
DEVELOPMENT APPLICATION

EXECUTIVE SUMMARY

Primary Property Lot & DP	28 - 32 Dumaresq Street GORDON NSW 2072 Lot 1 DP961448, Lot 1 DP 103163 & Part Lot 1 DP 949218
Additional Property(/ies) Lot(s) & DP (s) Proposal	No related land Demolish existing improvements and construct a residential flat building containing 34 apartments, basement carpark and landscaping. This proposal also includes a Draft Voluntary Planning Agreement and explanatory note.
Development application no. Ward	DA0501/12 GORDON
Applicant Owner	Australia Wenzhou Group Property Pty Ltd Australia Wenzhou Group Property Pty Ltd & Ku ring gai Council
Date lodged Issues	29/11/2012 Provision of adequate deep soil landscaping to satisfy KPSO provisions; Removal of external loading/turning area to improve landscape amenity; Insufficient on site car parking to satisfy KPSO provisions.
Submissions Land & Environment Court Recommendation Assessment Officer	Yes N/A Approval Anne Moore Consultant Planner

LEGISLATIVE REQUIREMENTS:

Zoning	Residential 2(d3)
Permissible under	KPSO
Relevant legislation	SEPP 1, SEPP 55, SEPP 65, SEPP (Basix) SREP (Sydney harbour Catchment) 2005, KPSO KLEP (Local Centres) 2012 DCP 55 – Multi – unit housing DCP 31 - Access DCP 40 – Waste Management DCP 43 – Car Parking DCP 47 – Water Management
Integrated development	NO

PURPOSE OF THE REPORT

The purpose of this report is to determine DA0501/12. The matter is reported to the JRPP for determination as the development proposed is for a residential flat building with a capital investment value of more than \$5 million (i.e. \$13,601,075) and is partly proposed on Council owned land.

The Development Application seeks to vary the development standard within Clause 25J (2) of the Ku-ring-gai Planning Scheme Ordinance (KPSO) and is supported by an objection to this development standard pursuant to State Environmental Planning Policy No. 1 (SEPP No. 1). A draft Voluntary Planning Agreement (VPA) has been adopted by Council which allows for the construction of a proposed new road adjacent to the development site and for the residual part of the lot to be incorporated into the subject site.

HISTORY

Site history:

The development application was lodged on 29 November 2012 prior to gazettal of Ku-ring-gai Local Environmental Plan (KLEP) (Local Centres) 2012. Assessment of the development application was deferred till late April 2013 to allow for preparation and adoption of a VPA by Council for the new road adjacent to the site.

The site is currently used for residential purposes and zoned Residential 2(d3) under the KPSO which allows development of the site for a residential flat building with consent of Council. Notwithstanding this comment, the development has also be considered pursuant to KLEP (Local Centres) 2012 which was gazetted on the 25 February 2013 given a recent judgement (*Maygood Australia Pty Ltd v Willoughby City Council 2013 NSW LEC 142*) of the NSW Land & Environment Court and the interpretation of Clause 1.8A Savings provision related to development applications.

Voluntary Planning Agreement History

As part of the overall planning for the Gordon Town Centre, new road linkages were identified by Council to increase pedestrian and vehicular access and improve traffic circulation in and around this centre to address the needs of the increasing residential density. A new road link was identified between Dumaresq and Moree Streets and was subsequently identified within the Town Centre Public Domain Plan 2012 as a new road and incorporated within the Ku-ring-gai Contributions Plan 2010. No. 32 Dumaresq Street was subsequently acquired by Council on 10 August 2011 for the purposes of this new road link. **Figure 1** below is an extract from the Town Centre Public Domain Plan 2012 relating to the Gordon Town Centre demonstrating this new link road and its relationship to the subject site.



Figure 1: Extract from Town centre Public Domain Plan 2012 for Gordon Town Centre

During early discussions between Council and the applicant an opportunity arose for the potential construction of the Dumaresq to Moree Street road link via a Voluntary Planning Agreement (VPA) in association with this development application. Subsequently, Council at its meeting of 27 August 2013 resolved to enter into a VPA with Australia Wenzhou Group Property Pty Limited (the applicant) to construct, concurrent with this development, part of the road link between Dumaresq and Moree Streets being land comprising No. 32 Dumaresq Street, Gordon together with such works as may be necessary to temporarily terminate the road at the rear boundary, the sale of the residual land portion not required for the road carriageway and provision for payment of the monetary contributions applicable to the development which exceed the cost of delivering the road.

