not setback as required. The development does not step down in height where it adjoins the heritage item. The effect of this is that it would have an adverse effect on its identified heritage significance and dominate the scale of the heritage item.

The height, scale and lack of appropriate scale of the proposed development would challenge the scale of the item and overwhelm its visual and historic character as the key building in the Lindfield Avenue streetscape.

The proposed development has a poor relationship in terms of architectural design, floor levels, façade rhythms, fenestration patterns etc to the heritage item. It has a relatively unarticulated rectangular form with strong horizontal lines formed by the cantilevered slab edges and does not respect the heritage item or streetscape of Lindfield Avenue.

In heritage terms, the amended design of the scheme would have a negligible improvement.

Car Parking and Traffic

After reviewing the preferred project report and the revised plans and traffic report, the following comments are made:

Car Parking and Access

The following table outlines the car parking requirements for the proposal, and compares these requirements to the quantity of car parking proposed:

Car Parking

Land Use	Ku-ring-gai DCP 43 (Car Parking) requirement	Former SEPP53 parking requirement	Proposed parking
Retail/shops, including restaurants and cafes (Supermarket and Specialty retail) 3,938 sqm GFA	1 space/26m ² GFA = 151	Not specified – use RTA rates: (24 x Slow Trade GLFA) + (40 x Fast Trade GLFA) + (42 x Supermarket GLFA) + (45 x Specialty Shops/Secondary Retail) + (9 x Office/ Medical) (per 1,000sqm GLFA) (GLFA = 80%GFA) = 139	93
Medical 293 sqm GFA	1 space/25m ² GFA = 12	Not specified – use RTA rates 4 spaces per 100m ² GFA = 12	0
Residential: 1 x Studio 45 x 1 bedroom 38 x 2 bedroom 7 x 3+ bedrooms (91 total) Visitor	1 space/dwelling = 1 1 space/dwelling = 45 1 space/dwelling = 38 1.5 space/dwelling = 10.5 1 space/4 units = 22.8 Total res. parking = 118	0 (min) - 0.5 (max) = 0 - 0.5 0.5 (min) - 1 (max) = 22.5 - 45 0.8 (min) - 1.6 (max) = 30.4 – 60.8 (max) 1 (min) – 2 (max) = 7 (min) – 14 (max) 1 space/10 units (min) - 1 space/5 units (max) = 9 – 18 Total res. parking = 69 - 138	113
Total parking required	281	220 - 289	231*

*Includes 25 spaces from adjoining Council car park in Havilah Lane (4hr spaces)

The actual on-site provision would be 206 spaces, but the application takes into account the 25 spaces in the existing Council car park adjoining the site, as part of the “contribution in lieu” scheme. By including these spaces, the applicant claims an effective total of 231 spaces.

However, having been constructed in the mid 1980s, it is considered that the benefits of the car park have effectively been fully exhausted through its economic life, and reliance should not be placed on these car spaces as future parking provision, particularly since the proposed redevelopment of the site could accommodate the spaces, and Council is also considering the potential reclassification of this site.

From the table above, the total parking provision that would be required under the provisions of former SEPP53 would be 220 - 289 car spaces. This the upper limit of this aligns closely with the total required under the Ku-ring-gai DCP 43, and should be met by the applicant. Clearly, the provision of only 206 car spaces on-site is inadequate, and is particularly lacking in the retail component, even if depending on the 25 spaces in the existing Council car park adjoining the site.

On the Basement 1 and 2 level car park (where the retail car parking is located), it appears that the car parking space and aisle width dimensions do not comply with AS2890.1 for user class 3A (short term, high turnover parking at shopping centres). This user class required 2.6m wide car parking spaces and 6.6m wide aisle widths. Also, the aisle width between the central parking bay and the internal pedestrian ramp is too narrow and is likely to result in conflicts between manoeuvring vehicles and pedestrians. This needs to be rectified.

Retail and medical uses car parking should have some spaces set aside for employees, as long stay parking on the surrounding roads are subject strong competition by commuters and residents. Typically, employee parking could be 20%-30% of total retail parking provision.

This application, on a smaller site than originally proposed under former SEPP53, has resulted in a compromised car park layout, and will ultimately result in fragmented underground retail car parks when the adjoining site is redeveloped.

In terms of the vehicle access point, it would service a car park with 100-300 spaces accessed off a local road, with mostly high turnover spaces (retail). AS2890.1 requires that for the access point should be 6m-9m wide. The proposal shows a vehicular access point approximately 6m wide, however given that the access point would service over 200 spaces, the width should be increased to 7m minimum to allow unimpeded access.

The former SEPP53 also required bicycle parking to be provided in this site in accordance with the following rates:

Bicycle Parking and facilities

Land Use		SEPP53 parking requirement	Proposed parking
Retail/shops, including restaurants and cafes (Supermarket and Specialty retail) 3,938 sqm GFA		Not specified – Use Austroads Guide: 1 per 300m ² GFA (employees) = 13 1 per 500m ² over 1,000m ² GFA (shoppers) = 6	Bicycle parking area indicated on plan, but number of spaces not detailed
Medical 293 sqm GFA		1 per 400m ² GFA (employees) = 1 1 per 200m ² (visitors) = 2	Bicycle parking area indicated on plan, but number of spaces not detailed
Residential: 1 x Studio 45 x 1 bedroom 38 x 2 bedroom 7 x 3+ bedrooms (91 total) Visitor		1 space/3dwellings (min) for residents = 30 (min) 1 space/10 dwellings (min) for visitors = 9 (min)	Bicycle parking area indicated on plan, but number of spaces not detailed
Total parking required		61	

The main concern is the lack of bicycle parking detail in relation to residential/visitor parking, as it is unclear whether the required number of bicycle parking can be achieved in the space indicated on the plans, and the lack of bicycle end of trip facilities for the retail component.

Bicycle parking for residents and employees should be located in secure areas, and should be fully enclosed individual lockers, to encourage their use.

Clearly, shoppers and visitors bicycle parking should be located in clear, visible and convenient spaces. Ideally, this would be bicycle rails or racks located in the public areas at ground floor level, and not in basement areas.

Service Vehicles Parking and Access

There is concern regarding the configuration and access to the loading bay. The main concern is that service vehicles, including articulated vehicles, would be required to undertake manoeuvres in Havilah Lane and across a significant length of footpath at the rear of the site in order to access the loading bay, resulting in potential conflicts between service vehicles, passenger cars and pedestrians in the area. The plans also show that a large rigid vehicle would be required to reverse into the loading bay if an articulated vehicle is occupying its own bay, and this is not acceptable.

