



**KU-RING-GAI PLANNING PANEL  
TO BE HELD ON WEDNESDAY, 21 JULY 2010 AT 5.00PM  
LEVEL 3, COUNCIL CHAMBERS**

**A G E N D A**  
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NOTE: For Full Details, See Council's Website –  
[www.kmc.nsw.gov.au](http://www.kmc.nsw.gov.au) under the link to business papers

**APOLOGIES**

**DECLARATIONS OF INTEREST**

**CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING**

**ADDRESSES TO THE PANEL**

**DOCUMENTS CIRCULATED TO THE PANEL**

**CONFIRMATION OF MINUTES**

**Minutes of Ku-ring-gai Planning Panel**

File: S06347

Meeting held 9 June 2010

Minutes numbered PP8 to PP11

**MINUTES FROM THE CHAIRPERSON**

## PETITIONS

### GENERAL BUSINESS

GB.1 **30 Moore Avenue, Lindfield - Alterations & Additions to an existing Commercial Building including a New First Floor Addition incorporating a Proposed Medical Centre**

File: DA0194/10

Ward: Roseville

Applicant: Urbanesque Planning Pty Ltd

Owner: G W Skinner Investments Pty Limited

To determine development application No.0194/10, which proposes alterations and additions to an existing commercial building including a new first floor addition incorporating a proposed medical centre.

#### **Recommendation:**

#### **PURSUANT TO SECTION 80(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979**

THAT the Ku-ring-gai Planning Panel, as the consent authority, refuse development consent to DA No. 194/10 for alterations and additions to an existing commercial building including a new first floor addition incorporating a proposed medical centre on land at No. 30 Moore Avenue, Lindfield, for the following reasons:

#### **1. Excessive floor space ratio**

##### **Issue**

The non compliance with the FSR control is intrinsically linked to the failure of the development to meet on site parking requirement. As the non compliance will result in such a significant detrimental impact it would be inappropriate to support such a variation to the FSR control. Further, approval of the application would set an unacceptable precedence contrary to good planning outcomes within the low density residential area with its on street parking already nearing its capacity. For this reason alone the application must fail.

##### **Particulars**

- The proposed 1.29:1 floor space ratio (FSR) of the development breaches the maximum permissible 0.75:1 FSR control prescribed by Clause 30B (2) of the Ku-ring-gai Planning Scheme Ordinance (KPSO).
- The scale and character of the proposed development, with a building footprint that occupies a large proportion of the allotment and substantial first floor

area, is inconsistent with the predominant scale and character of surrounding commercial developments within the West Lindfield commercial precinct.

- The proposal fails to satisfy Objective (b) set out under Clause 29 of the KPSO for development undertaken in 3(a) Business – Retail Services zones that seeks to ensure the commercial development is of an appropriate scale and character for the role of the commercial precinct in which it is to be contained.
- The introduction of excessive FSR to a commercial development of low public transport accessibility is contrary to the recently gazetted Ku-ring-gai Local Environmental Plan (Town Centres) 2010 that seeks to allow for an increase of commercial floor area in appropriate locations.
- The approval of the proposed development, that incorporates an excessive FSR, would set a negative and undesirable precedent in relation to the deficiency in long term on site parking. The shortfall would have to be compensated by the local residential street network and will lead to it exceeding capacity if the other commercial development were to develop in a similar manner within the West Lindfield commercial precinct.

## **2. The SEPP 1 Objection submitted by the applicant is not well founded**

### **Issue**

The SEPP 1 Objection is not well found as the applicant has failed to demonstrate the proposal meets the test for acceptability. The non compliance with the standard is directly linked to another unacceptable non compliance to meet Council's on site parking provisions.

