

JOINT REGIONAL PLANNING PANEL SYDNEY WEST REGION

JRPP No	2011SYW002
DA Number	DA 1000/10
Local Government Area	Ku-ring-gai Council (Gordon Ward)
Proposed Development	Demolition of existing structures and construction of two residential flat buildings comprising 80 units, basement car parking for 111 cars and associated site and landscaping works.
Street Address	35, 37 & 39 Dumaresq Street and 32 & 34 McIntyre Street, Gordon
Applicant/Owner	EG Property Pty Ltd/ 35 Dumaresq Street: Sylvia Sav Wah Ng & Kwok Keung Steve Ng; 37 Dumaresq Street: Donald & Jann Hamilton; 39 Dumaresq Street: Paul & Bettina Culter; 32 McIntyre Street: Jane Robson; 34 McIntyre Street: Reinagrd & William Porges
Number of Submissions	Four
Recommendation	Approval with Conditions
Report by	Council Staff, Ku-ring-gai Municipal Council

SUMMARY SHEET

LOT & DP:	Lot 1 DP 136683; Lot C & D DP 355865; Lot D DP 348677; Lot 1 DP 119608
DATE LODGED:	24 December 2010
ESTIMATED COST OF DEVELOPMENT:	\$23,400,000
ISSUES:	Single aspect apartment depth >8m; height of retaining walls >0.9m; side setback to the topmost floor <9m; length of building facing McIntyre Street >36m.
PRE-DA MEETING:	No
SUBMISSIONS:	Yes
LAND & ENVIRONMENT COURT:	N/A
RECOMMENDATION:	Approval

LEGISLATIVE REQUIREMENTS

Zoning	R4 – High Density Residential under Ku-ring-gai (Town Centres) LEP 2010
Permissible Under	Ku-ring-gai LEP (Town Centres) 2010
Relevant legislation	SEPP 55 – Remediation of land SEPP 65 – Design quality of residential flat development SEPP (Sydney Harbour Catchment) 2005 SEPP (BASIX) 2004 Ku-ring-gai LEP (Town Centres) 2010 Ku-ring-gai DCP (Town Centres) 2010 Ku-ring-gai Contributions Plan 2010

Integrated Development No

HISTORY

Current application DA1000/10:

24 December 2010	DA lodged (no Pre-DA consultation undertaken prior to lodgement)
14 January 2011 – 14 February 2011	Application notified.
25 February 2011	Correspondence sent to the applicant raising issues associated with landscaping and ecological matters; need for additional information on contamination, solar access, FSR and safety and security. Design issues with respect to the Town Centres DCP were raised, together with a need to update the stormwater plan to satisfy Council's water management provisions.
17 March 2011	Council officers brief the JRPP on the application.
1 April 2011	Amended plans submitted in response to issues raised in Council's letter of 25 February 2011. Changes include: <ul style="list-style-type: none">• reduction in number of units from 85 to 80;

- redesign western elevation to provide greater articulation;
- increase area of communal open space;
- provide bridge across riparian corridor;
- improve disabled access throughout site;
- redesign rear of McIntyre Street building to retain tree 47;
- amended stormwater design to address engineering and riparian corridor requirements.

8 April 2011 to 8 May 2011

Amended plans notified.

15 May 2011

Further amended plans submitted addressing landscape and BASIX issues.

THE SITE

Zoning:	Residential R4
Lot Number:	Lot 1 DP 136683; Lot C & D DP 355865; Lot D DP 348677; Lot 1 DP 119608
Area:	6018m ²
Side of Street:	Low side to both street frontages
Cross Fall:	North-East to South-West
Stormwater Drainage:	To natural water course / creek located in the mid-section of the site.
Heritage Affected:	No
Integrated Development:	No (per advice from DoW)
Bush Fire Prone Land:	No
Endangered Species:	Yes – Sydney Blue Gum High Forest - No detrimental impacts
Urban Bushland:	No
Contaminated Land:	Yes – see further discussion

THE SITE AND SURROUNDING AREA

The site

The development site comprises five residential allotments (three fronting Dumaesq Street and two fronting McIntyre Street). The development site currently contains 5 single detached dwellings with associated improvements such as garden sheds, swimming pools and ancillary outbuildings.

The subject site is characterised by its steep topography, sloping from the north-east to south-west, with the lowest point located approximately halfway along the southern boundary. The site falls 10.5m from its highest to lowest point. The site is characterised by an established landscape setting, with mature trees and gardens within the front setback of the existing residences and dense native vegetation associated with a riparian corridor

which runs through the central portion of the site from east to west. In total, the development site contains 55 mature trees.

A natural creek runs through the mid point of the development site and forms part of the upper reaches of the Lane Cove River catchment. This creek is not recognised as a natural water course by the Department of Water per the Water Management Act 2000, however is nonetheless identified within Council's DCP as being a Category 3 Riparian Corridor and serves as a natural drainage path for properties extending from the Pacific Highway.

The development site has a total site area of 6,018sqm, with a frontage to Dumaresq Street of 44.3m, frontage to McIntyre Street of 43m and a depth of 136.5m.

Surrounding development

The development site is on the periphery of the Gordon Town Centre, falling away to the west from the ridge of the Pacific Highway.

The surrounding locality is undergoing transformation from low density, detached single dwellings on large allotments to high density residential through 3 – 5 storey residential flat buildings and multi-unit developments. Adjoining sites to the east are already undergoing redevelopment, with many developments either completed or in the process of construction.

The development site along the length of the western boundary adjoins two parcels of land which have been zoned 'SP2 Future Road'. The Town Centres DCP envisages that these properties would be acquired by Council and a local road built to improve traffic circulation through the surrounding area.

During the assessment of the application, options were discussed with the applicant whereby Council could acquire the two sites adjoining the development site, with a view that those properties once acquired, would be developed for the purpose of a local road. This is consistent with the adjoining properties zoning 'SP2' and would be managed through a Voluntary Planning Agreement (VPA). It was agreed that the mechanism of a VPA, together with the complex nature of acquiring the subject properties for the road, designing the road and incorporating it into the proposed development would be a lengthy process for all concerned and it would be better considered outside of the DA process. Subsequently, as this matter is being reported to the JRPP, Council and the proponent are in preliminary discussions concerning a VPA and how another DA which takes this matter on board might proceed.



Development site

THE PROPOSAL

The proposal as amended is for the demolition of the existing structures and construction of a residential flat development comprising two buildings, containing a total of 80 units (26 x 1 bedroom, 43 x 2 bedroom and 11 x 3 bedroom) and construction of basement levels beneath each building providing a total of 111 car spaces.

The development has been designed to address both McIntyre and Dumaresq Streets, with Building 'A' facing McIntyre St and Building 'B' facing Dumaresq St. Communal open space is provided on either side of the riparian corridor, with these areas linked by an accessible pathway and bridge. The development has been designed to respond to the likely future character of the area, by providing a 10m frontage setback to the western (side) boundary, in anticipation that the adjoining site will be acquired by Council and a road constructed, consistent with its zoning.

Vehicular access to the basement car park of each block is provided from each road frontage of the development. Pedestrian access from the footway of each street frontage is provided into each building, with the access being designed to satisfy the provisions of AS1428.1.

A formalised pedestrian link between both buildings at the rear is provided by way of a bridge over the riparian corridor.

The proposal also includes removal of 30 trees and extensive landscaping works to enhance the riparian corridor and complement the setting of the development.

CONSULTATION - COMMUNITY

In accordance with Part 15 of the Town Centres Development Control Plan (2010), owners of adjoining properties were given notice of the application on 14 January 2011, and of the amended scheme on 8 April 2011. In response, Council received four (4) submissions from the following:

1. Tom & Sally Quan, 48 McIntyre Street, Gordon
2. John & Rita McColl, 41 Dumaresq Street, Gordon
3. John Knowles, 36 Dumaresq Street, Gordon
4. Martin & Deborah Walker, 46 McIntyre Street, Gordon

The submissions raised the following issues:

The development as proposed is visually prominent and overwhelms the site. It will not contribute to the streetscape and is out of character with the adjacent residential development.

The subject site and adjoining sites are zoned for five storey residential flat development. The development proposed is consistent with the desired future character for development within the locality, pursuant to the zoning. Furthermore, the development has been designed to satisfy the prescriptive controls of the DCP.

Landscaping and private open space is not adequate, the front setbacks do not allow for any significant landscaping plantings.

The proposed development has been considered by Council's Landscape Officer who is satisfied that sufficient private open space has been provided within the development and that the amount of landscaping provided on site and within the frontages of the development is consistent with the controls of the DCP. It is also noted that 50% of the site provides for deep soil landscaping.

The application has not provided adequate attention to, site location and servicing for the numerous garbage bins that are required for such large developments.

The development has been provided with a waste storage area that has been designed in accordance with the controls of Part 4 of the DCP. In accordance with the detailed provisions of the DCP, the waste storage areas will be serviced internally by Council's small waste truck. Such an arrangement limits the impact upon the adjoining residents and will actually result in a reduction in the number of waste bins serviced from the street.

There is concern over the likely parking overflow and increased levels of street parking.

Car parking has been provided on site consistent with the controls of the DCP. The amount of car parking provided is therefore satisfactory.

The proposal will have an adverse impact on the residential amenity of adjoining properties.

Council's DCP which applies to the subject site and adjoining properties has strict controls concerning privacy and of adjoining properties. With regard to those controls, the proposed development is assessed as satisfying the DCP and having an acceptable impact upon amenity.

The size of the development will place excessive strain on utilities which have not been properly explored.

Any upgrading necessary for services is a matter between the developer and the utility provider(s), with any necessary upgrade to ensure appropriate supply being at the developer's cost.

The extent of overshadowing has not been clearly indicated nor has it been properly considered.

This matter was raised with the applicant during the assessment of the application. In response amended shadow diagrams and solar access information were provided which demonstrated that the development meets and exceeds the solar access provisions of Council's controls and SEPP 65.

The area is a quality residential locality and a development of this scale does not maintain the current level of quality accommodation in the locality.

The development site and those adjoining are in an area recently rezoned for higher density, which encourages redevelopment. Subsequently, the development proposed accords with the desired future character of development within the locality.

The proposed development results in a significant loss of trees.

The development has been amended to allow the retention of a number of trees, particularly at the rear and along the riparian corridor. Tree retention is on balance with the development potential of the site, noting that the proposed landscape plan includes the planting of additional canopy trees.

The proposed development fails to satisfy the riparian corridor requirements of Council's controls.

This matter has been reviewed by Council's Catchment Officer who is satisfied that the development will have a positive effect upon the riparian corridor and is appropriately designed in this respect.

The proposed development has insufficient setbacks.

The setbacks proposed satisfy the requirements of the controls within Council's DCP, noting that a 10m setback has been provided to the western boundary whereas a 6m setback strictly applies.

The materials and colours are not acceptable, appropriate or in the interests of preserving the high quality and character of the existing residential streetscapes.

This matter has been assessed by the Council's Urban Design Consultant against the relevant design principals contained in SEPP 65. The review of the Urban Design Consultant is supportive of the design and finishes, noting that construction in accordance with the quality finishes proposed is also required by a recommended condition of consent.

The proposed 5 storey complex so close to existing single storey (not rezoned) residences creates significant visual disharmony, the whole effect is accentuated by the poor architectural design.