Also, the large opening required to access this loading dock is not acceptable and is the result of the proposal not utilising the whole site as originally intended in the former SEPP53. In fact, the former SEPP53 controls require that no car park or service entry should be greater than 6m in length along any building frontage.

Service vehicles should enter and leave the site in a forward direction at right angles to the property boundary and the layout of the loading bay (parallel and adjacent to Havilah Lane) does not permit this. An application covering the whole of the former SEPP53 site would have enabled the satisfactory provision of access to an internal service bay.

The traffic and parking assessment report has not addressed the heavy vehicle routes to/from the site, and their accessibility. Council's own investigations show that a 19m long articulated (prime mover and semi-trailer) vehicle would not be able to negotiate the access to the loading dock via Chapman Lane/Kochia Lane and Havilah Lane. Similarly, on leaving the loading dock, a 19m long articulated vehicle would not be able to turn left from Havilah Lane into Havilah Road, and would not be able to turn left from Havilah Road into Lindfield Avenue. Clearly, vehicles smaller than a 19m articulated vehicle would be required to service the proposed supermarket/retail

Traffic Generation and Wider Traffic/Transport Context

During the planning of the Lindfield town centre (which culminated in the gazettal of the Ku-ring-gai LEP (Town Centres) 2010), Council undertook an area-wide traffic study of the Lindfield town centre.

This study examined the existing traffic situation, and considered the cumulative traffic generating impacts of redevelopment under the LEP. It also considered various traffic flow and intersection improvement options around the Lindfield town centre.

The 3 signalised intersections on Pacific Highway in Lindfield were found to be operating at capacity in the am and pm peak, with the intersection of Pacific Highway and Balfour Street/Havilah Road being the critical intersection. In particular, the Havilah Road leg of this intersection was identified as being a major constraint, due to the relatively low and narrow

railway bridge and the close proximity to Lindfield Avenue. As a consequence, Havilah Road and Balfour Street experience significant delays, particularly during the pm peak.

While an number of opportunities were considered, the close proximity of Pacific Highway and the North Shore railway line combined with limited east-west crossing opportunities presented a major barrier to providing major access improvements.

The result of the traffic modelling indicated that traffic generation of the Lindfield town centre redevelopment would further deteriorate the performance of the 3 signalised intersections on Pacific Highway in Lindfield. Although limited opportunities became evident during the study (due to the constraints mentioned above), the following traffic improvement measures in the vicinity of the site were recommended:

- New traffic signals at intersection Lindfield Avenue and Tryon Road (and removal of existing pedestrian operated signals in Lindfield Avenue);
- Minor capacity improvements at intersection of Pacific Highway and Balfour Street/Havilah Road (lengthen right turn bay from Pacific Highway into Havilah Road, and extend parking restrictions in Balfour Street;
- Pedestrian link between Lindfield Avenue and Havilah Lane (identified as a new road in former SEPP53).

These works have been scheduled and costed in the Ku-ring-gai Contributions Plan (2010).

While the new traffic signals at the intersection of Lindfield Avenue and Tryon Road would improve vehicle access and pedestrian safety, the improvements at intersection of Pacific Highway and Balfour Street/Havilah Road would only bring about marginal improvements in overall intersection level of service.

The study also briefly considered new traffic signals at intersection of Pacific Highway and Strickland Avenue, but were not recommended as the RTA would be unlikely to agree to signals as it would reduce the overall level of service of the Highway, being in close proximity to the intersection of Pacific Highway and Grosvenor Road.

However, during the consultation with RTA (as part of S62 state agency consultation), the RTA indicated that it would not support 2 way traffic on Havilah Road. It requested that Havilah Road be modified to one-way Eastbound, and movements prohibited by this modification be accommodated at the intersection of Pacific Highway and Strickland Avenue (dual right turn into Pacific Highway). Access into the eastern part of Lindfield would be via Havilah Road and access from the eastern part of Lindfield would be via Strickland Avenue. New traffic signals at the intersection of Pacific Highway and Strickland Avenue have been scheduled and costed in the Ku-ring-gai Contributions Plan (2010).

Summary

A series of transport improvements are proposed in the Lindfield town centre to accommodate future traffic demands. However, the following issues remain outstanding:

1. The provision of 206 car spaces on-site is inadequate, and is particularly lacking in the retail component. A minimum of 220 on-site spaces should be provided, and reliance should not be placed the 25 spaces in the adjoining Council car park as future parking provision.
2. Bicycle parking should be provided in accordance with the former SEPP53 Design Guidelines and the Austroads guidelines, and there is a lack of detail

- residential/visitor bicycle parking, as it is unclear whether the required number of bicycle parking can be achieved in the space indicated on the plans.
3. The geometric design of the retail car park (space width, aisles) and the accessible parking does not comply with the relevant Australian Standard.
 4. Given that the access point would service approximately 200 car spaces, the width should be increased to 7m minimum to allow unimpeded and efficient access.
 5. The provision of 7 on-site car share spaces is high for a development of this scale, and the proposed tandem/stacked arrangement would not be desirable if there are different model vehicles to be made available on site to users.
 6. Service vehicles, including articulated vehicles, would be required to undertake manoeuvres in Havilah Lane to access the loading bay, resulting in potential conflicts between service vehicles, passenger cars and pedestrians in the area. Also, a large rigid vehicle would be required to reverse into the loading bay if an articulated vehicle is occupying its own bay, which is not acceptable.
 7. The large opening required to access the loading dock is not acceptable.
 8. A 19m long articulated vehicle would not be able to negotiate the access to the loading dock via the surrounding local roads.

A large number of the above issues have come about as a result of the application not covering the whole of the original (former) SEPP53 site, and the above issues would need to be addressed for the application to be supported.

Development Contributions

The applicant, in its response to Ku-ring-gai Council's submission, continues to follow an inaccurate approach to calculating contributions. The applicant continues to ignore the contributions outlined in the adopted and in force ***Ku-ring-gai Contributions Plan 2010*** that relate to the retail and commercial components of the development – both in terms of existing credits and proposed floorspace.