### **Particulars**

- The SEPP1 Objection has not satisfactorily demonstrated why compliance with the FSR development standard prescribed by Clause 30B (2) of the KPSO is unnecessary or unreasonable in the circumstances of this case.
- The SEPP1 objection has failed to demonstrate how the development satisfies the underlying objectives of the development standard set out under Clause 30B (1-c) of the KPSO.
- The application has failed to demonstrate that there is a specific need for the services to be provided by the proposal within the surrounding neighbourhood that is serviced by the West Lindfield commercial centre.
- The scale and character of the proposed development, with a building footprint that occupies a large proportion of the allotment and substantial first floor area, is inconsistent with the predominant scale and character of surrounding commercial developments within the West Lindfield commercial precinct.
- The additional floor area and use proposed will result in increased demand for vehicle parking spaces. However, the proposal does not provide sufficient, onsite, long-stay parking spaces to accommodate the increased demand that will be generated by the development. This shortfall must be met by the

available public parking surrounding the site. However, should the density of adjacent commercial development increase to a level similar to that of the proposal (based on the precedent that may be set through the approval of the application), this shortfall will be of a detrimental impact on the capacity of the available public parking surrounding the commercial precinct in the long term.

- The subject site is not identified to be constrained in any manner that would otherwise unreasonably prevent compliance with the development standard

**GB.2 1244 Pacific Highway, Pymble - Alterations & Additions to convert a Single Dwelling House to an Attached Dual Occupancy, Construction of an Elevated Vehicle Hardstand & Strata Subdivision**

File: DA0114/10

Ward: Comenarra

Applicant: Urbanesque Planning Pty Ltd

Owners: Mr B A Murray, Mrs S G Murray, City Water Technology Pty Ltd

To determine Development Application No DA0114/10 for alterations and additions to convert a single dwelling house to convert to an attached dual occupancy, construction of an elevated vehicle hardstand and strata subdivision.

**Recommendation:**

- A. That the Ku-ring-gai Planning Panel, as the consent authority, is of the opinion that the objection under State Environmental Planning Policy No. 1 – Development Standards to Clause 25E of the Ku-ring-gai Planning Scheme Ordinance (minimum site area) is well founded. The Panel is also of the opinion that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this case.
- B. That the Ku-ring-gai Planning Panel, as the consent authority, is of the opinion that the objection under State Environmental Planning Policy No. 1 – Development Standards to Clause 25F(3)(c) of the Ku-ring-gai Planning Scheme Ordinance (additional floor area) is well founded. The Panel is also of the opinion that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this case.
- C. That the Ku-ring-gai Planning Panel, as the consent authority, is of the opinion that the objection under State Environmental Planning Policy No. 1 – Development Standards to Clause 25J of the Ku-ring-gai Planning Scheme Ordinance (minimum car parking) is well founded. The Panel is also of the opinion that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this case.

AND

- D. That the Ku-ring-gai Planning Panel, as the consent authority, being satisfied that the objections under SEPP No. 1 are well founded and also being of the opinion that the

granting of consent to DA0114/10 is consistent with the aims of the Policy, grant development consent to DA0114/10 for alterations and additions to single dwelling house, convert to attached dual occupancy, construction of elevated vehicle hardstand and strata subdivision on land at 1244 Pacific Highway, Pymble, for a period of five (5) years from the date of the Notice of Determination, subject to the following conditions:

**CONDITIONS THAT IDENTIFY APPROVED PLANS:**

**1. Approved architectural plans and documentation**

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:

Dwg No	Rev	Description	Drawn by	Dated	Lodged
0916-1C	C	Ground floor plan & Lower ground floor plan	Thorsette Pty Ltd	29-1-10	3-3-10
0916-2C	C	First floor plan, Section A-A & SE Elevation	Thorsette Pty Ltd	29-1-10	3-3-10
0916-3C	C	NE, NW & SW Elevations	Thorsette Pty Ltd	29-1-10	3-3-10
0916-5C	C	Driveway & Pedestrian Access	Thorsette Pty Ltd	29-1-10	3-3-10
0916-6A	A	NE (street) elevation & access stair elevation	Thorsette Pty Ltd	29-1-10	3-3-10
11868		Strata Plan	Gary Skow	23-8-09	3-3-10