The development is sufficiently separated from low density areas, noting that the site to the west (and to the lower density areas) will be separated by the proposed road, which in the future, will improve the integration between the higher densities of the Gordon Town Centre and low density areas of the periphery of the Gordon Town Centre. The height and sighting of the development is satisfactory with regard to the topography and setting of the site.

CONSULTATION – EXTERNAL TO COUNCIL

Department of Water

As the development contains a natural water course, albeit a localised creek, comment was sought from the Department of Water (DoW) in respect of the integrated development provisions of S.91 of the Environmental Planning and Assessment Act 1979. This advice was sought on the basis that the applicant within the submission to Council provided advice that the creek was not considered a water course and subsequently the application was not integrated development, pursuant of S.91 of the EP&A Act.

Council officers pursued this matter with the DoW which confirmed that the subject creek is not considered to be a natural water course. On this basis, the development is not deemed to be integrated development and formal referral to the DoW was not pursued.

Energy Australia

Council by way of letter dated 6 January 2011 notified Energy Australia of the development. No response was provided from Energy Australia.

CONSULTATION - WITHIN COUNCIL

Urban Design

Council's Urban Design Consultant, has provided Council with a comprehensive critique of the development as well as an assessment against SEPP 65. The conclusions of the Urban Design Consultant support the proposed development and its design. The urban design comments are attached to this report (**Attachment 9**). The following section from the report summarises the Urban Design Consultants conclusions:

Designed by Wendy Lewin Architect and Angelo Candalepas and Associates Pty Ltd it responds to its context; is an innovative solution to a complex site and shows a high level of architectural sophistication, skill and understanding.

The floor space is organised into two complementary buildings that reveal and respect the street and the natural features of the site. They do this by linking the internal and external spaces in buildings which define a clear inter-related public and private spatial system. The form reveals the natural and topographical features of the site through the changes of levels; the introduction of internal courtyards and "through" entry/ communal spaces enhanced buy the addition of the viewing platform and ground floor open space. The apartments are well designed, circulation is well resolved and the use of materials / openings / entrances and detail arrangements potentially create a successful outcome.

The areas which I believe could be resolved more fully are:

- The extension of the courtyards / balconies at ground level to the side setbacks where possible on the eastern boundary and to the street on the western boundary for the reasons outlined above about the value of a variety of external conditions and not just a variety of internal conditions .*
- The western elevation and ground plane relative to the proposed new street could include the levels; fencing and possibly individual entries to some apartments. I would still recommend a reduced set back to this street as outlined but that initiative would involve a redesign of the whole proposal.*

The proposal is developed around a strong idea about space and the organisation of the buildings on the ground coupled with quite fine resolution of the details. Because of this a key factor in the successful implementation of this development is that the current architectural consortium is retained to detail the proposal through to construction. It is the kind of proposal that could lose much of its quality with unsympathetic detailing and poor construction but I am not sure how this can be secured.

The last point made by Council's Urban Design Consultant concerning the quality of materials / finishes, has been raised with the applicant. In response, a comprehensive finishes board has been provided, as well as notations on the plans, detailing the necessary finish / materials to be used to achieve the depicted outcome. In this regard, **Condition 1** of the recommendation requires construction to be in accordance with the stated materials and finishes.

Further, the suggested reduced setback to the western elevation has been explored, however it is not supported as it would set a precedence for other developments which adjoin future road dedications. It is considered that a 10m setback is necessary for consistent presentation of residential flat developments which address a street frontage. Likewise, additional courtyards along the eastern elevation have not been pursued, due to its impact on available deep soil landscaping.

Riparian

Council's Catchment Officer commented on the proposal as follows:

1.1. Introduction

A category 3 Riparian Zone is identified on the Natural Resources Sensitivity - Riparian Lands Map, Ku-ring-gai Local Environmental Plan (Town Centres) 2010. Consequently, the objectives of section 6.6 of the Ku-ring-gai Local Environmental Plan (Town Centres) 2010 and Part 6 of the Ku-ring-gai Development Control Plan (Town Centres) 2010 apply.

Matters considered

The proposed development (including recommended conditions/amendments) adequately addresses the riparian zone requirements of Council's Town Centres LEP and DCP. Apart from minor intrusions from the development, it maintains the required Category 3 vegetated riparian corridor.

It is noted that a structured core riparian zone is only identified for 5m either side of the channel. However, this is to be a fully remediated zone from a currently heavily impacted riparian area. This remediated channel and CRZ in addition to the additional 5m either side of APZ or "buffer" landscaped area (including the courtyard areas) is considered to meet the relevant riparian objectives for a category 3 riparian zone. Additional environmental benefits such as implementation of bioretention systems and rainwater re-use is also recognised to mitigate the potential negative impacts arising from this development.

It is preferred that solid walls are not constructed around the courtyards. This is to maintain connectivity between the core riparian zone and the landscape buffer. It is preferred that an alternative, softer landscaping approach is used to delineate the courtyards if possible, particularly for the sides that face the riparian zone. This could be a combination of more suitable fencing (picket or pool-type) in combination with a native hedge planting.

However, if the solid walls have been utilised to prevent flood waters from inundating the lower level dwellings then this is recognised as a practical constraint for the riparian buffer area.

Given the important interactions between the stormwater management and landscaping, particularly in the riparian area, relevant stormwater management features should be clearly shown on the landscape plans. These include:

- *bioretention devices*
- *stormwater outlets and headwalls*

1.1.1. Conclusion

The submitted plans are generally consistent with the objectives of the riparian zone requirements as the development mitigates negative impacts on the riparian zone through remediation of the existing, modified area on the site, and maintains a vegetated corridor 10m either side of the channel.

Recommendations

The application is supported pending:

- *Use of a more suitable fencing that the concrete walls in the riparian corridor (buffer/APZ area) which face the core riparian zone.*

Reason: to ensure lateral connectivity is maintained. The existence of concrete walls may be considered acceptable if it is demonstrated they are in place for flood protection.

- *Inclusion of landscape related stormwater management features on the landscape plan. Particular points of interest include:*
 - *stormwater outlets - these will impact the habitat and corridor features in the CRZ)*
 - *bioretention devices – it is unclear how these are incorporated into the landscape plan*

Reason: to ensure that the stormwater management and landscaping is compatible.

- *Staging of the bioretention system needs to be clarified. Notes on the concept plan state they will not be used for sediment control during construction, however they are shown on the soil and sediment control plan. If they are constructed early on during construction provision should be made for protection of the filter media*

Reason: to ensure the filter media does not become clogged prior to establishment.

In respect of the above comments, riparian improvement works, bioretention systems and stormwater infrastructure details have been incorporated into the development's amended landscape design as well as its proposed stormwater works. The amended proposal therefore satisfies the above requirements specified by Council's Catchment Officer.

Landscape

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

Site characteristics

The site is characterised by an established landscape setting, with mature trees and shrubs within formal garden beds and grassed expanses. The site is dominated by numerous trees providing a treed horizon line.

Tree impacts

The development proposes the removal of numerous trees across the site to accommodate the two buildings. The following comments are made;

- **Tree 26 *Pistacia chinensis* (Chinese Pistacio)** *is located within the Dumaresq St nature strip. The tree is part of an avenue planting and is visually significant within the streetscape. The proposed driveway has been relocated with a greater setback from the tree which has satisfactorily resolved previous issues raised.*
- **Tree 47 *Syncarpia glomulifera* (Turpentine)** *is centrally located on site adjacent to the western site boundary. The tree is identified as having significant landscape significance, and is in good health and condition. Amended plans have satisfactorily resolved previous concerns raised regarding impacts to its root zone and canopy.*
- **Tree 60 *Magnolia soulangeana* (Saucer Magnolia)** *is located adjacent to the McIntyre St driveway. The tree is in good health and condition and is part of the landscape setting of the previous heritage listed property at 36 McIntyre Street (heritage listing has been lifted). Previous concerns raised have been satisfactorily resolved with additional information and clarification of necessary tree works.*

The remainder of the nominated tree removal can be supported by Landscape Services.

Landscape plan/tree replenishment

Subject to minor amendments which can be conditioned, the amended landscape plan Rev D is considered acceptable.

Stormwater plan

No significant landscape issues raised with the proposed drainage works for the site. Any changes required are minor and can be conditioned.

BASIX

An amended BASIX certificate #377053M_03, dated 18 May 2011, has been submitted. The proposed development works are consistent with the BASIX certificate.

Deep soil

By the applicant's revised calculations the development will result in a deep soil landscaped area of 3032sqm or 50% of the site area. The assessing Landscape Officer is in agreement with the areas included with the deep soil landscaped area calculations. It is noted that there are some minor inconsistencies between the landscape plan and architectural plans regarding the location of proposed retaining walls and the extent of timber decking. It will be conditioned for the landscape plan to be amended to be consistent with the architectural plans.

Communal open space

The amended design has provided a satisfactory principal communal open space that is accessible for all residents.

Conclusion

The application is acceptable, subject to conditions.

Ecological

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

The amended landscape and architectural plans now proposed to retain Tree 47-Syncarpia glomulifera (Sydney Turpentine) which forms part of remnant Sydney Turpentine Ironbark Forest an Endangered Ecological Community listed under the Threatened Species Conservation Act 1995 within the site.

As Tree 47, the Sydney Turpentine is to be retained and the impacts are considered to be acceptable in accordance with the AS4970-2009 Protection of Trees on Development Sites no amended impact assessment as previously raised in the previous ecology referral is required.

The proposed development has now been amended to retain Tree 47-Syncarpia glomulifera (Sydney Turpentine) which forms part of remnant Sydney Turpentine Ironbark Forest an Endangered Ecological Community listed under the Threatened Species Conservation Act 1995. Due to the retention of Tree 47-Syncarpia glomulifera (Sydney Turpentine) no ecology re-referrals are warranted.

Engineering

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

The applicant has submitted amended plans and additional information, including enlarged survey details of the two frontages (scale 1:100) and MUSIC modelling by MYD Consulting Engineers.

The full-size architectural drawings submitted are Revision C, however a Revision D has been submitted electronically, although the drawing DA01853 Issue C “Driveway Ramp Sections” has not been amended. Other amended plans include:

- *MYD Consulting Engineers Drawings P1729 SW01 to SW06, all Rev. C, SW07A;*
- *MYD Consulting Engineers Drawings P1729 SM-01 and SM-02, both Rev. B;*

According to BASIX Certificate 377053M_03, dated 18 May 2011, the number of units has been reduced to 80 (North – 40 units, 6x1br, 25x2br and 9x3br; South – 40 units, 19x1br, 19x2br and 2x3br).

Water management

The on site detention volume has still been calculated using a 25% concession for retention (only 10% available under the Town Centres DCP). The provision of the additional volume has been conditioned.

*The water quality measures nominated in the MUSIC model are now shown on the stormwater plans. This is satisfactory, and the plans should be stamped with the DA stamp and listed in **Condition 1**.*

Parking and traffic

Under the Town Centres DCP, the north building requires 39 to 56 resident parking spaces and 10 visitor spaces, and the south building requires 35 to 47 resident and 10 visitor parking spaces.