Table 3 contained on Page 7 of the ***Preferred Major Project Report*** (dated April 2011) bears little resemblance to Council's adopted contributions plan:

1. The contributions and credits for the retail / commercial floorspace both proposed and existing are ignored;
2. The contributions are not broken into the correct sub-categories which will severely inhibit accurate inflation and receipting in accordance with the contributions plan at the point of payment; and
3. The unit breakdown given in Table 3 on Page 7 of 1 x studio + 49 by one bedroom + 38 x two bedroom + 5 x three bedroom (being a total of 93 units) conflicts with unit breakdown in the Preferred Project in Table 1 on Page 3 of 1 x studio + 45 by one bedroom + 38 x two bedroom + 7 x three bedroom (being a total of 91 units).

The entire calculation is, therefore, thoroughly flawed.

It is also noted that the 'preferred project' compared to the 'exhibited project' as detailed on Page 3 of the Preferred Project Report dated April 2011, reveals a substantial increase in the proportion and total area of the floorspace that is proposed to be retail / commercial.

Retail floorspace of 2,988sqm was exhibited and retail floorspace of 4,231sqm is now proposed. The assertion that the proposed retail / commercial floorspace is cancelled out by a credit for a much smaller amount of retail / commercial floorspace cannot be substantiated. This means that the resulting contribution rate has been significantly underestimated.

Timing of Payment

Ku-ring-gai Council's policy of the timing of payment is clearly stated in **1.20 When are contributions payable?** on pages 43-45 of ***Ku-ring-gai Contributions Plan 2010***.

In short, contributions are due and payable at the release of the first event, which, in this case, would be the Construction Certificate, for each and every developer in Ku-ring-gai.

With respect to deferred and periodic payments, Ku-ring-gai Council is acutely aware that to allow one developer to defer payment to the Occupation Certificate when every other developer is required to pay at release of the Construction Certificate, effectively constitutes the granting of a pecuniary advantage to one developer that is not granted to other developers. Ku-ring-gai Council does not entertain requests for deferral of payment on this basis.

Ku-ring-gai has an adopted Long Time Financial Plan which outlines the intent to commence town centre improvement works in Lindfield as a priority town centre. Ku-ring-gai is entitled to rely on receiving its full cash-flow entitlements at Construction Certificate stage.

There are potential costs to council and, by extension, to the community in effectively securing payment at a late stage of the development in a non-standard process without comparable security.

Future Inflation

It should be noted that Ku-ring-gai Council runs a mainframe based calculation system which calculates – and inflates quarterly until paid – all contributions based on the correct input data – both proposed and existing (credits). In this context it should be noted that land acquisition contributions are inflated by the Housing Price Index and works contributions are inflated by the Consumer Price Index. Any alternative methodology requires individual reconstruction and calculation in order to correctly apply inflation which is complex and time-consuming; this impacts on the timely completion of the transaction.

In the event the Department of Planning accepts an alternate calculation methodology that is not in accordance with ***Ku-ring-gai Contributions Plan 2010***, and which fails to identify each category of the contribution, then Ku-ring-gai Council will not be able to identify the component parts of the contribution for inflation by the Housing Price Index and the Consumer Price Index. This will lead to extensive delays at time of payment while the correct amount owing is calculated.

Ku-ring-gai Contributions Plan 2010

Section 94 Contributions Calculator

DA Number:

Date: 11 Aug 2011

REV or MOD Number:

CPI&HPI Index Quarter:

June-2011

Select Development Area:

Lindfield Town Centre

Property Address:

Lindfield		
Suburb	Street	Number

	Proposed (Total) Development	Existing (Credited) Development
Dwelling Houses:		
2 bedrooms (or less)		
3 bedrooms (or more)		
Units, Townhouses, Villas		
Studios/Bedsits	1	
1 bedroom	45	
2 bedrooms	38	
3+ bedrooms	7	
Seniors Living		
Other Residential		
New lot subdivision		
Non private dwelling		
Retail: Square metres of GLFA	3,470	1,735
Business: Square metres of GFA		1,238

Development Contributions Consent Condition – Lindfield Town Centre

This development is subject to a development contribution calculated in accordance with ***Ku-ring-gai Contributions Plan 2010***, being a s94 Contributions Plan in effect under the Environmental Planning and Assessment Act, as follows:

Key Community Infrastructure	Amount
Local parks and Local sporting facilities	\$844,001.94
Local recreational and cultural, Local social facilities	\$150,610.74
Local Roads, Local Bus Facilities & Local Drainage Facilities (New Roads and Road Modifications)	\$374,705.44
Local roads, Local bus facilities & Local drainage facilities (Townscape, Transport & Pedestrian facilities)	<u>\$591,324.07</u>
TOTAL CONTRIBUTIONS	<u>\$1,960,642.19</u>

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

The contributions specified above are as at the June 2011 quarter and 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. Prior to payment, please contact Council directly to verify the current payable contributions.

[Ku-ring-gai Contributions Plan 2010 may be viewed at www.kmc.nsw.gov.au](http://www.kmc.nsw.gov.au) and at the Council Chambers.

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.

ATTACHMENT 1

Without Prejudice Draft Conditions

Draft Condition Set

The conditions of consent are as follows:

Deferred commencement terms:

Conditions that identify approved plans:

Approved architectural plans and documentation (new development)

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

Plan no.	Drawn by	Dated
#	#	#
#	#	#

Document(s)	Dated
Colours and finishes schedule	#
Basix certificate No. (ADD NO.)	#
Bush fire risk assessment and certification, (CONSULTANTS NAME)	#
#	#

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

Inconsistency between documents

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

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

Approved landscape plans

Landscape works shall be carried out in accordance with the following landscape plan(s), listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:

Plan no.	Drawn by	Dated
#	#	#

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

Conditions to be satisfied prior to demolition, excavation or construction:

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.

Notice of commencement

At least 48 hours prior to the commencement of any development (including demolition, excavation, shoring or underpinning works), a notice of commencement of building or subdivision work form and appointment of the principal certifying authority form shall be submitted to Council.

Reason: Statutory requirement.

Notification of builder's details

Prior to the commencement of any development or excavation works, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.

Reason: Statutory requirement.

Notice of proposed work (contaminated land)

A notice of proposed work form must be given to Council's Development Assessment Officer, in accordance with SEPP 55, Clause 16. Note: At least 30 days notice is required, except in the case of work required to be carried out immediately under the terms of remediation order (in which case, at least 1 days notice is required).