<i>Document(s)</i>	<i>Prepared by</i>	<i>Dated</i>
BASIX Certificate No. A78071	Assessor No. 20399	1 March 2010
Structural Engineering Feasibility report	Partridge Partners	9 December 2009
Arborist report	Growing My Way	January 2010
Flora & Fauna Assessment and 7 Part test	Footprint Green Pty Ltd	11 May 2010
Revised Bushland Management Plan	Footprint Green Pty Ltd	18 May 2010

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

**2. Inconsistency between documents**

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

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

**3. No demolition of extra fabric**

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

**Reason:** To ensure compliance with the development consent.

#### **4. Deletion of front fence and garbage storage area**

To ensure that adequate driver and pedestrian sightlines on the Pacific Highway are maintained for vehicles exiting the driveway and conform to the requirements of AS 2890.1-2004 "Off-street car parking" the proposed elevated bin storage area and privacy panels (on both sides of the driveway) shall be deleted from the plans. A dedicated garbage storage area shall be provided at ground level behind the building line.

**Reason:** To ensure adequate driver and pedestrian sightlines.

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

#### **5. 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.

#### **6. 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.

#### **7. 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.

#### **8. Dilapidation photos (public infrastructure)**

Prior to the commencement of any works on site the applicant must submit to Kuring-gai Council and the Principal Certifying Authority a photographic record on the visible condition of the existing public infrastructure **over the full site frontage** (in colour - preferably saved to cd-rom in 'jpg' format). The photos must include detail

of:

- The existing footpath
- The existing kerb and gutter
- The existing full road surface between kerbs
- The existing verge area
- The existing driveway and layback where to be retained
- Any existing drainage infrastructure including pits, lintels, grates.

Particular attention must be paid to accurately recording any pre-developed damaged areas on the aforementioned infrastructure so that Council is fully informed when assessing damage to public infrastructure caused as a result of the development (which is not to be repaired by the Applicant as part of the development). The developer may be held liable to all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded and demonstrated under the requirements of this condition prior to the commencement of any works.

**Reason:** To protect public infrastructure.

## 9. Structural adequacy (alterations and additions)

Prior to commencement of any development or excavation works, the Principal Certifying Authority shall be satisfied that those components of the building to be retained and/or altered will be structurally sound and able to withstand the excavation and demolition process.

**C1. Note:** Evidence from a qualified practising structural engineer, demonstrating compliance with the above and detailing, where relevant, means of support for those parts of the retained building shall be provided to the Principal Certifying Authority.

**Reason:** To ensure that the development can be undertaken in accordance with accepted construction practices as indicated on the endorsed development plans, without the need for modification of the consent.

## 10. Tree protection fencing excluding structure

To preserve the following tree/s, no work shall commence until the area beneath their canopy excluding that area of the approved structures shall be fenced off for the specified radius from the trunk to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site:

<b>Schedule</b>	<b>Radius in metres</b>
<b>Tree/Location</b>	
Tree 1 – <i>Eucalyptus saligna</i> (Sydney Blue Gum) / Northern corner of front boundary	3 metres
Tree 5 – <i>Eucalyptus saligna</i> (Sydney Blue Gum) / South western (rear) side of dwelling	3 metres
Tree 6 – <i>Eucalyptus saligna</i> (Sydney Blue Gum) / South western (rear) side of dwelling	3 metres
Tree 9 – <i>Eucalyptus saligna</i> (Sydney Blue Gum) / Southern corner of front boundary	4 metres

**Reason:** To protect existing trees during the construction phase.

#### **11. Tree protective fencing type galvanised mesh**

The tree protection fencing shall be constructed of galvanised pipe at 2.4 metre spacing and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres in height prior to work commencing.

**Reason:** To protect existing trees during construction phase.

#### **12. Tree protection signage**

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

Tree protection zone.