A copy of the draft VPA is attached at **Annexure C**. **Condition 21** requires that the VPA be executed prior to the issue of a construction certificate. Deferred Commencement terms A and B require that the subdivision be registered and the road design be approved by Council prior to any consent becoming operational and the new road will then need to be constructed in accordance with approved plans prior to the issue of an Occupation Certificate (**Condition 83**).

Council engaged consultants to prepare preliminary road design plans for this link road to the rear of No. 32 Dumaresq Street. Development plans accompanying this application were prepared based on levels associated with this road design and relative driveway and building levels were established. During assessment of the application, it became apparent that a small part of the proposed road may impact on the subject site. Consequently, the road design plan was amended so that the road and associated works were contained outside the subject site which required some adjustment to the road design near the intersection of Dumaresq Street and the new road. Levels of the building or the associated driveway have not been amended. A copy of this preliminary road design is attached at **Annexure D**.

Development application history:

A Complying Development Certificate for the demolition of the improvements upon No. 32 Dumaresq Street was issued by Council on 10 November 2011. These improvements have now been demolished.

As previously stated, this development application was lodged on 29 November 2012 and therefore provisions within Ku ring gai Planning Scheme Ordinance apply to the site.

DA [501/12]

12 July 2012	A pre-DA meeting was held. The applicant then engaged new architects and the proposal is substantially different to the design discussed at this meeting.
29 November 2012	The DA was lodged with Council. The applicant was advised by Council that it would not process the application until the Draft VPA was reviewed and reported to Council.
9 April 2013	Council resolved to exhibit the Draft VPA and explanatory note for the subject site.
19 April 2013	Neighbour notification was undertaken along with referral to internal departments of Council.
6 May 2013	<p>A letter was forwarded to the applicant identifying issues of concern including:</p> <ul style="list-style-type: none">• A plan showing accurate dimensions of the site are necessary to verify correct dimensions;• Amended landscape plan depicting accurate deep soil landscaping to be implemented per requirements of KPSO;• Revised Basix Certificate showing plant species;• Non compliance with KPSO and DCP No. 55 in respect to deep soil landscaping, front setbacks, communal open space, car parking and waste management facilities.
26 June 2013:	A meeting was held with the applicant to discuss concerns raised within correspondence forwarded to the applicant.
25 July 2013:	A briefing was provided to the JRPP.
2 August 2013:	Additional information was lodged with Council.
5 August 2013:	Internal referrals were completed.
27 August 2013:	Council considered the report on the VPA in respect to the proposed road.

- 11 September 2013: A further meeting held with applicant to discuss the proposed road and its relationship with the development proposal as it appears part of the road proposal will impact on the subject site. Other outstanding concerns with the application were raised including deep soil landscaping, proposed plant species, deficiency in car parking, etc. It was also suggested that an apartment be deleted to accommodate additional car parking spaces within the lower ground floor level of the building and to allow for a manoeuvring area for trucks associated with the waste storage area rather than provision of an external loading/turning area.
- 4 October 2013: Additional information was lodged with Council including amended landscape plan. Referrals were forwarded to internal departments.
- 8 October 2013: Amended road design plans were received by Council. A copy of these plans was forwarded to the applicant for review and comment to ensure that access could still be provided to the proposed building particularly the two entry driveways from the new road.
- 17 October 2013: The applicant advised Council that, due to the road design being altered, contours may vary by up to 1 metre (vertically) from the proposed adjacent levels. It was suggested that this be dealt with by way of a condition of consent requiring the levels to be amended to be at grade (i.e. no change of level) across the boundary. However this type of level change could potentially affect the amount of landscaped area that could be provided within the north western corner of the site and therefore further details were identified to be necessary.
- 30 October 2013: A meeting was held with the road design consultant to discuss the amended road design and potential impact on the development site. Further design work was necessary to determine levels adjacent to the corner of Dumaresq Street and the new road and to assess whether retaining walls and the footpath could be accommodated within the road reserve.
- 20 November 2013: Further revised road design plans were received by Council demonstrating the need for an additional retaining wall at the intersection of the new road and Dumaresq Street. As this structure is to be designed as a gravity retaining wall the base of the wall would have a footing which extends 0.9metres-1.1metres into the development site (for the length of the wall).
- 20 November 2013: The applicant was advised that the retaining wall could be accommodated within the road reserve and was requested to