SEPP 55, Clause 16 requires that the notice must:

- ☐ be in writing
- ☐ provide the name, address and telephone number of the person who has the duty of ensuring that the notice is given
- ☐ briefly describe the remediation work
- ☐ show why the person considers that the work is category 2 remediation work by reference to Clause 9, 14 and (if it applies) 15(1)
- ☐ specify, by reference to its property description and street address (if any), the land on which the work is to be carried out
- ☐ provide a map of the location of the land
- ☐ provide estimates of the dates for the commencement and completion of the work

The following additional information must be submitted with the notice to Council:

- ☐ copies of any preliminary investigation, detailed investigation and remediation action plan for the site
- ☐ contact details for the remediation contractor and any other party responsible for ensuring compliance of remediation work with regulatory requirements

Reason: Protection of the environment and compliance with SEPP 55.

Dilapidation survey and report (public infrastructure)

Prior to the commencement of any development or excavation works on site, the Principal Certifying Authority shall be satisfied that a dilapidation report on the visible and structural condition of all structures of the following public infrastructure, has been completed and submitted to Council:

Public infrastructure

- ☐ Full road pavement width, including kerb and gutter, of Lindfield Avenue, Havilah Lane and Kochia Lane over the site frontage, including the full intersections.
- ☐ 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 developer 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 Certifying Authority prior to the commencement of any excavation works.

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

Dilapidation survey and report (private property)

Prior to the commencement of any demolition or excavation works on site, the Principal Certifying Authority shall be satisfied that a dilapidation report on the visible and structural condition of all structures upon the following lands, has been completed and submitted to Council:

Address

- ☐ 2 Kochia Lane
- ☐ 43 Lindfield Avenue
 - 39-41 Lindfield Avenue
 - 2-6 Milray Street, buildings fronting Havilah Lane.

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

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

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

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

Geotechnical report

Prior to the commencement of any bulk excavation works on site, the applicant shall submit to the Principal Certifying Authority, the results of the detailed geotechnical investigation comprising a minimum of five cored boreholes and 2 piezometer standpipes, as recommended in Jeffery and Katauskas Report on Desktop Assessment Ref. 24013SP dated 31 March 2011. The report is to address such matters as:

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

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

Reason: To ensure the safety and protection of property.

Construction and traffic management plan

The applicant must submit to Council a Construction Traffic Management Plan (CTMP), which is to be approved prior to the commencement of any works on site.

The plan is to consist of a report with Traffic Control Plans attached.

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

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

The report is to contain a site plan showing entry and exit points. Swept paths are to be shown on the site plan showing access and egress for an 11 metre long heavy rigid vehicle.

The Traffic Control Plans are to be prepared by a qualified person (red card holder). One must be provided for each of the following stages of the works:

- Demolition
- Excavation
- Concrete pour
- Construction of vehicular crossing and reinstatement of footpath
- Traffic control for vehicles reversing into or out of the site.

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

When a satisfactory CTMP is received, a letter of approval will be issued with conditions attached. Traffic management at the site must comply with the approved CTMP as well as any conditions in the letter issued by Council. Council's Rangers will be patrolling the site regularly and fines may be issued for any non-compliance with this condition.

Reason: To ensure that appropriate measures have been considered during all phases of the construction process in a manner that maintains the environmental amenity and ensures the ongoing safety and protection of people.

Work zone

A Works Zone is to be provided in Lindfield Avenue and/or Havilah Lane 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 Traffic Committee, the applicant shall make a payment to Council for the extended period in accordance with Council's schedule of fees and charges for work zones prior to the extended period commencing.

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

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 and progress of construction.

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

Erosion and drainage management

Earthworks and/or demolition of any existing buildings shall not commence until an erosion and sediment control plan is submitted to and approved by the Principal Certifying Authority. The plan shall comply with the guidelines set out in the NSW Department of Housing manual "Managing Urban Stormwater: Soils and Construction" certificate. Erosion and sediment control works shall be implemented in accordance with the erosion and sediment control plan.

The plan may be based on Drawing 21-19509-C001 Rev. C by GHD but must be amended to show the sediment basin and a supplementary note regarding treatment of collected water prior to discharge into the stormwater system.

Reason: To preserve and enhance the natural environment.

Construction waste management plan

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

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

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

Reason: To ensure appropriate management of construction waste.

Noise and vibration management plan

Prior to the commencement of any works, a noise and vibration management plan is to be prepared by a suitably qualified expert addressing the likely noise and vibration from demolition, excavation and construction of the proposed development and provided to the Principal Certifying Authority. The management plan is to identify amelioration measures to ensure the noise and vibration levels will be compliant with the relevant Australian Standards and Ku-ring-gai Council's Code for the Control and Regulation of Noise on Building Sites. The report shall be prepared in consultation with any geotechnical report that itemises equipment to be used for excavation works.

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

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

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

Conditions to be satisfied prior to the issue of the construction certificate:**Development Contributions Consent Condition – Lindfield Town Centre**

This development is subject to a development contribution calculated in accordance with *Ku-ring-gai Contributions Plan 2010*, being a s94 Contributions Plan in effect under the Environmental Planning and Assessment Act, as follows:

Key Community Infrastructure	Amount
Local parks and Local sporting facilities	\$844,001.94
Local recreational and cultural, Local social facilities	\$150,610.74
Local Roads, Local Bus Facilities & Local Drainage Facilities (New Roads and Road Modifications)	\$374,705.44
Local roads, Local bus facilities & Local drainage facilities (Townscape, Transport & Pedestrian facilities)	<u>\$591,324.07</u>
TOTAL CONTRIBUTIONS	<u>\$1,960,642.19</u>

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

The contributions specified above are as at the June 2011 quarter and 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. Prior to payment, please contact Council directly to verify the current payable contributions.

[Ku-ring-gai Contributions Plan 2010 may be viewed at www.kmc.nsw.gov.au](http://www.kmc.nsw.gov.au) and at the [Council Chambers](#).

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.

Landscape plans

Prior to the issue of a Construction Certificate, the Certifying Authority shall be satisfied that detailed landscape plans for the central level 1 podium are provided which include or address the following considerations :

The design is to provide

Soil depths and volumes are to be consistent as a minimum with the Residential Flat Design Code, DIPNR (Part 02 Site design page 53).

Specifically :

The proposed depth of soil 300 – 700mm is not sufficient for the establishment of small to medium size trees, nor in some cases are the trees planted in areas of soil of sufficient area.