The architectural plans (Revision D) indicate that 49 resident spaces are provided in the north building, including 5 which comply with AS2890.6:2009 (this does not include space 38), and 10 visitor spaces, including 1 disabled. In the south building, 44 resident and 8 visitor spaces are provided, a shortfall of 2 visitor spaces. The only disabled parking space in the south building is V8 and the shared area does not comply with the width requirement of AS2890.6:2009 (free of transitory obstructions).

It is noted that the Access Report submitted with the DA states that 15 accessible parking spaces are provided, with 2.5 metres internal clearance and 2.4 metres shared zone – this does not seem consistent with any issue of the architectural plans. Note that the Access Report refers to drawings titled “SK” – obviously an earlier set.

Nevertheless, these shortfalls can be conditioned.

The longitudinal sections through the proposed driveway crossings which are shown on the drawing titled “Driveway ramp sections” appear to be satisfactory. Some fill will be required in McIntyre Street, however it appears that this will be

possible without affecting pedestrian access along the path or diverting footpath runoff into the property.

Waste management

Longitudinal sections through each driveway have been provided which demonstrate that a minimum of 2.6 metres of headroom will be available for the small waste collection vehicle.

Waste collection areas are provided for each building as follows: North building – space for 48 containers, south building - space for 40 containers in two rooms. This is satisfactory.

Geotechnical investigation

The site is underlain by sandstone below about 1-2 metres depth. Up to 9 to 10 metres of excavation is required to achieve the design basement level.

Groundwater was noted in two boreholes at 2-4 metres depth.

The report contains recommendations for further investigation upon completion of demolition, excavation methods and support, vibration monitoring (including during demolition), dilapidation survey of neighbouring structures and seepage monitoring during excavation. The recommended conditions will require compliance with the recommendations of the report submitted as well as the report to be prepared after the recommended further investigation.

The comments of Council's Development Engineer with respect to car parking are noted, with car parking distribution within the basements of both buildings of the development being covered by conditions supplied by Council's Development Engineer. It is noted that the total number of car spaces within each basement level is sufficient to meet the minimum amount of car parking generated. As the south building (or Building 'B') does not contain any adaptable units, it is acceptable that only a visitor space is provided for disabled car parking, as only one disabled space is demanded by the Australian Standard.

The allocation of residential parking spaces to the respective units will be at the discretion of the developer.

STATUTORY PROVISIONS

State Environmental Planning Policy No. 55 - Remediation of Land

The provisions of SEPP 55 requires consideration of the potential for a site to be contaminated.

In accordance with SEPP 55 (clause 7), the consent authority must not grant consent on land unless,

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

- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

Part of the site's soil has been identified as being contaminated with lead, asbestos and PAH's (polycyclic aromatic hydrocarbons). This contamination has been identified within an Environmental Site Assessment and Remedial Action Plan, prepared by Environmental Investigation Services (EIS), (**Attachment 10**).

The borehole testing and investigations undertaken by EIS state that three separate areas totalling 2025m² of the site contain contaminated soil. The contaminated soil varies in depth from 0.1m to 0.4m below the surface. It has been mentioned in the EIS report that the contaminated soil is of a type consistent with that of ash and slag, a common by-product of domestic and industrial coal burning of the late 19th and early 20th centuries.

In accordance with the requirements of SEPP 55, the EIS report includes options for the remediation of the contaminated soil. These options include on-site treatment of contaminated soil, off-site treatment of contaminated soil, removal of contaminated material to an appropriate facility and reinstatement with clean material, and consolidation and isolation of impacted soil by cap and containment. The EIS report recommends the most suitable option for this development being removal of contaminated material to an appropriate facility and reinstatement with clean material. It is mentioned that once remediated, the site would be suitable for the proposed development.

Remediation of the site in accordance with the EIS report and it's validation through a site audit statement (issued by an EPA accredited site auditor) has been included within the recommended conditions of consent (**Conditions 6 and 50**). Accordingly, the proposed development is assessed as satisfying the requirements of SEPP 55.

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

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

Clause 50(1A) of the EPA Regulation 2000 requires the submission of a design verification statement from the building designer at lodgement of the development application. This documentation has been submitted and is satisfactory.

The SEPP requires the assessment of any development application for residential flat development against 10 principles contained in Clauses 9-18 and Council is required to consider the matters contained in the publication "Residential Flat Design Code".

As such, the following consideration has been given to the requirements of the SEPP and Design Code.

Residential Flat Design Code Compliance Table

Pursuant to Clause 30(2) of SEPP 65 in determining a development application for a residential flat building the consent authority is to take into consideration the Residential Flat Design Code (RFDC). The following table is an assessment of the proposal against the guidelines provided in the RFDC.

	<i>Guideline</i>	<i>Consistency with Guideline</i>
PART 02 SITE DESIGN		
Site Configuration		
<i>Deep Soil Zones</i>	A minimum of 25 percent of the open space area of a site should be a deep soil zone; more is desirable. Exceptions may be made in urban areas where sites are built out and there is no capacity for water infiltration. In these instances, stormwater treatment measures must be integrated with the design of the residential flat building.	YES The proposal provides in excess of 25%.
<i>Fences + walls</i>	Define the edges between public and private land to provide privacy and security and contribute positively to the public domain.	YES The submitted landscape plan utilises planting in addition to fencing to define public and privacy spaces.
<i>Open Space</i>	The area of communal open space required should generally be at least between 25 and 30 percent of the site area. Larger sites and brown field sites may have potential for more than 30 percent.	YES Communal open space has been provided in accordance with the controls of the KTCDP 2010.
	The minimum recommended area of private open space for each apartment at ground level or similar space on a structure, such as on a podium or car park, is 25m ² .	YES Ground floor apartments provided with courtyards which are ≥25m ² in area.
<i>Orientation</i>	Optimise solar access, contribute positively to desired streetscape character, support landscape design with consolidated open space areas, protect amenity of existing development and improve thermal efficiency.	YES The development ensures adequate solar access to the development and those adjoining land has been designed in a manner which is consistent with the desired future character of the area.
<i>Planting on Structures</i>	In terms of soil provision there is no minimum standard that can be applied to all situations as the requirements vary with the size of plants and trees at maturity. The following are	YES The landscape plan includes for some plantings on top of

	<p>recommended as minimum standards for a range of plant sizes:</p> <p>Medium trees (8 metres canopy diameter at maturity)</p> <ul style="list-style-type: none"> - minimum soil volume 35 cubic metres - minimum soil depth 1 metre - approximate soil area 6 metres x 6 metres or equivalent 	<p>structures – these have been considered by Council's Landscape Officer and assessed as being acceptable.</p>
<i>Stormwater management</i>	<p>Minimise impact on the health and amenity of natural waterways, preserve existing topographic and natural features and minimise the discharge of sediment and other pollutants to the stormwater drainage system.</p>	<p>YES</p> <p>The proposed stormwater management plan is supported by Council's Development Engineer.</p>
<i>Safety</i>	<p>Carry out a formal crime risk assessment for all residential developments of more than 20 new dwellings.</p>	<p>YES</p> <p>The crime risk assessment demonstrates compliance with CPTED requirements.</p>
<i>Visual Privacy</i>	<p>Refer to Building Separation minimum standards</p> <ul style="list-style-type: none"> - up to four storeys/12 metres - 12 metres between habitable rooms/balconies - 9 metres between habitable/balconies and non-habitable rooms - 6 metres between non-habitable rooms - five to eight storeys/up to 25 metres - 18 metres between habitable rooms/balconies - 13 metres between habitable rooms/balconies and non-habitable rooms - 9 metres between non-habitable rooms 	<p>YES</p> <p>Yes, building separation has been provided in accordance with the requirements of the RFDC.</p>
<i>Building Entry</i>	<p>Create entrances which provide a desirable residential identity, provide clear orientation for visitors and contribute positively to the streetscape and building façade design.</p>	<p>YES</p> <p>Each block provides strong building entries which enhance the design and reinforce the setting of the development.</p>
<i>Parking</i>	<p>Provide adequate parking for occupants, visitors and disabled.</p>	<p>YES</p> <p>The proposal provides adequate parking facilities.</p>
<i>Pedestrian Access</i>	<p>Identify the access requirements from the street or car parking area to the apartment entrance.</p>	<p>YES</p> <p>Defined pedestrian entries are proposed from each established street frontage.</p>

	<p>Follow the accessibility standard set out in Australian Standard AS 1428 (parts 1 and 2), as a minimum.</p> <p>Provide barrier free access to at least 20 percent of dwellings in the development.</p>	<p>YES</p> <p>A lift has been provided from the basement to each level of the development.</p>
<i>Vehicle Access</i>	Generally limit the width of driveways to a maximum of six metres.	<p>YES</p> <p>The proposed driveways to each block are a maximum of 6.0m in width.</p>
	Locate vehicle entries away from main pedestrian entries and on secondary frontages.	<p>YES</p> <p>The vehicular access is provided to the basement of each block from each street frontage, noting the low side location to minimise the impact of the driveway crossing on the surrounds.</p>
PART 03 BUILDING DESIGN		
Building Configuration		
<i>Apartment layout</i>	Single-aspect apartments should be limited in depth to 8 metres from a window.	<p>NO</p> <p>With the exception of Units SLG.02 and SLG.03. These units face north and will receive ample natural light.</p>
	The back of a kitchen should be no more than 8 metres from a window.	<p>NO</p> <p>All kitchens (the back thereof) within the development are within 8m of a window, with the exception of Units SLG.02 and SLG.03 in the Dumaresq St building.</p>
	The width of cross-over or cross-through apartments over 15 metres deep should be 4 metres or greater to avoid deep narrow apartment layouts.	<p>N/A</p> <p>Development utilises single aspect and corner apartments only.</p>
	<p>If Council chooses to standardise apartment sizes, a range of sizes that do not exclude affordable housing should be used. As a guide, the Affordable Housing Service suggest the following minimum apartment sizes, which can contribute to housing affordability: (apartment size is only one factor influencing affordability)</p> <ul style="list-style-type: none"> - 1 bedroom apartment 50m² - 2 bedroom apartment 70m² 	<p>YES</p> <p>All apartments meet the appropriate size requirements.</p>

	- 3 bedroom apartment 95m ²	
<i>Apartment Mix</i>	Include a mixture of unit types for increased housing choice.	<p>YES</p> <p>The proposal includes: 26 x 1 bedroom, 43 x 2 bedroom and 12 x 3 bedroom units. It is noted that each block contains a mixture of unit types and sizes.</p>
<i>Balconies</i>	Provide primary balconies for all apartments with a minimum depth of 2 metres. Developments which seek to vary from the minimum standards must demonstrate that negative impacts from the context-noise, wind – can be satisfactorily mitigated with design solutions.	<p>YES</p> <p>All balconies within the development satisfy the minimum depth provisions.</p>
<i>Ceiling Heights</i>	<p>The following recommended minimum dimensions are measured from finished floor level (FFL) to finished ceiling level (FCL).</p> <ul style="list-style-type: none"> - in residential flat buildings or other residential floors in mixed use buildings: - in general, 2.7 metres minimum for all habitable rooms on all floors, 2.4 metres is the preferred minimum for all non-habitable rooms, however 2.25m is permitted. 	<p>YES</p> <p>All habitable rooms have a floor to ceiling height of 3.0m exclusive of the slab.</p>
<i>Ground Floor Apartments</i>	Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site.	<p>YES</p> <p>The number of ground floor apartments has been optimised.</p>
	Provide ground floor apartments with access to private open space, preferably as a terrace or garden.	<p>YES</p> <p>All ground floor apartments have direct access to private open space areas which include balconies and courtyards.</p>
<i>Internal Circulation</i>	In general, where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to eight.	<p>YES</p> <p>With the exception of floors 1 to 3 of the Dumaresq St building which has 9 units per core.</p> <p>Acceptable given dispensations of RFDC in that internal void area which would otherwise facilitate a lift core serves as a light / ventilation shaft, maximising amenity.</p>
<i>Storage</i>	In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:	<p>YES</p> <p>All units have been provided with storage which accords with the</p>