- This fence has been installed to prevent damage to the trees and their growing environment both above and below ground and access is restricted.
- Any encroachment not previously approved within the tree protection zone shall be the subject of an arborist's report.
- The arborist's report shall provide proof that no other alternative is available.
- The Arborist's report shall be submitted to the Principal Certifying Authority for further consultation with Council.
- The name, address, and telephone number of the developer.

**Reason:** To protect existing trees during the construction phase.

#### **13. Tree protection mulching**

Prior to works commencing and throughout construction, the area of the tree protection zone is to be mulched to a depth of 100mm with composted organic material being 75% Eucalyptus leaf litter and 25% wood.

**Reason:** To protect existing trees during the construction phase.

#### **14. Trunk protection**

To preserve the following tree/s, no work shall commence until the trunk/s are protected by the placement of 2.0 metres lengths of 50 x 100mm hardwood timbers spaced at 150mm centres and secured by 2mm wire at 300mm wide spacing over suitable protective padding material. The trunk protection shall be maintained intact until the completion of all work on site.

Any damage to the tree/s shall be treated immediately by an experienced Horticulturist/Arborist, with minimum qualification of Horticulture Certificate or Tree Surgery Certificate and a report detailing the works carried out shall be submitted to the Principal Certifying Authority:



**Schedule**

**Tree/Location**

Tree 2 – *Eucalyptus saligna* (Sydney Blue Gum)  
/ North-eastern (front) boundary, on the nature strip

**Reason:** To protect existing trees during the construction phase.

**15. Tree fencing inspection**

Upon installation of the required tree protection measures, an inspection of the site by the Principal Certifying Authority is required to verify that tree protection measures comply with all relevant conditions.

**Reason:** To protect existing trees during the construction phase.

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

**16. Amendments to architectural plans**

Prior to the issue of a Construction Certificate, the Certifying Authority shall be satisfied that the approved architectural plans, 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:

<b>Plan no.</b>	<b>Drawn by</b>	<b>Dated</b>
0916 – 4C	Thorsette Pty Ltd	29/01/10

The above stormwater plan(s) shall be amended in the following ways:

- i) To preserve the following trees the proposed retaining walls within the rear yard are to be deleted.

**Species / Location**

Tree 5 - *Eucalyptus saligna* (Sydney Blue Gum)  
/ South-western (rear) side of dwelling  
Tree 6 - *Eucalyptus saligna* (Sydney Blue Gum)  
/ South-western (rear) side of dwelling

**Reason:** To protect existing trees.

**17. Driveway guardrail**

The design of the driveway guardrail, with structural engineer’s certification, is to be provided with the Construction Certificate drawings for approval by the Principal Certifying Authority, prior to issue of the Construction Certificate.

**Reason:** Ensure safe vehicle manoeuvrability through the site.

**18. NSW Roads & Traffic Authority driveway crossover design requirements**

Prior to the release of the Construction Certificate, the certifying authority shall ensure the development complies with the following requirements:

1. The design and construction of the proposed new driveway on the Pacific Highway shall be in accordance with AS2890.1 — 2004 and the RTA's requirement (6 metres wide at the kerblines).

Details of further requirements of the proposed driveway, kerb and gutter can be obtained from the RTA's Project Services Manager, Traffic Projects Section, Parramatta (Ph: 02 8849 2144).

A certified copy of the design plans (driveway, kerb and gutter) shall be submitted to the RTA for consideration and approval prior to the release by the Principle Certifying Authority of a Construction Certificate(s) for the development or commencement of any works.

2. All vehicles are to be clear of the edge of the carriageway and footpath before being required to stop.
3. The vehicle and pedestrian sightlines on the Pacific Highway shall be maintained for vehicles exiting the driveway and conform to the requirements of AS 2890.1-2004.

**Note 1:** All works associated with the proposed development are to be at no cost to the RTA.

**Note 2:** All demolition and construction vehicles and activities are to be contained wholly within the site as a work zone permit will not be approved along the Pacific Highway."

**Reason:** To ensure the driveway construction is carried out in accordance with the NSW Roads & Traffic Authority requirements.