The Residential Flat Design Code (Part 02 Site design page 53), recommends minimum provisions for small trees (4 metre canopy diameter at maturity) of Minimum soil depth of 800mm, volume 9 cubic metres and approximate soil area of 3.5m x 3.5m or equivalent, and 1 metre depth for medium trees (8 metre mature canopy diameter at maturity). Trees proposed are of a size capable of growing to the medium size category.

Tree selection also is not considered satisfactory with both Dragon Blood Tree (Draceana) and Frangipani (Plumeria) being very slow grow species, and Koelreutaria also relatively slow growing and not considered to be a reliable in the area. It is suggested faster growing medium sized species which will provide such as Crepe Myrtle may be more appropriate.

Reason : To ensure adequate landscaping of the site.

Landscape plan

Prior to the issue of the Construction Certificate, the Principal Certifying Authority shall be satisfied that a landscape plan has been completed in accordance with Council's DA Guide, relevant development control plans and the conditions of consent by a landscape architect or qualified landscape designer.

Note: The landscape plan must be submitted to the Principal Certifying Authority.

Reason: To ensure adequate landscaping of the site.

Excavation for services

Prior to the issue of the Construction Certificate, the Principal Certifying shall be satisfied that no proposed underground services (ie. water, sewerage, drainage, gas or other service) unless previously approved by conditions of consent, are located beneath the canopy of any tree protected under Council's Tree Preservation Order, located on the subject allotment and adjoining allotments.

Note: A plan detailing the routes of these services and trees protected under the Tree Preservation Order, shall be submitted to the Principal Certifying Authority.

Extinguishment of right of way

Prior to the issue of a Construction Certificate, the Certifying Authority shall be satisfied that the right of way 6.5 width and 5.105 wide which benefits Lot 4 DP713505, and which is to be built over, has been extinguished. Evidence in the form of registered title documents is to be submitted to and approved by the Principal Certifying Authority prior to issue of the Construction Certificate.

If the relocation of the drainage easement which benefits 39 and 41 Lindfield Avenue is required, then evidence of the relocation of the easement in the form of registered title documents is to be submitted to and approved by the Principal Certifying Authority prior to issue of the Construction Certificate.

Reason: To maintain the rights of benefitting owners to use the easements or rights of way on their titles.

Amendments to approved engineering plans

Prior to the issue of a Construction Certificate, the Certifying Authority shall be satisfied that

the approved engineering plan(s), listed below and endorsed with Council's stamp, have been amended in accordance with the requirements of this condition as well as other conditions of this consent:

Plan no.	Drawn by	Dated
21-19509-C002 Rev. B	GHD	13 April 2011

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

- The 100 cubic metre rainwater retention tank is not required and should be deleted, as the BASIX commitments are for a recycled water supply, which is separately shown on the architectural plans in Basement 1. The retained rainwater would not be used.
- The on site detention volume is to be calculated using 100% of the site area, as given in Appendix A5.1g)(iv) of Council's DCP 47 *Water management*. The required volume is **104 cubic metres**.
- A design shall be included for the upgrading or relocation of the interallotment drainage pipe which services 39-41 Lindfield Avenue, consistent with the existing or a new easement location.
- Water quality measures are to be provided to achieve the targets given in Chapter 8 of Council's DCP 47 *Water management*.

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

- ☐ BASIX Certificate 309478M_05.
- ☐ Ku-ring-gai Council Water Management Development Control Plan 47.

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

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

Long service levy

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

Reason: Statutory requirement.

Builder's indemnity insurance

The applicant, builder, developer or person who does the work on this development, must arrange builder's indemnity insurance and submit the certificate of insurance in accordance with the requirements of Part 6 of the Home Building Act 1989 to the Certifying Authority for endorsement of the plans accompanying the Construction Certificate.

It is the responsibility of the applicant, builder or developer to arrange the builder's indemnity insurance for residential building work over the value of \$12,000. The builder's indemnity

insurance does not apply to commercial or industrial building work or to residential work valued at less than \$12,000, nor to work undertaken by persons holding an owner/builder's permit issued by the Department of Fair Trading (unless the owner/builder's property is sold within 7 years of the commencement of the work).

Reason: Statutory requirement.

Outdoor lighting

Prior to the issue of a Construction Certificate, the Certifying Authority shall be satisfied that all outdoor lighting will comply with AS/NZ1158.3: 1999 Pedestrian Area (Category P) Lighting and AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting.

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

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

External service pipes and the like prohibited

Proposed water pipes, waste pipes, stack work, duct work, mechanical ventilation plant and the like must be located within the building. Details confirming compliance with this condition must be shown on construction certificate plans and detailed with construction certificate specifications. Required external vents or vent pipes on the roof or above the eaves must be shown on construction certificate plans and detailed with construction certificate specifications. External vents or roof vent pipes must not be visible from any place unless detailed upon development consent plans. Where there is any proposal to fit external service pipes or the like this must be detailed in an amended development (S96) application and submitted to Council for determination.

Vent pipes required by Sydney Water must not be placed on the front elevation of the building or front roof elevation. The applicant, owner and builder must protect the appearance of the building from the public place and the appearance of the streetscape by elimination of all external services excluding vent pipes required by Sydney Water and those detailed upon development consent plans.

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

Access for people with disabilities (commercial)

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

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

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

standards.

Adaptable units

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that the nominated adaptable units within the development application, [enter unit nos.], are designed as adaptable housing in accordance with the provisions of Australian Standard AS4299-1995: Adaptable Housing.

Note: Evidence from an appropriately qualified professional demonstrating compliance with this control is to be submitted to and approved by the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Disabled access & amenity.

Stormwater management plan

Prior to issue of the Construction Certificate, the applicant must submit, for approval by the Principal Certifying Authority, scale construction plans and specifications in relation to the stormwater management and disposal system for the development. The plan(s) may be based on Drawings 21-19509-C002 Rev. B by GHD, dated 13 April 2011, and must include the following detail:

- ☐ exact location and reduced level of discharge point to the public drainage system
- ☐ Layout of the property drainage system components, including but not limited to (as required) gutters, downpipes, spreaders, pits, swales, kerbs, cut-off and intercepting drainage structures, subsoil drainage, flushing facilities and all ancillary stormwater plumbing - all designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence)
- ☐ details of the required on-site detention tanks required by Ku-ring-gai Water Management DCP 47, including dimensions, materials, locations, orifice and discharge control pit details as required (refer Chapter 6 and Appendices 2, 3 and 5 of DCP 47 for volume, PSD and design requirements)
- ☐ the required basement stormwater pump-out system is to cater for driveway runoff and subsoil drainage (refer appendix 7.1.1 of Development Control Plan 47 for design)

The above construction drawings and specifications are to be prepared by a qualified and experienced civil/hydraulic engineer in accordance with Council's Water Management Development Control Plan 47, Australian Standards 3500.2 and 3500.3 - Plumbing and Drainage Code and the Building Code of Australia.