	<ul style="list-style-type: none"> - studio apartments 6m³ - one-bedroom apartments 6m³ - two-bedroom apartments 8m³ - three plus bedroom apartments 10m³ 	RFDC and Council's DCP.
Building Amenity		
<i>Acoustic Privacy</i>	Ensure a high level of amenity by protecting the privacy of residents within apartments and private open space	<p>YES</p> <p>Noise sensitive rooms have been appropriately located and POS is adjoined by living areas.</p>
<i>Daylight Access</i>	Living rooms and private open spaces for at least 70 percent of apartments in a development should receive a minimum of three hours direct sunlight between 9 am and 3 pm in mid winter.	<p>YES</p> <p>70% of units within the development receive a minimum of three hours direct sunlight between 9am and 3pm.</p>
	Limit the number of single-aspect apartments with a southerly aspect (SW-SE) to a maximum of 10% of the total units proposed.	<p>YES</p> <p>Number of single aspect units with a south-west / south-east aspect limited to less than 10%, with 5% of single aspect units facing south-east / west.</p>
<i>Natural Ventilation</i>	Building depths, which support natural ventilation typically, range from 10 to 18 metres.	<p>YES</p> <p>Central courtyard areas ensure that habitable areas of the building are limited in depth, satisfying natural ventilation and light requirements.</p>
	Sixty percent (60%) of residential units should be naturally cross ventilated.	<p>YES</p> <p>63% of units are cross ventilated.</p>
Building Performance		
<i>Waste Management</i>	Supply waste management plans as part of the development application submission as per the NSW Waste Board.	YES
<i>Water Conservation</i>	Rainwater is not to be collected from roofs coated with lead- or bitumen-based paints, or from asbestos- cement roofs. Normal guttering is sufficient for water collections provided that it is kept clear of leaves and debris.	YES

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

A valid BASIX Certificate 377053M_03, has been submitted.

SEPP (Sydney Harbour Catchment) 2005

Matters for consideration under SEPP 2005 include biodiversity, ecology and environmental protection, public access to and scenic qualities of foreshores and waterways, maintenance of views, control of boat facilities and maintenance of a working harbour. The proposal is not in close proximity to, or within view, of a waterway or wetland and is considered satisfactory in this regard.

KU-RING-GAI LOCAL ENVIRONMENTAL PLAN (TOWN CENTRES) 2010

On 25 May 2010, the Ku-ring-gai Local Environmental Plan (Town Centres) 2010 was gazetted. This instrument is the prevailing planning instrument for development on the subject site.

Land-use table and zoning (Clause 2.2)

Residential 'R4' (High Density Residential) zone

The site is within the Residential 'R4' (High Density Residential) zone as are adjoining sites to the north (fronting the opposite side of McIntyre St) and the south (on the opposite side of Dumaresq St). As mentioned earlier, the sites to the west adjoin the 'SP2' zone for road acquisition. Extending further west, the properties zoned for the local road adjoin the lower density R3 zone.

The objectives of the R4 zone are as follows:

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

The proposal provides for housing of different types to the community and is considered to be consistent with the objectives of the R4 zone.

Principle development standards

The following development standards are applicable to the proposed development under the provisions of the Ku-ring-gai Local Environmental Plan (Town Centres) 2010.

COMPLIANCE TABLE – PRINCIPLE DEVELOPMENT STANDARDS			
Development standard	Requirement	Proposal	Complies (Yes/No)
Cl.4.3: Height of Buildings	17.5m	≤17.5m	YES
Cl.4.4: Floor Space Ratio	1.3:1	1.3:1	YES

Part 6 – Additional local provisions

The following additional local provisions apply to residential flat development within the R4 zone.

COMPLIANCE TABLE – ADDITIONAL LOCAL PROVISIONS			
Development standard	Requirement	Proposed	Complies (Yes/No)
Cl.6.1(2): Minimum street frontage	30m	36.5m to Dumaresq St; 34.6m to McIntyre St	YES

Clause 6.5 – Natural Resources Sensitivity – Biodiversity

The site to which the development relates is upon land identified in the maps associated with Cl. 6.5(2), as being an area of biodiversity significance.

Cl. 6.5(3) requires the consent authority to consider the impact of the development on the following:

- (a) the impact of the proposed development on the following:*
 - (i) an native vegetation community,*
 - (ii) the habitat of any threatened species, population or ecological community,*
 - (iii) any regionally significant species of plant, animal or habitat,*
 - (iv) any biodiversity corridor,*
 - (v) any wetland,*
 - (vi) the biodiversity values within any reserve,*
 - (vii) the stability of the land, and*
- (b) any proposed measure to restore or enhance remnant vegetation, habitat and biodiversity corridors, and*
- (c) any opportunity to restore or enhance remnant vegetation, habitat or biodiversity corridors.*

Cl. 6.5(4) prohibits the issue of a development consent unless the consent authority is satisfied of the following:

- (a) is consistent with the objectives of this clause, and*
- (b) is designed, and will be sited and managed, to avoid any potential adverse environmental impact or, if a potential adverse environmental impact cannot be avoided:*
 - (i) the development minimises disturbances and adverse impacts on remnant vegetation communities, habitat and threatened species and populations, and*
 - (ii) measures have been considered to maintain native vegetation and habitat in parcels of a size, condition and configuration that will facilitate biodiversity protection and native flora and fauna movement through biodiversity corridors, and*

- (iii) *the development avoids clearing steep slopes and facilitates the stability of land, and*
- (iv) *measures have been considered to achieve no net loss of significant vegetation or habitat.*

In response to the above objectives and assessment criteria, the applicant has undertaken detailed arboricultural and ecological studies to establish the exact level of significance and the likely impact that the development may have (if any) on those identified areas of significance.

The existing riparian corridor onsite was identified as being the portion of the site with the highest biodiversity value, albeit in a dilapidated state, through weed invasion and urban pressures. However, within the riparian corridor, a *Syncarpia glomulifera* – Sydney Turpentine exists, which is a remnant species of the Sydney Turpentine Ironbark Forest.

This subject tree is considered to form part of an endangered community, as the scientific determination of an endangered ecological community is *'the structure of the community was originally forest, but may now exist as a woodland or as remnant trees'*

The tree is therefore considered as an 'endangered species' and, in response to the controls of Cl. 6.5 of the KTCLEP 2010, the development has been designed to ensure the retention and ongoing health of this tree. It is noted that the development has been considered by Council's Ecological Assessment Officer, who is satisfied that the development will not have an adverse impact upon the subject tree or the overall biodiversity significance of the site or adjoining land.

Furthermore, the adjoining riparian corridor is to be rehabilitated to be characteristic of a vegetated natural water course with urban influences and managed flows, to minimise disturbance. It is considered that by improving vegetation within the area (particularly the riparian corridor), locally occurring flora & fauna will have an improved opportunity to repopulate the development site and those adjoining.

It is for these reasons that the development is assessed as satisfying the biodiversity considerations of the LEP and will result in an improved natural outcome than that of the current site characteristics.

Clause 6.6 – Natural Resources Sensitivity – Riparian Lands

The site to which the development relates is nominated as being a Category 3 site within the riparian lands map per Cl. 6.6(2) of the KTCLEP.

Cl. 6.6(3) requires the consent authority before it grants consent to consider the impact of the development on the following:

- (a) *water quality in the waterway, and the natural hydrological regime,*
- (b) *aquatic and riparian habitats and ecosystems,*
- (c) *stability of the bed, shore and banks of the waterway,*
- (d) *the movement of aquatic and terrestrial native species,*
- (e) *habitat of any threatened species, population or ecological community,*

- (f) public access to, and use of, any public waterway and its foreshores,*
- (g) any opportunities for maintenance, rehabilitation or re-creation of watercourses, aquatic and riparian vegetation and habitat.*

Cl. 6.6(4) prohibits the issue of a development consent unless the consent authority is satisfied of the following:

- (a) is consistent with the objectives of this clause, and*
- (b) is designed, and will be sited and managed, to avoid any potential adverse environmental impact or, if a potential adverse environmental impact cannot be avoided the development:*
 - (i) is designed and sited so as to have minimum adverse impacts, and*
 - (ii) incorporates effective measures so as to have minimal adverse environmental impacts, and*
 - (iii) mitigates any adverse environmental impact through the rehabilitation or remediation of any existing disturbed or artificially modified riparian area on the site.*

As discussed earlier in this report, the subject riparian zone is a local creek and does not constitute a water course, pursuant of the Water Management Act 2000.

Notwithstanding this, in response to the controls of both the LEP and DCP, the development has been designed to maintain and enhance the riparian corridor.

It is noted that the works are localised to the development site as to the east (or high side of the development site), the partially constructed 'Gordonia' residential flat development exists (at 29-33 Dumaresq Street), which has partially built over the natural path of the creek, and to the west (low side), the natural path of the creek is maintained, with the form and structure of the creek on the adjoining property being generally consistent with a natural state. The future form of the creek is unknown as this site is dedicated for acquisition as a local road, and will be altered from its natural state to support this inclusion.

Council's Catchment Officer has reviewed the proposed development and is satisfied that the development is appropriately designed to ensure the integrity of the riparian corridor and, through the schedule of works proposed, enhances and rehabilitates the corridor to a state consistent with a natural / urban interface. In addition to weed eradication and re-plantings, additional environmental benefits such as implementation of bioretention systems and rainwater re-use is also recognised to mitigate potential negative impacts arising from the development.

The development is therefore assessed as satisfying the considerations prompted by Cl. 6.6 of the KTCLEP 2010.