## **19. NSW Roads & Traffic Authority requirements regarding stormwater discharge**

Prior to the release of the Construction Certificate, the certifying authority shall be satisfied that the post development storm water discharge from the subject site into the RTA drainage system does not exceed the pre-development application discharge.

Should there be changes to the RTA's drainage system, then detailed design plans and hydraulic calculations of the stormwater drainage system are to be submitted to the RTA for approval, prior to the release of the Construction Certificate and prior to the commencement of any works.

Details should be forwarded to:

The Sydney Asset Management  
Roads and Traffic Authority  
PO Box 973  
Parramatta CBD 2124.

A plan checking fee will be payable and a performance bond may be required before the RTA's approval is issued. With regard to the Civil Works requirement please contact the RTA's Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766. the proposed development ensure the development complies with the following

requirements:

**Note 1:** All works associated with the proposed development are to be at no cost to the RTA.

**Reason:** To ensure the development does not adversely impact on drainage infrastructure within a Classified Road.

## 20. 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.

## 21. 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.

## 22. Pier and beam footings near trees

Prior to the issue of the Construction Certificate, the Principal Certifying Authority shall be satisfied that the footings of the approved driveway and front privacy panels will be isolated pier or pier and beam construction within the specified radius of the trunk/s of the following tree/s:

<b>Schedule Tree/Location</b>	<b>Radius from trunk</b>
Tree 1 – <i>Eucalyptus saligna</i> (Sydney Blue Gum) / Northern corner of front boundary	10 metres
Tree 2 – <i>Eucalyptus saligna</i> (Sydney Blue Gum) / North-eastern (front) boundary on the nature strip	8 metres
Tree 9 – <i>Eucalyptus saligna</i> (Sydney Blue Gum) / Southern corner of front boundary	8 metres

The piers shall be located such that no roots of a diameter greater than 30mm will be severed or injured during the construction period. The beam/s shall be of reinforced concrete or galvanised steel sections and placed in positions with the base of the beam being a minimum of 50mm above existing soil levels.

**Note:** Structural details of the pier or pier and beam construction shall be submitted to the Principal Certifying Authority.

**Reason:** To protect existing trees.

### **23. 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 dwellings will be acoustically treated to comply with the requirements of the NSW Department of Planning document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines", and 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.

**Note:** A certificate from an appropriately qualified acoustic engineer is to be submitted with the Construction Certificate, certifying that the development complies with the NSW Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".

**Reason:** To comply with RailCorp requirements and Clause 101(2)(b) of SEPP (Infrastructure) 2007 and to minimise the impact of noise from the adjoining road or rail corridor on the occupants of the development.

### **24. Driveway crossing levels**

Prior to issue of the Construction Certificate, driveway and associated footpath levels for any new, reconstructed or extended sections of driveway crossings between the property boundary and road alignment must be obtained from Ku-ring-gai Council. Such levels are only able to be issued by Council under the Roads Act 1993. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings".

Specifications are issued with alignment levels after completing the necessary application form at Customer Services and payment of the assessment fee. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant development application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment.

This development consent is for works wholly within the property. Development

consent does not imply approval of footpath or driveway levels, materials or location within the road reserve, regardless of whether this information is shown on the development application plans. The grading of such footpaths or driveways outside the property shall comply with Council's standard requirements. The suitability of the grade of such paths or driveways inside the property is the sole responsibility of the applicant and the required alignment levels fixed by Council may impact upon these levels.

The construction of footpaths and driveways outside the property in materials other than those approved by Council is not permitted.

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

## **25. Drainage of paved areas**

All new exposed impervious areas graded towards adjacent property and/or habitable areas are to be drained via the main drainage system. This may require the installation of suitable inlets pits, cut-off structures (e.g. kerb), and/or barriers that direct such runoff to the formal drainage system. Details of such measures shall be shown on the Construction Certificate drawings, to the satisfaction of the Certifying Authority.