Reason: To protect the environment.

Recycling and waste management

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that the development provides a common garbage collection/separation area sufficient in size to store all wheelie garbage bins and recycling bins provided by Council for the number of units in the development in accordance with DCP 40. The garbage collection point is to be accessible by Council's Waste Collection Services.

The responsibility for:

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

shall be determined when designing the system and clearly stated in the Waste Management Plan.

Note: The architectural plans are to be amended and provided to the Certifying Authority.

Reason: Environmental protection.

Noise from road and rail (residential only)

Prior to the issue of the Construction Certificate, the Certifying Authority shall submit evidence to Council demonstrating that the development will be acoustically designed and constructed to ensure that the following LAeq levels are not exceeded:

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

Plans and specifications of the required acoustic design shall be prepared by a practicing acoustic engineer and shall be submitted to the Principal Certifying Authority.

Reason: To minimise the impact of noise from the adjoining road or rail corridor on the occupants of the development.

Noise from plant in residential zone

Where any form of mechanical ventilation equipment or other noise generating plant is proposed as part of the development, prior to the issue of the Construction Certificate the Certifying Authority, shall be satisfied that the operation of an individual piece of equipment or operation of equipment in combination will not exceed more than 5dB(A) above the background level during the day when measured at the site's boundaries and shall not exceed the background level at night (10.00pm –6.00 am) when measured at the boundary of the site.

C1. Note: A certificate from an appropriately qualified acoustic engineer is to be submitted with the Construction Certificate, certifying that all mechanical ventilation equipment or other noise generating plant in isolation or in combination with other plant will comply with the above requirements.

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

Location of plant (residential flat buildings)

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that all plant and equipment (including but not limited to air conditioning equipment) is located within the basement.

C1. Note: Architectural plans identifying the location of all plant and equipment shall be provided to the Certifying Authority.

Reason: To minimise impact on surrounding properties, improved visual appearance and amenity for locality.

Number of bicycle spaces

The basement car park shall be adapted to provide the number of bicycle spaces in accordance with DCP 55. The bicycle parking spaces shall be designed in accordance with AS2890.3. Details shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

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

Energy Australia requirements

Prior to issue of the Construction Certificate, the applicant must contact Energy Australia regarding power supply for the subject development. A written response detailing the full requirements of Energy Australia (including any need for underground cabling, substations or similar within or in the vicinity the development) shall be submitted to the Principal Certifying Authority for approval prior to issue of the Construction Certificate.

Any structures or other requirements of Energy Australia shall be indicated on the plans issued with the Construction Certificate, to the satisfaction of the Principal Certifying Authority and Energy Australia. The requirements of Energy Australia must be met in full prior to issue of the Occupation Certificate.

Reason: To ensure compliance with the requirements of Energy Australia.

Utility provider requirements

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

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

Driveway grades – basement carparks

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

- ☐ vehicular access can be obtained using grades of 25% (1 in 4) maximum (20% where access for Council's small waste collection vehicle is required) 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.

Basement car parking details

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

- ☐ all parking space dimensions, driveway and aisle widths, driveway grades, transitions, circulation ramps, blind aisle situations and other trafficked areas comply with Australian Standard 2890.1 – 2004 “Off-street car parking”
- ☐ a clear height clearance of **2.6 metres** (required under DCP40 for waste collection trucks) is provided over the designated garbage collection truck manoeuvring areas within the basement
- ☐ no doors or gates are provided in the access driveways to the basement carpark which would prevent unrestricted access for internal garbage collection at any time from the basement garbage storage and collection area
- ☐ the vehicle access and accommodation arrangements are to be constructed and marked in accordance with the certified plans

Reason: To ensure that parking spaces are in accordance with the approved development.

Design of works in public road (Roads Act approval)

Prior to issue of the Construction Certificate, the Certifying Authority shall be satisfied that engineering plans and specifications prepared by a qualified consulting engineer have been approved by Council’s Development Engineer. The plans to be assessed must be to a detail suitable for construction issue purposes and must detail the following infrastructure works required in Lindfield Avenue, Kochia Lane and Havilah Lane:

- ☐ reconstruct the footpath, and road pavement where applicable, to meet Council’s strategies for the public domain (see Council’s Public Domain Plan at the following link: http://www.kmc.nsw.gov.au/resources/documents/0016_Part2E3-3_Lindfield.pdf). Street furniture and/or street tree planting are also to be included where required.

Development consent does not give approval to these works in the road reserve. The applicant must obtain a separate approval under sections 138 and 139 of The Roads Act 1993 for the works in the road reserve required as part of the development. The Construction Certificate must not be issued, and these works must not proceed until Council has issued a formal written approval under the Roads Act 1993.

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 2004. The drawings must detail existing utility services and trees affected by the works, erosion control requirements and traffic management requirements during the course of works. Survey must be undertaken as required. Traffic management is to be certified on the drawings as being in accordance with the documents SAA HB81.1 – 1996 – Field Guide for Traffic Control at Works on Roads – Part 1 and RTA Traffic Control at Work Sites (1998). 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 (3) weeks will be required for Council to assess the Roads Act application. Early submission of the Roads Act application is recommended to avoid delays in obtaining a Construction Certificate. An engineering assessment and inspection fee (set out in Council's adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees. Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.

Reason: To ensure that the plans are suitable for construction purposes.

Conditions to be satisfied prior to the issue of the construction certificate or prior to demolition, excavation or construction (whichever comes first):

Infrastructure restorations fee

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

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

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

“Infrastructure Restoration Fee” means the Infrastructure Restorations Fee calculated in accordance with the Schedule of Fees & Charges adopted by Council as at the date of payment and the cost of any inspections required by the Council of Council Property associated with this condition.

Reason: To maintain public infrastructure.

Conditions to be satisfied during the demolition, excavation and construction phases:

Prescribed conditions

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

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

Reason: Statutory requirement.

Hours of work

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

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

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

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

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

properties.