POLICY PROVISIONS

KU-RING-GAI DEVELOPMENT CONTROL PLAN (TOWN CENTRES) 2010

COMPLIANCE TABLE			
Development Control	Requirement	Proposed	Complies (Yes/No)
3C.1 BUILDING SEPARATION			
Levels 1 – 4	<ul style="list-style-type: none"> • 12m bwn habitable rooms & balconies • 9m bwn other rooms & balconies 	21m at closet point between buildings at rear	YES
Levels 5 - 7	<ul style="list-style-type: none"> • 18m bwn habitable rooms & balconies • 13m bwn habitable & balcony & non habitable • 9m bwn non habitable 	57m at closet point	YES
3C.2 BUILDING SETBACKS			
Front	<ul style="list-style-type: none"> • 10m corner site • Max 40% articulation zone (2m) 	<ul style="list-style-type: none"> • 10m both frontages • >40% 	YES
Side	<ul style="list-style-type: none"> • 6m up 4 storeys • 9m at 5 storeys • 3m driveway setback 	<ul style="list-style-type: none"> • 6m to eastern elevation, 10m to western elevation • 9m to eastern elevation building wall, 10m to western elevation wall • >3m 	YES NO YES
Encroachments	<ul style="list-style-type: none"> • Basement not encroach • Ground POS 8m from street boundary & 4m from side & rear • <15% front setback POS 	Basement does not encroach; private open space areas within limits of DCP and <15% of POS within front setback areas	YES
3C.3 SITE COVERAGE	35%	32.9%	YES
3C.4 DEEP SOIL LANDSCAPING			
Deep soil landscaping	50%	51.5%	YES
Tree replenishment	1/300m ² of SA = 20	20	YES
Planting	50% trees locally occurring	>50%	YES
3C.5 CONSIDERATION OF ISOLATED SITES	Sites to be amalgamated or consolidated	Sites to be consolidated – to be conditioned	YES
3C.6 SPECIFIC SITE CONTROLS	N/A	N/A	N/A
3C.7 BUILDING STOREYS	17.5m and Five (5)	17.5m and Five (5)	YES
3C.8 BUILDING FACADES			
Modulation	Min 0.6m	>0.6m	YES

Wall plane	Max 81m ² in area	<81 m ² in area per wall plane	YES
Elevations	Max length 36m	39m to McIntyre St (western elevation), 35.4m to Dumaresq St	NO
Air conditioning	Not on façade or POS	Located within basement plant room	YES
Balconies	<ul style="list-style-type: none"> • Not permitted full length of façade • <1.2m projection 	<ul style="list-style-type: none"> • Balconies not full length of facades • <1.2m projection 	YES
Windows	Windows to habitable rooms to encourage casual surveillance	Windows provided to achieve casual surveillance	YES
Corner site	<ul style="list-style-type: none"> • emphasised by visual prominence to parts of façade • address both frontages 	Building design has been set to respect the adjoining residential property to the west, but also address future street per zoning of the KTCLEP.	YES
3C.9 BUILDING ENTRIES			
Disabled access	Compliance with DD Act 1992	Accessibility Report submitted	YES
Street address	<ul style="list-style-type: none"> • main entrance to lift lobbies directly accessible or visible from street • path to building readily visible 	Yes, entry of building and lobby area accessible	YES
No. of entries	Multiple entry if > 18m length	Both building frontages (width) are less than 18m (approx. 14m), single entry provided	YES
Lighting	Entrances well lit		
Mail boxes	Lockable mail boxes close to street 90° to street	Provided for each block on each street frontage	YES
3C.10 TOP STOREY DESIGN AND ROOF FORMS			
Floor area	Top storey GFA <60%	<60% (37.5%)	YES
Setback	Stepped back from all sides	Stepped in, well within lower ground footprint	YES
Design	<ul style="list-style-type: none"> • Articulated through roof form • Service elements integrated 	Design satisfactory with regard to necessary design criteria	YES
3C.11 FENCING	<0.9m if solid 1.2m if open	1.2m open	YES
3C.12 PRIVATE OPEN SPACE			
Ground floor	25m ² min dimension 4m	Min 25m ²	YES
1 bedroom	10m ²	Min 10m ²	YES
2 bedroom	12m ²	Min 12m ²	YES
3 bedroom	15m ²	Min 15m ²	YES

POS	Min dimension 2.4m and differentiated from common areas	Min 2.4m and fencing and planting to distinguish areas	YES
Air conditioners	Not permitted	In basement plant room	YES
3C.13 COMMUNAL OPEN SPACE			
Amount	10% of SA (610m ²) min dim of 5m	642.72sqm at the required dimensions	YES
Single parcel	80m ² and 8m dimension	>80m ² at 8m dimension	YES
Location	Ground level behind BL and access for disabled	Accessible	YES
3C.14 DWELLING DEPTH AND ROOM SIZES			
Dual aspect depth	internal plan depth 18m	Less than 18m depth	YES
Single aspect depth	internal plan depth of 8 m	Units SLG.02 and SLG.03 (9.4 and 9.8m provided)	NO
Dual aspect width	15 m deep 4 metres	All less than 14m deep and more than 4m wide	YES
Kitchens	not be more than 8m from an external opening	All units comply with the exception of SLG.02 and SLG.03 (9.4 and 9.8m provided)	NO
3C.15 GROUND FLOOR APARTMENTS			
Finished ground level outside living room	<0.9m existing ground level	Compliance achieved to all ground floor units with the exception of unit SG.03	NO
Finished ground level outside living room	Level min 2.4m where >0.5m above	Level for distance of 2.4m	YES
Retaining walls and fences	Not permitted beyond 45° projection	Retaining walls below unit FFL	YES
3C.16 NATURAL VENTILATION			
Habitable rooms	operable windows or doors	Provided to all rooms	YES
Cross ventilation	60%	63%	YES
Kitchens	25% naturally ventilated.	>25% ventilated	YES
3C.17 SOLAR ACCESS	70% min 3 hours direct sunlight to living & POS bwn 9am - 3pm on 21 st June.	70%	YES
3C.18 VISUAL PRIVACY	building separation requirements of SEPP 65	Provided in accordance with RFDC provisions	YES
3C.19 ACOUSTIC PRIVACY			
3C.20 INTERNAL CEILING HEIGHTS			
Habitable room	2.7 m	2.7m	YES
Non-habitable	2.25 m	2.7m	YES
3C.21 ROOM SIZES			

Living areas	4m for 2 or more beds/ 3.5m for less	All living areas min 4m x 4m	YES
Bedrooms	3m	All bedrooms min 3m x 3m	YES
3C.22 INTERNAL COMMON CIRCULATION			
No. units served	max of 8 units	Max 8 units	YES
Corridors	1.5m wide	Min 1.5m	YES
Lift lobby	1.8m	>1.8m	YES
3C.23 STORAGE			
1 bedroom	8m ³	All 1 bed units min. 8m ³	YES
2 bedroom	10m ³	All 2 bed units min. 10m ³	YES
3 bedroom	12m ³	All 3 bed units min. 12m ³	YES
3C.24 EXTERNAL AIR CLOTHES DRYING FACILITIES			
	Access to external air clothes drying area	Available to each unit, with appropriate screening, to be covered by condition	YES
3C.25 CAR PARKING PROVISION			
Basement car parking	Required under building footprint	Provided under footprint of each block	YES
Protrusion	Max 1m	2.2m at worst point – due to site fall	NO
Access	Direct to all levels	Lifts and stair access	YES
Service & removalist space	Required to both unit blocks	Provided and demonstrated to both unit blocks	YES
Parking rates			
studio	0 – 0.5 spaces	N/A	N/A
1 bedroom	0.7 – 1 spaces	18 - 26	>18 - YES
2 bedroom	1 – 1.25 spaces	43 - 54	>43 - YES
3 or more bedrooms	1 – 2 spaces	12 – 24	>12 - YES
Visitor space	1/ 4 units	20	20 - YES
Adaptable housing	1 disabled space/adaptable unit	8	8 - YES
3C.26 BICYCLE PARKING PROVISION			
Residents	1/5 units	16	YES
Visitors	1/10 units	8	24 in total - YES
3C.27 ADAPTABLE HOUSING			
1/10 units adaptable	80 units	8 units	8 units - YES
1 disabled parking space/ adaptable unit	8 spaces	8 spaces	YES
70% visitable	56 units	56 units	YES
3C.28 APARTMENT MIX & SIZE			
1 bedroom/studio	50m ²	Min >50m ²	YES
2 bedroom	70m ²	Min >70m ²	YES
3 bedroom	95m ²	Min >95m ²	YES
4.3 EARTHWORKS AND SLOPE			
Slope	>15% geotech report	Geotechnical report provided	YES

Retaining walls	Max 0.9m	>0.9m	NO
Terracing	0.6m width bwn retaining walls	>0.6m	YES
Ground level	Maintained 2m from any boundary	Ground levels maintained as existing within 2m of any boundary	YES
ESCP	required	Provided, and covered through the draft conditions of consent	YES
4.5 MATERIALS, FINISHES & COLOURS	Comprehensive details provided with application	Finishes / materials have been considered by Council's Urban Design Consultant and assessed as being satisfactory.	YES
4.8 VEHICLE ACCESS, 4.9 BASEMENT CAR PARKING, 4.10 VISITOR PARKING, 4.11 PARKING FOR PEOPLE WITH A DISABILITY, 4.12 PEDESTRIAN MOVEMENT WITHIN CARPARKS AND 4.13 BICYCLE PARKING & FACILITIES	Covered through the engineering assessment	Refer to engineering comments provided within assessment report under internal referrals, note that car parking satisfies DCP requirements and AS2890.1	YES
4.14 BUILDING SERVICES			
Services	Minimise street impact	Details provided concerning service locations, noting no response from Energy Australia	YES
Air conditioning units	Within basement must be ventilated and screened Located on roof must be integrated into design	Located within basement of each block in the development	YES
4.15 CONSTRUCTION, DEMOLITION & DISPOSAL	Waste management plan	Provided	YES
4.16 WASTE MANAGEMENT			
Storage room	Required	Provided	YES
Access to collection point	Unimpeded access, grade <1:5, exit forward direction and level surface, 2.6m clearance height	Provided	YES
Waste 1 x 120L/ unit	80 x 120L	Provided – appropriately proportioned between each block	YES
Co mingled recycling 1 x 240L/4 units	20 x 240L	Provided – appropriately proportioned between each block	YES
Paper recycling 1 x 240L/ 4 units	20 x 240L	Provided – appropriately proportioned between each block	YES

PART 5 WATER MANAGEMENT	Engineering assessment	Refer to engineering comments within assessment report	YES
PART 6 RIPARIAN LAND CONTROLS			
Category 3 – All development to be located outside the core riparian zone	Development to be clear of CRZ	minor encroachments acceptable – blade walls and bridge only	YES
Access across water course	Minimal access provisions to be provided	Single access point provided	YES
Disturbed or degraded CRZ	To be upgraded / rehabilitated as in a poor state	To be upgraded per plan / conditions of Council's Catchment Officer	YES
PART 7 BIODIVERSITY CONTROLS			
Greenweb site	Development designed and sited to conserve vegetation and/or habitat of highest ecological value	YES – identified threatened species being maintained and enhanced with planting of like community	YES
	Trees adjoining endangered community to be retained as a buffer		YES
	Development to retain existing drainage patterns around base of trees	noted upgrade to corresponding riparian corridor	YES
	Fencing not to restrict movement of small fauna	Fencing Acceptable	YES
PART 8 TREE & VEGETATION PRESERVATION	Landscape assessment	Refer to landscape comments within assessment report	YES

As noted in the above table, the proposed development seeks to vary the following controls of the KTC DCP 2010. The following discussions are provided in respect of those variations.

3C.2 – Building setbacks:

The upper (or 5th floor) of the proposed development fails to comply with the side setback control of 9m, contained within Clause 3C.2 of the DCP. The non compliance arises as the balcony / terrace area associated with the upper floor unit extends to the outer side of the building wall directly below it (which is setback 6m). The setback controls of the DCP require the balcony / terrace area to be at the required standard of 9m. This variation is isolated to the eastern side setback, as the western side of the building is 10m (to address the future street frontage). As the built form of the 5th floor is 9m, the intent of the setback control has been satisfied and no discernable impact results from the non compliance.