**Reason:** To control surface run off and protect the environment.

## **26. Vehicular access and garaging**

Driveways and vehicular access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard 2890.1 – 2004 "Off-Street car parking". Details are to be provided to and approved by the Certifying Authority prior to the issue of the Construction Certificate.

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

## **27. 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.

## **28. 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.

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

## **29. 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.

### 30. Section 94 Contribution – Residential Development (New Construction)

A contribution pursuant to section 94 of the Environmental Planning and Assessment Act as specified in Ku-ring-gai Section 94 Contributions Plan 2004-2009 (Amendment 2) for the services detailed in column A and for the amount detailed in Column B is required.

<b>Column A</b>	<b>Column B</b>
Community facilities (district)	\$625.03
Park acquisition and embellishment works	\$8,777.51
Park embellishment works	\$1,511.57
Sportsgrounds works	\$2,138.72
Aquatic / leisure centres	\$126.61
Traffic and transport	\$178.63
Section 94 Plan administration	\$160.13
<b>Total contribution is:</b>	<b>\$13,518.21</b>

The contribution shall be paid to Council prior to the commencement of any development (including demolition) or prior to the issue of a Construction Certificate (whichever comes first). The contributions may vary at the time of payment in accordance with the Contributions Plan to reflect changes in the consumer price index and the housing price index. Prior to payment, you are advised to verify the contribution amount required with Council. Copies of Council’s Contributions Plans can viewed at the Council Chambers at 818 Pacific Hwy Gordon or on Council’s website at [www.kmc.nsw.gov.au](http://www.kmc.nsw.gov.au)

**Reason:** To ensure the provision, extension or augmentation of community facilities, recreation facilities, open space, traffic and transport, and administration that will, or are likely to be, required as a consequence of the development.

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

#### 31. 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.

### **32. 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.

### **33. Approved plans to be on site**

A copy of all approved and certified plans, specifications and documents incorporating conditions of consent and certification (including the Construction Certificate if required for the work) shall be kept on site at all times during the demolition, excavation and construction phases and must be readily available to any officer of Council or the Principal Certifying Authority.

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

### **34. 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.



### **35. 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.

### **36. 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.

### **37. 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.

### **38. 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.

### **39. 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 (2002) "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.

### **40. 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.

### **41. Erosion control**

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

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

### **42. Drainage to existing system**

Stormwater runoff from all new impervious areas and subsoil drainage systems shall be piped to the existing site drainage system. The installation of new drainage components must be completed by a licensed contractor in accordance with AS3500.3 (Plumbing Code) and the BCA. No stormwater runoff is to be placed into the Sydney Water sewer system. If an illegal sewer connection is found during construction, the drainage system must be rectified to the satisfaction of Council and Sydney Water.

**Reason:** To protect the environment.

#### 43. 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 Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) or telephone 13 20 92. Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the 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.

#### 44. Arborist's report

The tree/s to be retained shall be inspected, monitored and treated by a qualified Arborist during and after completion of development works to ensure their long term survival. Regular inspections and documentation from the Arborist to the Principal Certifying Authority are required at the following times or phases of work:

##### Schedule

##### Tree/Location

Tree 1 – *Eucalyptus saligna* (Sydney Blue Gum)  
/ Northern corner of front boundary

Tree 2 – *Eucalyptus saligna* (Sydney Blue Gum)  
/ North-eastern (front) boundary on the nature strip

Tree 9 – *Eucalyptus saligna* (Sydney Blue Gum)  
/ Southern corner of front boundary

Tree's 5 & 6 – 2 x *Eucalyptus saligna* (Sydney Blue Gum)  
/ South-western (rear) side of dwelling

##### Time of inspection

During earthworks & construction of the driveway and privacy panel

During earthworks & construction of the driveway and privacy panel

During earthworks & construction of the driveway, privacy panel and garbage store