Construction noise

During excavation, demolition and construction phases, noise generated from the site shall be controlled in accordance with the recommendations of the approved noise and vibration management plan.

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

Site notice

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

The site notice must:

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

Reason: To ensure public safety and public information.

Dust control

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

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

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

Post-construction dilapidation report

The applicant shall engage a suitably qualified person to prepare a post construction dilapidation report at the completion of the construction works. This report is to ascertain whether the construction works created any structural damage to adjoining buildings, infrastructure and roads. The report is to be submitted to the Principal Certifying Authority. In ascertaining whether adverse structural damage has occurred to adjoining buildings, infrastructure and roads, the Principal Certifying Authority must:

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

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

Reason: Management of records.

Approval for recycled water water supply system

During the course of the construction works, the applicant must obtain a separate approval from Ku-ring-gai Council under Section 68 of the Local Government Act 1993 to install and operate the recycled water supply system which is required under the BASIX water commitments.

Reason: Statutory requirement.

Further geotechnical input

The geotechnical and hydro-geological works implementation, inspection, testing and monitoring program for the excavation and construction works must be in accordance with the report by Jeffery and Katauskas dated 31 March 2011 and the report prepared prior to commencement of bulk earthworks. Over the course of the works, a qualified geotechnical/hydro-geological engineer must complete the following:

- ☐ further geotechnical investigations and testing recommended in the above report(s) and as determined necessary
- ☐ further monitoring and inspection at the hold points recommended in the above report(s) and as determined necessary
- ☐ written report(s) including certification(s) of the geotechnical inspection, testing and monitoring programs

Reason: To ensure the safety and protection of property.

Compliance with submitted geotechnical report

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

Geotechnical aspects of the development work, namely:

- ☐ appropriate excavation method and vibration control
- ☐ support and retention of excavated faces

☐ hydro-geological considerations

must be undertaken in accordance with the recommendations of the geotechnical report prepared by Jeffery and Katauskas dated 31 March 2011 and the report prepared prior to commencement of bulk earthworks. Approval must be obtained from all affected property owners, including Ku-ring-gai Council, where rock anchors (both temporary and permanent) are proposed below adjoining property(ies).

Reason: To ensure the safety and protection of property.

Use of road or footpath

During excavation, demolition and construction phases, no building materials, plant or the like are to be stored on the road or footpath without written approval being obtained from Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.

Reason: To ensure safety and amenity of the area.

Guarding excavations

All excavation, demolition and construction works shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.

Reason: To ensure public safety.

Toilet facilities

During excavation, demolition and construction phases, toilet facilities are to be provided, on the work site, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Reason: Statutory requirement.

Protection of public places

If the work involved in the erection, demolition or construction of the development is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

If necessary, a hoarding is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

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

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

Reason: To protect public places.

Recycling of building material (general)

During demolition and construction, the Principal Certifying Authority shall be satisfied that

building materials suitable for recycling have been forwarded to an appropriate registered business dealing in recycling of materials. Materials to be recycled must be kept in good order.

Reason: To facilitate recycling of materials.

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.

Approval for rock anchors

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

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

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 Ku-ring-gai 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.

Road reserve safety

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

Control Devices for Work on Roads”. If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.

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

Services

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

Reason: Provision of utility services.

Road repairs necessitated by excavation and construction works

It is highly likely that damage will be caused to the roadway at or near the subject site as a result of the construction (or demolition or excavation) works. The applicant, owner and builder (and demolition or excavation contractor as appropriate) will be held responsible for repair of such damage, regardless of the Infrastructure Restorations Fee paid (this fee is to cover wear and tear on Council's wider road network due to heavy vehicle traffic, not actual major damage).

Section 102(1) of the Roads Act states “A person who causes damage to a public road is liable to pay to the appropriate roads authority the cost incurred by that authority in making good the damage.”

Council will notify when road repairs are needed, and if they are not carried out within 48 hours, then Council will proceed with the repairs, and will invoice the applicant, owner and relevant contractor for the balance.

Reason: To protect public infrastructure.

Temporary rock anchors

If the use of temporary rock anchors extending into the road reserve is proposed, then approval must be obtained from Council and/or the Roads and Traffic Authority in accordance with Section 138 of the Roads Act 1993. The Applicant is to submit details of all the work that is to be considered, and the works are not to commence until approval has been granted. The designs are to include details of the following:

- ☐ How the temporary rock anchors will be left in a way that they will not harm or interfere with any future excavation in the public road
- ☐ That the locations of the rock anchors are registered with Dial Before You Dig
- ☐ That approval of all utility authorities likely to use the public road has been obtained. All temporary rock anchors are located outside the allocations for the various utilities as adopted by the Streets Opening Conference.
- ☐ That any remaining de-stressed rock anchors are sufficiently isolated from the structure that they cannot damage the structure if pulled during future excavations or

- work in the public road.
- That signs will be placed and maintained on the building stating that de-stressed rock anchors remain in the public road and include a contact number for the building manager. The signs are to be at least 600mm x 450mm with lettering on the signs is to be no less than 75mm high. The signs are to be at not more than 60m spacing. At least one sign must be visible from all locations on the footpath outside the property. The wording on the signs is to be submitted to Council's Director Technical Services for approval before any signs are installed.

Permanent rock anchors are not to be used where any part of the anchor extends outside the development site into public areas or road reserves.

All works in the public road are to be carried out in accordance with the Conditions of Construction issued with any approval of works granted under Section 138 of the Roads Act 1993.

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

Drainage to street

Stormwater runoff from all new impervious areas and subsoil drainage systems shall be piped to the street drainage system. New drainage line connections to the street drainage system shall conform and comply with the requirements of Sections 5.3 and 5.4 of Ku-ring-gai Water Management Development Control Plan No. 47.

Reason: To protect the environment.

Sydney Water Section 73 Compliance Certificate

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

Reason: Statutory requirement.

No storage of materials beneath trees

No activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order at any time.

Reason: To protect existing trees.

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.

Survey and inspection of waste collection clearance and path of travel

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

- ☐ ascertain the reduced level of the underside of the slab at the driveway entry,
- ☐ certify that the level is not lower than the level shown on the approved DA plans; and
- ☐ certify that the minimum headroom of 2.6 metres will be available for the full path of travel of the small waste collection vehicle from the street to the collection area.
- ☐ This certification is to be provided to Council's Development Engineer prior to any concrete being poured for the ground floor slab.
- ☐ No work is to proceed until Council has undertaken an inspection to determine clearance and path of travel.