3C.8 – Building facades:

Building A fronting the McIntyre Street frontage presents a building length of 39m which exceeds the maximum of 36m permitted by subclause 4, Clause 3C.8 of the DCP.

This building length has been proposed in response to the restricted building envelope that results when applying street based setbacks to three of the development site's boundaries, as well as the constrictive nature of the riparian corridor (which runs through the middle of the site). The site is deemed to have three street frontages as its western (side) boundary adjoins land zoned for the purpose of a proposed local road.

The consequence of providing compliant setbacks in light of the situation presented is a narrow building envelope (approximately 15m in width), which when considered with the available building height and FSR lends itself to a longer building.

It is accepted that the length of the building has also been influenced by the proposed internal courtyards, in particular the McIntyre Street building. The approach taken in this instance is considered to be a positive design element and affords future occupants with an improved level of amenity that would otherwise be lost were a reduced or broken building length proposed. Notwithstanding this, it is accepted that the length of the building provides a greater extent of building bulk than would be normally permitted, however the impact of this has been mitigated through an articulated façade and varying building materials and has been supported in the review undertaken by Council's Urban Design Consultant.

3C.14 – Apartment depth and width:

Units SLG.02 and SLG.03 in Building B which addresses Dumaresq Street are single aspect, 1 bedroom units which have an apartment depth in excess of 8m and due to the configuration of the units, also result in a layout whereby the back wall of the kitchen's are more than 8m from a window.

The departure from the controls restricting the depth of a unit and location of the kitchen to a window of 8m in this instance is acceptable as both the single aspect apartments face north and this orientation affords the units with ample natural light and solar access. It is this northern aspect which offsets the additional depth proposed, noting that the depth of the units is in the order of 9.4m and 9.8m respectively, a minor departure from the DCP control.

3C.15 – Ground floor apartments:

Subclause 1 of Clause 3C.15 of the DCP limits the finished ground level outside the living area of a ground level apartment to no more than 0.9m below existing ground level. The intent of this control is to ensure adequate natural light and ventilation to such units.

Unit SG.03 proposes a variation to this control, with the ground level of the outdoor area being 1.6m below NGL at the worst point, being the south-eastern corner.

This is an isolated variation to Unit SG.03 and, as the ground level surrounding the unit naturally falls away, the variation (and the impact thereof) at the living area of the unit is mitigated. This unit is dual aspect and achieves acceptable natural light and ventilation and whilst the level of the courtyard is at a level lower than allowed by the DCP, no loss of amenity results. Given the steep topography of the development site, particularly in the south-eastern corner of the Dumaresq Street frontage, the variation is acceptable and necessary when providing for an engaging façade that limits blank expanses of building wall, which would result were the subject unit deleted to achieve compliance.

It is noted that other ground floor units in the development either step up from existing ground level or are lower, within the maximum 0.9m tolerance of the DCP.

3C.25 – Car parking provision:

Subclause 3 of Clause 3C.25 of the DCP limits the protrusion of the basement of a residential flat development to no more than 1m above natural ground level. The basement of the McIntyre Street building through the mid section of the building protrudes more than 1m above NGL (at 2.9m a departure of 1m from the DCP control).

However, this protrusion is offset as the point of non compliance is below the central open courtyard in the middle of the building. The outcome of this is that whilst the basement protrudes more than 1m above ground level, the external appearance of the building at the critical point (being the western elevation), reads as a 4 storey structure. This has been achieved by ‘splitting’ the floor levels along the length of the building to have a higher and lower section.

This is an acceptable outcome, as the development follows the contours of the site and limits the impact of bulk that can be accentuated on sites of steep topography as is the case in this instance.

3C.27 – Adaptable units:

Council’s DCP requires that 10% of units within the development be provided as adaptable units. This has been achieved with 8 units of the 80 unit development being designed as adaptable.

All adaptable units however have been located in Building A (fronting McIntyre Street), resulting in no such units being located in Building B. The DCP does not specify the distribution of adaptable units within a development. The location of the adaptable units within Building A is desirable as it has greater access to the communal open space areas and a wider entrance to the building from the street.

4.3 – Earthworks and slope:

Subclause 5 Clause 4.3 of the DCP limits the height of a retaining wall to 0.9m in height. Several retaining walls within the development exceed this height control, the most pronounced being 2.2m.

These walls are assessed as being satisfactory when the steep topography of the site is taken into consideration and also on the basis that where these walls are proposed they are spaced in a manner whereby significant landscaping can occur (as deep soil) between them, minimising the height impact. The length of these walls which exceed the height control is also limited and located in areas where they do not comprise the solar access or amenity of residential units in the development. It is noted that these walls retain 'cut' rather than 'fill'.

On balance, the treatment and structure of ground levels in this development is acceptable, noting that the majority of levels within the landscaped areas of the site are consistent with those prior to development being undertaken.

Section 94 Plan

The development attracts a section 94 contribution of \$1,643,893.51 (**Condition 44**).

LIKELY IMPACTS

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

SUITABILITY OF THE SITE

The proposal is considered to be a reasonable development which does not result in any unreasonable impacts upon adjoining properties or the streetscape. The site is suitable for the proposed development and this has been demonstrated in the above assessment.

ANY SUBMISSIONS

The matters raised in the submissions have been addressed in this report.

PUBLIC INTEREST

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments and by Council ensuring that any adverse effects on the surrounding area and the environment are minimised. The proposal has been assessed against the relevant environmental planning instruments and is deemed to be acceptable. Accordingly, the proposal is recommended for approval.

CONCLUSION

This application has been assessed under the heads of consideration of Section 79C of the Environmental Planning and Assessment Act 1979 and all relevant instruments, policies and considerations. The proposal is considered to be generally consistent with the relevant Council statutory and policy controls. Where strict compliance has not been achieved, the proposal has been considered with respect of the control outcomes and supported on merit.

RECOMMENDATION

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

- A. That the Sydney West Joint Regional Planning Panel grant development consent to Development Application No. 1000/10 for the demolition of existing structures and construction of two residential flat buildings comprising 80 units, basement car parking for 111 cars and associated site and landscaping works at 35, 37 & 39 Dumaresq Street, Gordon and 32 & 34 McIntyre Street Gordon, for a period of 5 years from the date of the Notice of Determination, subject to the following conditions.

SCHEDULE A - The standard conditions of consent are set out as follows:

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:

Plan no.	Drawn by	Dated
DA-1002 - Issue D	Wendy Lewin + Candalepas Associates	04.05.11
DA-1101 - Issue D	Wendy Lewin + Candalepas Associates	04.05.11
DA-1102- Issue D	Wendy Lewin + Candalepas Associates	04.05.11
DA-1103 - Issue D	Wendy Lewin + Candalepas Associates	04.05.11
DA-1104 - Issue D	Wendy Lewin + Candalepas Associates	04.05.11
DA-1105 - Issue C	Wendy Lewin + Candalepas Associates	04.04.11
DA-1106 - Issue C	Wendy Lewin + Candalepas Associates	04.04.11
DA-1107 - Issue C	Wendy Lewin + Candalepas Associates	04.04.11

DA-1201 - Issue D	Wendy Lewin + Candalepas Associates	04.05.11
DA-1202 - Issue D	Wendy Lewin + Candalepas Associates	04.05.11
DA-1301 - Issue D	Wendy Lewin + Candalepas Associates	04.05.11
DA-1302 - Issue D	Wendy Lewin + Candalepas Associates	04.05.11
DA-1303 - Issue D	Wendy Lewin + Candalepas Associates	04.05.11
DA-1852 - Issue D	Wendy Lewin + Candalepas Associates	04.05.11
DA-1853 - Issue C	Wendy Lewin + Candalepas Associates	04.04.11
DWG No. LP.01/D	Botanica	04.05.11
DWG No. LP.02/D	Botanica	04.05.11
DWG No. LP.03/D	Botanica	04.05.11
DWG No. LP.04/D	Botanica	04.05.11
DWG No. LP.05/D	Botanica	04.05.11
SW.01 Rev. C	MYD Consulting Engineers	01/04/2011
SW.02 Rev. C	MYD Consulting Engineers	01/04/2011
SW.03 Rev. C	MYD Consulting Engineers	01/04/2011
SW.04 Rev. C	MYD Consulting Engineers	01/04/2011
SW.05 Rev. C	MYD Consulting Engineers	01/04/2011
SW.06 Rev. C	MYD Consulting Engineers	01/04/2011
SW.07 Rev. A	MYD Consulting Engineers	04/04/2011
SM-01 Rev. B	MYD	01/04/2011

	Consulting Engineers	
SM-02 Rev. B	MYD Consulting Engineers	01/04/2011

Associated Document(s)	
Colours and finishes schedule samples board - prepared by Wendy Lewin + Candalepas Associates	

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.

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
LP02/D Block A Ground Floor	Botanica	04/05/11
LP03/D Block A Lower Ground Floor		
LP04/D Block B Lower Ground Floor		
LP05/D Block B Ground Floor		

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

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

3. 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.

4. 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.

5. 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.

6. 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.

7. 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 Dumaresq Street and McIntyre Street over the site frontages.
- 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.

8. 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:

- 29 - 33 Dumaresq St, Gordon
- 41 Dumaresq St, Gordon
- 30 McIntyre St, Gordon
- 36 McIntyre St, Gordon

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.

9. 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 as recommended in Section 4.7 of Jeffery and Katauskas report 24170Z dated 2 September 2010.

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

Reason: To ensure the safety and protection of property.

10. 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:

- o Demolition
- o Excavation
- o Concrete pour
- o Construction of vehicular crossing and reinstatement of footpath
- o 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 will 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.

11. Work zone

The applicant must install a Works Zone on each frontage of the site for the entire duration of works.

The applicant must make a written application to the Ku-ring-gai Local Traffic Committee to install the work zones.

If the work zones are approved by the Local Traffic Committee, the applicant must obtain a written copy of the related resolution from the Ku-ring-gai Local Traffic Committee and submit this to the Principal Certifying Authority prior to commencement of any works on site.

Where approval of the work zones is resolved by the Committee, the necessary work zone signage shall be installed (at the cost of the applicant) and the adopted fee paid prior to commencement of any works on site. At the expiration of the work zone approval, the applicant is required to remove the work zone signs and reinstate any previous signs at their expense.

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.

12. 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.

Reason: To preserve and enhance the natural environment.

13. Tree protection fencing

To preserve the following tree/s, no work shall commence until the area beneath their canopy is fenced off at the specified radius from the trunk/s 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. Where existing street trees are to be fenced, safe pedestrian access is to be maintained at all times and fencing is not to encroach within the roadway.

Schedule

Tree/Location	Radius in metres
#26 Pistacia chinensis (Chinese pistachio) Dumaresq St nature strip	3.0m maintaining pedestrian access at all times
#30 Araucaria hetrophylla (Norfolk Is Pine) Adjacent to western site boundary	7.8m
#40 Lagerstroemia indica (Crepe Myrtle) Adjacent to western site boundary in neighbouring property	6.7m
#46 Eucalyptus spp (Eucalypt) Adjacent to western site boundary	8.0m
#47 Syncarpia glomulifera (Turpentine) Adjacent to western site boundary	5.0m
#60 Magnolia soulangeana (Saucer Magnolia) Adjacent to northern site boundary	3.0m on eastern side 4.5m elsewhere
All existing trees being retained On site and within 5.0m of site boundaries	Identified tree protection zone (TPZ = 12 x trunk diameter)

Reason: To protect existing trees during the construction phase.