During earthworks & construction of the new deck

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

#### 45. Cutting of tree roots

No tree roots of 30mm or greater in diameter located within the specified radius of the trunk/s of the following tree/s shall be severed or injured in the process of any works during the construction period. All pruning works shall be undertaken as specified in Australian Standard 4373-2007 – Pruning of Amenity Trees:

##### Schedule

##### Tree/Location

Tree 1 – *Eucalyptus saligna* (Sydney Blue Gum)  
/ Northern corner of front boundary

Tree 2 – *Eucalyptus saligna* (Sydney Blue Gum)  
/ North-eastern (front) boundary on the nature strip

##### Radius from trunk

10 metres

8 metres

**Schedule****Tree/Location****Radius from trunk**

Tree 5 - <i>Eucalyptus saligna</i> (Sydney Blue Gum) / South-western (rear) side of dwelling	7 metres
Tree 6 - <i>Eucalyptus saligna</i> (Sydney Blue Gum) / South-western (rear) side of dwelling	5 metres
Tree 9 - <i>Eucalyptus saligna</i> (Sydney Blue Gum) / Southern corner of front boundary	8 metres

**Reason:** To protect existing trees.

**46. Approved tree works**

Approval is given for the following works to be undertaken to trees on the site:

**Schedule****Tree/Location****Approved tree works**

Tree 3 - <i>Eucalyptus saligna</i> (Sydney Blue Gum) / North-eastern side of dwelling, within footprint of the new driveway	Remove
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Removal or pruning of any other tree on the site is not approved, excluding species exempt under Council's Tree Preservation Order.

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

**47. Hand excavation**

All excavation within the specified radius of the trunk/s of the following tree/s shall be hand dug:

**Schedule****Tree/Location****Radius from trunk**

Tree 1 - <i>Eucalyptus saligna</i> (Sydney Blue Gum) / Northern corner of front boundary	10 metres
Tree 2 - <i>Eucalyptus saligna</i> (Sydney Blue Gum) / North-eastern (front) boundary on the nature strip	8 metres
Tree 5 - <i>Eucalyptus saligna</i> (Sydney Blue Gum) / South-western (rear) side of dwelling	7 metres
Tree 6 - <i>Eucalyptus saligna</i> (Sydney Blue Gum) / South-western (rear) side of dwelling	5 metres
Tree 9 - <i>Eucalyptus saligna</i> (Sydney Blue Gum) / Southern corner of front boundary	8 metres

**Reason:** To protect existing trees.

**48. 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.

#### **49. 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.

#### **50. On site retention of waste docket**

All demolition, excavation and construction waste docket 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:**

#### **51. 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. A78071 have been complied with.

**Reason:** Statutory requirement.

#### **52. Clotheslines and clothes dryers**

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

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

#### **53. Completion of landscape works**

Prior to the release of the Occupation Certificate, the Principal Certifying Authority is to be satisfied that all landscape works, including the removal of all noxious and/or environmental weed species, have been undertaken in accordance with the approved plan(s) and conditions of consent.

**Reason:** To ensure that the landscape works are consistent with the development consent.

#### **54. Certification of drainage works**

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

satisfied that:

- the components of the new drainage system have been installed by a licensed contractor in accordance with the National Plumbing and Drainage Code AS3500.3 (2003) and the Building Code of Australia
- the stormwater drainage works have been completed in accordance with the approved Construction Certificate drainage plans and Ku-ring-gai Water Management DCP 47

**Note:** Evidence from the plumbing contractor or a qualified civil/hydraulic engineer confirming compliance with this control is to be provided to Council prior to the issue of an Occupation Certificate.

**Reason:** To protect the environment.

#### **55. 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.

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

Prior to issue of the Occupation Certificate, the Principal Certifying Authority must be satisfied that the following works in the road reserve have been completed:

- new widened concrete driveway crossing and layback in accordance with levels and specifications issued by Council
- removal of all redundant driveway crossings and kerb laybacks (or sections thereof) and reinstatement of these areas to footpath, turfed verge and upright kerb and gutter (reinstatement works to match surrounding adjacent infrastructure with respect to integration of levels and materials)
- full repair and resealing of any road surface damaged during construction
- full replacement of damaged sections of grass verge with a native variety to match existing

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

**Reason:** To protect the streetscape.

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

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

Prior to the issue of the Subdivision Certificate, the applicant must submit an original

instrument under Section 88B of the Conveyancing Act with the plan of subdivision, plus 5 copies to Council. Ku-ring-gai Council must be named as the authority whose consent is required to release, vary or modify the burdens.