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

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

On site retention of waste dockets

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

- ☐ Each docket is to be an official receipt from a facility authorised to accept the material type, for disposal or processing.
- ☐ This information is to be made available at the request of an Authorised Officer of Council.

Reason: To protect the environment.

Conditions to be satisfied prior to the issue of an Occupation Certificate:

Compliance with BASIX Certificate

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall be satisfied that all commitments listed in BASIX Certificate No. 309478M_05 have been complied with. **Ku-ring-gai Council's approval must be obtained for the operation of the recycled water supply system.** A copy of the approval must be provided to the Principal Certifying Authority.

Reason: Statutory requirement.

Easement for waste collection

Prior to issue of the Occupation Certificate, an easement for waste collection is to be created under Section 88B of the Conveyancing Act 1919. This is to permit legal access for Council, Council's contractors and their vehicles over the subject property for the purpose of collecting waste from the property. 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.

OSD positive covenant/restriction

Prior to issue of the Occupation Certificate, the applicant must create a positive covenant and restriction on the use of land under Section 88E of the Conveyancing Act 1919, burdening the owner with the requirement to maintain the on-site stormwater detention facilities on the lot.

The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" and to the satisfaction of Council (refer to appendices of Ku-ring-gai Council Water Management DCP 47). For existing titles, the positive covenant and the restriction on the use of land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the on-site detention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.

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

Reason: To protect the environment.

Mechanical ventilation

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

1. The installation and performance of the mechanical systems complies with:
 - ☐ The Building Code of Australia
 - ☐ Australian Standard AS1668
 - ☐ Australian Standard AS3666 where applicable
2. The mechanical ventilation system in isolation and in association with other mechanical ventilation equipment, when in operation will not be audible within a habitable room in any other residential premises before 7am and after 10pm Monday to Friday and before 8am and after 10pm Saturday, Sunday and public holidays. The operation of the unit outside these restricted hours shall emit a noise level of not

greater than 5dbA above the background when measured at the nearest adjoining boundary.

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

Reason: To protect the amenity of surrounding properties.

Provision of copy of OSD designs if Council is not the PCA

Prior to issue of the Occupation Certificate, the following must be provided to Council's Development Engineer:

- ☐ a copy of the approved Construction Certificate stormwater detention/retention design for the site
- ☐ A copy of any works-as-executed drawings required by this consent
- ☐ The Engineer's certification of the as-built system.

Reason: For Council to maintain its database of as-constructed on-site stormwater detention systems.

Certification of drainage works (dual occupancies and above)

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

- ☐ the stormwater drainage works have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans
- ☐ the minimum retention and on-site detention storage volume requirements of BASIX and Ku-ring-gai Water Management Development Control Plan No. 47 respectively, have been achieved
- ☐ basement and subsoil areas are able to drain via a pump/sump system installed in accordance with AS3500.3 and Appendix 7.1.1 of Ku-ring-gai Water Management Development Control Plan No. 47
- ☐ all grates potentially accessible by children are secured
- ☐ components of the new drainage system have been installed by a licensed plumbing contractor in accordance with the Plumbing and Drainage Code AS3500.3 2003 and the Building Code of Australia
- ☐ all enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices

The on-site detention certification sheet contained in Appendix 4 of DCP 47 must be completed and attached to the certification.

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

Reason: To protect the environment.

WAE plans for stormwater management and disposal (dual occupancy and above)

Prior to issue of the Occupation Certificate, a registered surveyor must provide a works as executed survey of the completed stormwater drainage and management systems. The survey must be submitted to and approved by the Principal Certifying Authority prior to issue of the Occupation Certificate. The survey must indicate:

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

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

Reason: To protect the environment.

Basement pump-out maintenance

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

Note: A maintenance regime specifying that the system is to be regularly inspected and checked by qualified practitioners is to be prepared by a suitable qualified professional and provided to the Principal Certifying Authority.

Reason: To protect the environment.

Mechanical ventilation

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

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

Fire safety certificate

Prior to the issue of the Occupation Certificate, the Principal Certifying Authority shall be satisfied that a Fire Safety Certificate for all the essential fire or other safety measures forming part of this consent has been completed and provided to Council.

Note: A copy of the Fire Safety Certificate must be submitted to Council.

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

Sydney Water Section 73 Compliance Certificate

Prior to issue of an Occupation Certificate the Section 73 Sydney water Compliance Certificate must be obtained and submitted to the Principal Certifying Authority

Reason: Statutory requirement.

Construction of works in public road – approved plans

Prior to issue of the Occupation Certificate, the Principal Certifying Authority 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 designing engineer and completed and approved to the satisfaction of Ku-ring-gai 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 must be subject to inspections by Council at the hold points noted on the Roads Act approval. All conditions attached to the approved drawings for these works must be met prior to the Occupation Certificate being issued.

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

Conditions to be satisfied at all times:**Outdoor lighting**

At all times for the life of the approved development, all outdoor lighting shall not detrimentally impact upon the amenity of other premises and adjacent dwellings and shall comply with, where relevant, AS/NZ1158.3: 1999 Pedestrian Area (Category P) Lighting and AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting.

Reason: To protect the amenity of surrounding properties.

No door restricting internal waste collection in basement

At all times, the basement garbage storage and collection area is to be accessible by

Council's Waste Collection Services. No doors, grilles, gates or other devices shall be provided in any location which would prevent this service. Where a gate, door or the like is to be erected, unimpeded access to the garbage collection point is to be provided by other means through written agreement with Council's Waste Collection Services.

Reason: To facilitate access to the garbage collection point.

Noise control – plant and machinery

All noise generating equipment associated with any proposed mechanical ventilation system/s shall be located and/or soundproofed so the equipment is not audible within a habitable room in any other residential premises before 7am and after 10pm Monday to Friday and before 8am and after 10pm Saturday, Sunday and public holidays. The operation of the unit outside these restricted hours shall emit a noise level of not greater than 5dbA above the background when measured at the nearest boundary.

Reason: To protect the amenity of surrounding residents.

Loading dock management plan

The loading dock management, capacity and operating procedures for all deliveries (including hours of deliveries) to the development must comply with the Loading Dock Management Plan, which is to include details in regard to:

- Hours of operation
- Noise management
- Light spill management
- Vehicular and pedestrian access management
- Safety and security management
- Maintenance
- Ongoing review requirements.

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