14. Tree protective fencing type galvanised mesh

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

Reason: To protect existing trees during construction phase.

15. 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.

16. 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.

17. Tree protection – avoiding soil compaction

To preserve the following tree/s and avoid soil compaction, no work shall commence until temporary measures to avoid soil compaction as per AS4970-2009 (eg steel plates/rumble boards) beneath the canopy of the following tree/s is/are installed outside of the specified tree protection fencing requirements:

Schedule

Tree/Location

#26 Pistacia chinensis (Chinese pistachio)
Dumaresq St nature strip

#47 Syncarpia glomulifera (Turpentine)
Centrally located adjacent to western site boundary

Reason: To protect existing trees during the construction phase.

18. 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.

19. 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:

20. Lot consolidation

Prior to issue of the Construction Certificate, the applicant must consolidate the existing Torrens lots which form the development site. Evidence of lot consolidation, in the form of a plan registration with the Land and Property Information, must be submitted for approval of the Principal Certifying Authority prior to issue of the Construction Certificate.

Reason: To ensure continuous structures will not be placed across separate titles.

21. Amendment to parking layout

Prior to issue of the Construction Certificate, the applicant must submit amended architectural plans which show 10 visitor spaces for each building, including 2 which comply with AS2890.6:2009 and at least 8 resident spaces for the McIntyre St building and 2 for the Dumaresq St building which comply with AS2890.6:2009.

Reason: To provide disabled access and amenity.

22. Amendments to approved landscape plan

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

<i>Plan no.</i>	<i>Drawn by</i>	<i>Dated</i>
LP02/D Block A Ground Floor	Botanica	04/05/11
LP03/D Block A Lower Ground Floor		
LP04/D Block B Lower Ground Floor		
LP05/D Block B Ground Floor		

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

- The landscape plans shall be amended to be consistent with the architectural plans regarding the location of proposed retaining walls and the extent of timber decks. To ensure consistency between plans and to ensure compliance with minimum deep soil landscape areas.
- The proposed planting of an *Acer palmatum* (Japanese maple) adjacent to the northeast site corner is to be replaced with a *Lagerstroemia indica* (Crepe Myrtle) at the same pot size (to comply with BASIX low water use areas).
- The proposed planting of *Syzigium* 'Hinterland Gold' is to be replaced with either *Viburnum tinus* (Lauristinus), or *Photinia* species to ensure compliance with BASIX low water use/indigenous areas.
- The proposed planting of *Eucalyptus paniculata* (Grey Ironbark) located within the McIntyre St site frontage is to be replaced with *Eucalyptus saligna* (Sydney Bluegum) at the same pot size.
- Tree 59 *Liquidambar styraciflua* (Sweet Gum) is to be shown to be retained, and proposed planting amended to reflect its retention.

Prior to the issue of the Construction Certificate, the Principal Certifying Authority shall be

satisfied that the landscape plan has been amended are required by this condition.

Note: An amended plan, prepared by a landscape architect or qualified landscape designer shall be submitted to the Certifying Authority.

Reason: To ensure adequate landscaping of the site

23. 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
P1729SW02C and SW05C	MYD Consulting Engineers	01/04/2011

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

The maximum concession available for the provision of rainwater retention and re-use is 10% of the on site detention volume. The size of the detention tanks is to be amended accordingly.

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

- ☐ Ku-ring-gai Council Town Centres Development Control Plan 2010 Part 5.

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.

24. 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.

25. 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.

26. 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.

27. Air drying facilities

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that a common open space area dedicated for open air drying of clothes is provided. This area is to be located at ground level behind the building line and in a position not visible from the public domain.

In lieu of the above, written confirmation that all units will be provided with internal clothes drying facilities prior to the Occupation Certificate is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Amenity & energy efficiency.

28. 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.

29. Access for people with disabilities (residential)

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that access for people with disabilities to and from and between the public domain, residential units and all common open space areas is provided. Consideration must be given to the means of dignified and equitable access.

Compliant access provisions for people with disabilities shall be clearly shown on the plans submitted with the Construction Certificate. All details shall be provided 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.

30. 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, [Units NG.02, NG.03, N1.02, N2.02, N3.02, N1.03, N2.03, N3.03], 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.

31. 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) must be based on **Drawings P1729 SW01 to SW06, all Rev. C, SW07A by MYD Consulting Engineers** 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)

- location(s), dimensions and specifications for the required rainwater storage and reuse tanks and systems and where proprietary products are to be used, manufacturer specifications or equivalent shall be provided
- specifications for reticulated pumping facilities (including pump type and manufacturer specifications) and ancillary plumbing to fully utilise rainwater in accordance with Part 5 of Ku-ring-gai Council Development Control Plan (Town Centres) 2010 and/or BASIX commitments
- details of the required on-site detention tanks required by Part 5 of Ku-ring-gai Council Development Control Plan (Town Centres) 2010, including dimensions, materials, locations, orifice and discharge control pit details as required.
- the required basement stormwater pump-out system is to cater for driveway runoff and subsoil drainage.

The above construction drawings and specifications are to be prepared by a qualified and experienced civil/hydraulic engineer in accordance with Part 5 of Ku-ring-gai Council Development Control Plan (Town Centres) 2010, Australian Standards 3500.2 and 3500.3 - Plumbing and Drainage Code and the Building Code of Australia.

Reason: To protect the environment.

32. Excavation for services

Prior to the issue of the Construction Certificate, the Principal Certifying Authority shall be satisfied that no proposed underground services (i.e.: 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.

Reason: To ensure the protection of trees.

33. 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 Ku-ring-gai Town Centres DCP 2010. 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.

34. 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.

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.

35. 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.

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.

36. 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.

37. 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 Part 4.16 of Ku-ring-gai Council Development Control Plan (Town Centres) 2010) 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.

38. Car parking allocation

Car parking within the development shall be allocated in the following way:

Resident car spaces	91
Visitor spaces	20
Total spaces	111

Each adaptable dwelling must be provided with car parking complying with the dimensional and location requirements of AS2890.1 – parking spaces for people with disabilities.

At least one visitor space shall also comply with the dimensional and location requirements of AS2890.1 – parking spaces for people with disabilities.

Consideration must be given to the means of access from disabled car parking spaces to other areas within the building and to footpath and roads and shall be clearly shown on the plans submitted with the Construction Certificate.

Reason: To ensure equity of access and appropriate facilities are available for people with disabilities in accordance with federal legislation.

39. Number of bicycle spaces

The basement car park shall be adapted to provide 24 bicycle spaces in accordance with Ku-ring-gai Town Centres DCP 2010. 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.

40. 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.

41. 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.

42. Underground services

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

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

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

43. 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.

44. Section 94 Development Contributions (Town Centres LEP)

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	\$759,213.32
Local recreational and cultural, Local social facilities	\$131,235.59
Local Roads, Local Bus Facilities & Local Drainage Facilities (New Roads and Road Modifications)	\$284,431.11
Local roads, Local bus facilities & Local drainage facilities (Townscape, Transport & Pedestrian facilities)	<u>\$469,013.49</u>
TOTAL CONTRIBUTIONS	<u>\$1,643,893.51</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 March 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.

45. Tree protection bond

Prior to the commencement of any development or excavation works or prior to the issue of the Construction Certificate (whichever comes first) the applicant must lodge a \$3000.00 tree protection bond with Council. This bond is to provide security that the following trees are maintained in a healthy condition as found prior to commencement of work upon the site:

Schedule Tree/Location	Bond value
#1 Pistacia chinensis (Chinese pistachio) Dumaresq St nature strip	\$1500.00
#26 Pistacia chinensis (Chinese pistachio) Dumaresq street nature strip	\$1500.00

The bond shall be lodged in the form of a deposit or bank guarantee. The bond will be returned following issue of the Occupation Certificate, provided the trees are undamaged and are in a healthy condition.

In the event that any specified trees are found damaged, dying or dead as a result of any negligence by the applicant or its agent or as a result of the construction works at any time during the construction period, Council will have the option to demand the whole or part therefore of the bond.

Reason: To ensure that the trees are maintained in the same condition as found prior to commencement of work.

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

46. 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.

47. 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 (i.e.) 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.

48. 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.

49. Statement of compliance with Australian Standards

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

Certifying Authority prior to the commencement of any works.

Reason: To ensure compliance with the Australian Standards.

50. Site Audit Statement

After completion of remediation works listed within Environmental Investigation Services report 'Additional Environmental Site Assessment and Remedial Action Plan' REF:E24120Krpt2 dated April 2011 and bulk excavation works but prior to the undertaking of physical building works related to the buildings structure, a validation report must be prepared by an appropriately qualified environmental consultant, outlining that the required remediation has been completed to a standard suitable for residential use. This report must comply with the NSW EPA Guidelines for Consultants Reporting on Contaminated Sites and is to be submitted to Council.

The validation report must be reviewed by an EPA accredited site auditor who shall provide Council with a copy of the Certifying Authority and Council with a copy of the site audit report and site audit statement. The site audit statement must indicate that the site has been remediated to the level required for the proposed use. No works associated with the building structures onsite shall occur until the site has been remediated to the necessary standards.

Reason: To ensure the site is fit for purpose.

51. 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.

52. 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.

53. 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.

54. 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.

55. 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 2 September 2010 and the report based on further investigation carried out after demolition. 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.

56. 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 Pty Ltd, report no. 24170ZRpt. 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.

57. 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.

58. 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.

59. 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.

60. 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.

61. 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.

62. 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.

63. 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.

64. 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.

65. 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.

66. 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.

67. Drainage to natural watercourses

Stormwater runoff from all new impervious areas and subsoil drainage systems shall be piped to the watercourse within the site. New drainage line connections to the watercourse must conform and comply with the NSW Office of Water Guidelines for Outlet Structures.

Reason: To protect the environment.

68. 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.

69. 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

#1 Pistacia chinensis (Chinese pistachio)
Dumaresq St nature strip

#2 Metasequoia glyptostroboides (Dawn Redwood)
Centrally located on site

#26 Pistacia chinensis (Chinese pistachio)
Dumaresq St nature strip

#30 Araucaria heterophylla (Norfolk Is Pine)
Adjacent to western site boundary

#40 Lagerstroemia indica (Crepe Myrtle)
Adjacent to western site boundary in neighbouring property.

#46 Eucalyptus spp (Eucalypt)
Adjacent to western site boundary

#47 Syncarpia glomulifera (Turpentine)
Adjacent to western site boundary

#60 Magnolia soulangeana (Saucer Magnolia)
Adjacent to northern site boundary

Reason: To ensure protection of existing trees.

70. Trees on nature strip

Removal/pruning of the following tree/s from Council's nature strip to permit vehicular access shall be undertaken at no cost to Council by an experienced tree removal contractor/arborist holding public liability insurance amounting to a minimum cover of \$10,000,000:

Schedule

Tree/Location

#66 Callistemon viminalis (Weeping Bottlebrush)
McIntyre St nature strip

#67 Callistemon salignus (Willow Bottlebrush)
McIntyre St nature strip

Time of inspection

* Immediately prior to the commencement of ANY works on site

* At the completion of demolition, and prior to regrading/excavation works.

* At four monthly intervals during development works.