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

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

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

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

#### **59. Submission of certification of as-constructed development (strata)**

Prior to the issue of the Subdivision Certificate, the applicant is to submit a survey report and surveyor's certificate which confirms that

- (a) The floors, external walls and ceilings depicted in the proposed strata plan for the building correspond to those of the building as constructed;
- (b) The floors, external walls and ceilings of the building as constructed correspond to those depicted in the building plans that accompanied the construction certificate for the building; and
- (c) Any facilities required by the development consent for the building (such as parking spaces, terraces and courtyards) have been provided in accordance with those requirements.

**Reason:** To ensure that the as-constructed development is consistent with the approval.

#### **60. Submission of plans of subdivision (strata)**

For issue of the subdivision certificate, the applicant shall submit an original plan of subdivision plus 6 copies suitable for endorsement by the consent authority. The following details **must** be submitted with the plan of subdivision and its copies, where Council is the consent authority:

- a) the endorsement fee current at the time of lodgement
- b) the 88B instrument plus 5 copies
- c) all surveyors and/or consulting engineers' certification(s) required under this subdivision consent.
- d) Proof of payment of S94 contributions.

All parking spaces and all areas of common property, including visitor car parking spaces and on-site detention facilities, which are to be common property, must be

included on the final plans of strata subdivision. Where Council is the certifying authority, officers will check the consent conditions on the subdivision. Failure to submit the required information will delay endorsement of the linen plan and may require payment of re-checking fees.

**Plans (and copies) of subdivision must not be folded. Council will not accept bonds in lieu of completing subdivision works. If the certifying authority is not Council, then a copy of all of the above must be provided to Council.**

**Reason:** Statutory requirement.

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

### **61. Encroachment over burdens**

At all times for the life of the approved development, no part of any structure shall encroach over any easement and no loadings shall be imposed to utilities within any easement unless approved by the owner(s) appurtenant to the burden.

This development consent does not set aside or affect in any way the exercise of any rights-at-law which may be conferred upon any parties by the existence and/or terms of the grant of any easements or rights-of-carriageway on or over the subject lot(s). It is the applicant's full responsibility to ensure that any rights-at-law are investigated and upheld. Council accepts no responsibility whatsoever, at any time, for any claim for any matter or thing arising from its approval to this application involving any encroachment or other influence upon any easement or right-of-carriageway.

The applicant's attention is directed to the rights of persons benefited by any easement or right-of-carriageway concerning the entry and breaking up of a structure approved by this consent. In the event that such a structure causes damage, blockage or other thing requiring maintenance to infrastructure within the easement or right-of-carriageway, or access is required to carry out maintenance, Council accepts no responsibility in this regard.

**Reason:** To ensure compliance with the development consent.

## **EXTRA REPORTS CIRCULATED AT MEETING**

## **BUSINESS WITHOUT NOTICE - MATTERS OF GREAT URGENCY**

## **INSPECTIONS COMMITTEE - SETTING OF TIME, DATE AND RENDEZVOUS**

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**Environmental Planning & Assessment Act 1979**  
**(as amended)**

**Section 79C**

1. *Matters for consideration - general*

*In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:*

- a. *The provisions of:*
  - i. *any environmental planning instrument, and*
  - ii. *any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and*
  - iii. *any development control plan, and*
  - iv. *any matters prescribed by the regulations,*

*that apply to the land to which the development application relates,*
- b. *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- c. *the suitability of the site for the development,*
- d. *any submissions made in accordance with this Act or the regulations,*
- e. *the public interest.*