* At the completion of all works on site.

Reason: To ensure protection of existing trees.

71. Canopy/root pruning

Canopy and/or root pruning of the following tree/s which may be necessary to accommodate the approved building works shall be undertaken by an experienced Arborist/Horticulturist, with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate. All pruning works shall be undertaken as specified in Australian Standard 4373-2007 – Pruning of Amenity Trees.

Schedule

Tree/Location

#26 Pistacia chinensis (Chinese pistachio)
Dumaresq St nature strip

Tree works

Minor canopy reduction on eastern side

#47 Syncarpia glomulifera (Turpentine)
Adjacent to western site boundary

Canopy/root pruning on northeast side

#60 Magnolia soulangeana (Saucer Magnolia)
Adjacent to northern site boundary

Canopy/root pruning on eastern side

Reason: To protect the environment.

72. Treatment of tree roots

If tree roots are required to be severed for the purposes of constructing the approved works, they shall be cut cleanly by hand, by an experienced Arborist/Horticulturist with a minimum qualification of Horticulture Certificate or Tree Surgery Certificate. All pruning works shall be undertaken as specified in Australian Standard 4373-2007 – Pruning of Amenity Trees.

Reason: To protect existing trees.

73. 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

All existing trees being retained on site, within 5.0m of the site boundaries and within the nature strip fronting the site.

Radius from trunk

Within the identified tree protection zone (TPZ = 12 x trunk diameter)

Reason: To protect existing trees.

74. Approved tree works

Approval is given for the following works to be undertaken to trees on the site. All trees on site are to be clearly tagged/numbered, consistent with the arborists report/landscape plan prior to any tree removal being undertaken:

Schedule Tree/Location	Approved tree works
#4 Ligustrum lucidum (Large Leaf privet) Centrally located on site	Removal
#5 Robinia pseudoacacia (False Acacia) Centrally located on site	Removal
#12 Cotoneaster glaucophyllus (Cotoneaster) Within southern building footprint	Removal
#13 Lagerstroemia indica (Crepe Myrtle) Within southern building footprint	Removal
#14 Jacaranda mimosifolia (Jacaranda) Within southern building footprint	Removal
#15 Unidentified tree species Within southern building footprint	Removal
#16 Viburnum spp (Viburnum) Within southern building footprint	Removal
#17 Viburnum spp (Viburnum) Within southern building footprint	Removal
#18 Lagerstroemia indica (Crepe Myrtle) Centrally located on site	Removal
#23 Araucaria hetrophylla (Norfolk Island Pine) Centrally located on site	Removal
#34 Howea forsteriana (Kentia Palm) Centrally located on site	Removal
#41 Franklinia axillaris (Gordonia) Adjacent to western site boundary	Removal
#48 Schefflera actinophylla (Umbrella Tree)	Removal

Centrally located on site

#49 <i>Pinus radiata</i> (Radiata Pine) Centrally located on site	Removal
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#50 <i>Araucaria heterophylla</i> (Norfolk Is Pine) Centrally located on site	Removal
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#51 <i>Grevillea robusta</i> (Silky Oak) Centrally located on site	Removal
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#52 <i>Quercus robur</i> (English oak) Within northern building footprint	Removal
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#53 <i>Jacaranda mimosifolia</i> (Jacaranda) Adjacent to western site boundary	Removal
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#61 <i>Camellia sasanqua</i> (Chinese Camellia) Adjacent to northern site boundary	Removal
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#62 <i>Acer palmatum</i> (Japanese Maple) Adjacent to northern site boundary	Removal
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#63 <i>Cupressus macrocarpa</i> (Monterey Cypress) Adjacent to northern site boundary	Removal
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#64 <i>Callistemon viminalis</i> (Weeping Bottlebrush) McIntyre St nature strip	Removal
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#66 <i>Callistemon viminalis</i> (Weeping Bottlebrush) McIntyre St nature strip	Removal
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#67 <i>Callistemon salignus</i> (Willow Bottlebrush) McIntyre St nature strip	Removal
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#73 <i>Cinnamomum camphora</i> (Camphor laurel) Adjacent to northern site boundary	Removal
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#74 <i>Lophostemon confertus</i> (Brushbox) Adjacent to northern site boundary	Removal
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#78 <i>Populus deltoides</i> (Cottonwood Poplar) Within northern building footprint	Removal
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#79 <i>Populus deltoides</i> (Cottonwood Poplar) Within northern building footprint	Removal
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#80 <i>Erythrina sykesii</i> (Coral Tree) Within northern building footprint	Removal
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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.

75. Excavation near trees

No mechanical excavation shall be undertaken within the specified radius of the trunk/s of the following tree/s until root pruning by hand along the perimeter line of such works is completed:

Schedule

Tree/Location

#60 Magnolia soulangeana (Saucer Magnolia)
Adjacent to northern site boundary

Radius from trunk

3.0m on eastern side

Reason: To protect existing trees.

76. Hand excavation

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

Schedule

Tree/Location

#26 Pistacia chinensis (Chinese pistachio)
Dumaresq St nature strip

Radius from trunk

3.6m

#30 Araucaria heterophylla (Norfolk Is Pine)
Adjacent to western site boundary

7.8m

#40 Lagerstroemia indica (Crepe Myrtle)
Adjacent to western site boundary in neighbouring property

6.7m

#46 Eucalyptus spp (Eucalypt)
Adjacent to western site boundary

11.0m

#47 Syncarpia glomulifera (Turpentine)
Adjacent to western site boundary

7.0m

#60 Magnolia soulangeana (Saucer Magnolia)
Adjacent to northern site boundary

4.5m

All existing trees being retained
On site and within 5.0m of site boundaries

Identified tree
protection zone (TPZ
= 12 x trunk
diameter)

Reason: To protect existing trees.

77. Thrust boring

Excavation for the installation of any services within the specified radius of the trunk/s of the following tree/s shall utilise the thrust boring method. Thrust boring shall be carried out at least 600mm beneath natural ground level to minimise damage to tree/s root system:

Schedule Tree/Location	Radius from trunk
#1 Pistacia chinensis (Chinese pistachio) Dumaresq st nature strip	5.4m
#2 Metasequoia glyptostroboides (Dawn Redwood) Adjacent to eastern site boundary	4.2m
#26 Pistacia chinensis (Chinese pistachio) Dumaresq St nature strip	3.6m
#30 Araucaria hetrophylla (Norfolk Is Pine) Adjacent to western site boundary	7.8m
#40 Lagerstroemia indica (Crepe Myrtle) Adjacent to western site boundary in neighbouring property	6.7m
#42 Cedrus deodar (Himalayan Cedar) Adjacent to western site boundary in neighbouring property	4.8m
#44 Jacaranda mimosifolia (Jacaranda) Adjacent to western site boundary	3.8m
#46 Eucalyptus spp (Eucalypt) Adjacent to western site boundary	11.0m
#47 Syncarpia glomulifera (Turpentine) Adjacent to western site boundary	7.0m
#59 Liquidambar styraciflua (Sweet Gum) Adjacent to northwest site corner	5.0m
#60 Magnolia soulangeana (Saucer Magnolia) Adjacent to northern site boundary	4.5m

Reason: To protect existing trees.

78. 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.

79. Tree planting on nature strip

The following tree species shall be planted, at no cost to Council, in the nature strip fronting the property along Dumaresq St. The tree/s used shall be a minimum 25 litres container size specimen/s:

Schedule

Tree/Species	Quantity	Location
Pistacia chinensis (Chinese pistachio)	2	Evenly spaced within nature strip in front of site

Reason: To provide appropriate landscaping within the streetscape.

80. Tree planting on nature strip

The following tree species shall be planted, at no cost to Council, in the nature strip fronting the property along McIntyre St. The tree/s used shall be a minimum 25 litres container size specimen/s:

Schedule

Tree/Species	Quantity	Location
Callistemon viminalis (Weeping Bottlebrush)	3	At 4m intervals/evenly spaced within nature strip in front of site

Reason: To provide appropriate landscaping within the streetscape.

81. Tree removal on nature strip

Following removal of Tree #'s 64, 66, & 67 (Callistemon/Bottlebrush) from Council's nature strip, the nature strip shall be rehabilitated to the satisfaction of Council's Landscape Assessment Officer at no cost to Council.

Reason: To protect the streetscape.

82. 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.

83. Canopy replenishment trees to be planted

The canopy replenishment trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5.0 metres whereby they will be protected by Council's Tree Preservation Order. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species.

Reason: To maintain the treed character of the area.

84. 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.

85. 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:
Overtyping here with the exceptional condition**

86. 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. 377053M_03 have been complied with.

Reason: Statutory requirement.

87. 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.

88. 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.

89. 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.

90. Accessibility

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

- the lift design and associated functions are compliant with AS 1735.12 & AS 1428.2
- the level and direction of travel, both in lifts and lift lobbies, is audible and visible
- the controls for lifts are accessible to all persons and control buttons and lettering are raised
- international symbols have been used with specifications relating to signs, symbols and size of lettering complying with AS 1428.2
- the height of lettering on signage is in accordance with AS 1428.1 – 1993
- the signs and other information indicating access and services incorporate tactile communication methods in addition to the visual methods

Reason: Disabled access & services.

91. 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.

92. 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 Part 5 of Ku-ring-gai Council Development Control Plan (Town Centres) 2010 respectively, have been achieved
- retained water is connected and available for use
- basement and subsoil areas are able to drain via a pump/sump system installed in accordance with AS3500.3 and Ku-ring-gai Council Development Control Plan (Town Centres) 2010
- 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

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.

93. 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.

94. 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.

95. 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.

96. 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.

97. Reinstatement of redundant crossings and completion of infrastructure works

Prior to issue of the Occupation Certificate and upon the completion of all works on site or associated with the site, (such as connection of electricity or water to a nearby main), the Principal Certifying Authority must be satisfied that he or she has received a signed inspection form from Council which states that the following works in the road reserve have been completed:

- new concrete driveway crossings 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 to match existing

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

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

Reason: To protect the streetscape.

Conditions to be satisfied at all times:

98. 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.

99. 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.

100. Car parking

At all times, the visitor car parking spaces are to be clearly identified and are to be for the exclusive use of visitors to the site. On site permanent car parking spaces are not to be used by those other than an occupant or tenant of the subject building. Any occupant,

tenant, lessee or registered proprietor of the development site or part thereof shall not enter into an agreement to lease, license or transfer ownership of any car parking spaces to those other than an occupant, tenant or lessee of the building. These requirements are to be enforced through the following:

- restrictive covenant placed on title pursuant to Section 88B of the Conveyancing Act, 1919
- restriction on use under Section 68 of the Strata Schemes (Leasehold Development) Act, 1986 to all lots comprising in part or whole car parking spaces

Reason: To ensure adequate provision of visitor parking spaces.

A Richardson
Executive Assessment Officer

R Kinninmont
**Team Leader
Development Assessment**

C Swanepoel
**Manager
Development Assessment Services**

M Miocic
**Director
Development & Regulation**

Attachments:

1. Locality Map
2. Zoning Extract
3. Basement Plans
4. Site Plans
5. Floor Plans
6. Elevations
7. Sections
8. Landscape Plans
9. Council's Urban Design Consultant's Advice
10. Additional Environmental Site Assessment and Remedial Action Plan prepared by EIS.