provide additional BASIX information in respect landscaping of the site.

26 November 2013: An amended landscaping schedule was provided.

5 December 2013: The final landscaping referral was completed.

9 December 2013: The final engineering referral was completed.

Land and Environment Court appeal history:

N/A

THE SITE AND SURROUNDING AREA

The site:

Visual character study category:	Pre 1920/1945
Easements/rights of way:	No
Heritage Item:	No
Heritage conservation area:	No
In the vicinity of a heritage item:	Yes (No. 33 Moree Street- other heritage item – (Schedule 7 Part 2 of KPSO & no longer a heritage item pursuant to KLEP (Local Centres) 2012.
Bush fire prone land:	No
Endangered species:	Yes (Blue Gum High Forest, Sydney Turpentine Ironbark Forest)
Urban bushland:	No
Contaminated land:	No

Site Description:

The site is located on the southern side of Dumaresq Street, approximately 310 metres west of the Pacific Highway and the Gordon retail/commercial precinct.

The site comprises of two allotments known as Nos. 28 – 30 Dumaresq Street as well as a residual part of No. 32 Dumaresq Street Gordon. The property description of the subject site is Lot 1 DP961448, Lot 1 DP 103163 and part of Lot 1 DP 949218. The site is of an irregular shape with an area of 2424.5m² and frontages of 35.1 metres to Dumaresq Street and 71 metres to the new road.

Approximately 300m² of No. 32 Dumaresq Street (i.e. Lot 1 DP 949218) will form part of the subject site with the remainder being used for the future road link between Dumaresq and Moree Streets. A plan of the proposed subdivision of No. 32 Dumaresq

Street is attached to this report at **Annexure E.** The existing dwelling occupying this allotment has been demolished pursuant to CDC No. 110292. This new road will form the western boundary of the site.

The site falls away from Dumaresq Street to the rear with an average cross fall of approximately 7.8 metres and is also affected by a cross fall from east to west of approximately 2 – 4 metres. The natural ground levels of the site have been substantially modified due to existing development upon the site. Clusters of existing trees are located upon the site being at the rear of existing dwellings particularly surrounding an existing pool located upon No. 30 Dumaresq Street and along the western and southern boundaries of No. 28 Dumaresq Street.

No. 28 Dumaresq Street is currently occupied by a single storey detached dwelling with an attached carport. A part single, part two storey brick detached dwelling with attached garage occupies No. 30 Dumaresq Street with an inground swimming pool and shed positioned within the rear yard upon a lower platform of the site. As stated previously, the existing detached two storey brick dwelling and garage upon No. 32 Dumaresq Street have been demolished and the lot is now vacant.



Figure 2: Subject Site

Surrounding development:

The site adjoins residential properties to the east, south and west. Single storey detached dwellings occupy Nos. 26 and 34 Dumaresq Street immediately to the east and west of the subject site. Five (5) storey residential flat buildings occupy Nos. 6 -14 and Nos. 16 – 22 Dumaresq Street being to the east.

Properties along the northern side of Dumaresq Street are occupied by detached dwellings with town house developments upon Nos. 19-21 and Nos. 23 -25 Dumaresq

Street and residential flat buildings are currently being either constructed or completed upon Nos. 29 -33 and Nos. 35 – 37 Dumaresq Street.

Nos. 21 -27 Moree Street to the south east of the site is occupied by a town houses development, whilst Nos. 29A, 31, 33, 35 and 37 Moree Street to the south and south west are occupied by detached dwellings. Refer to **Figure 2** above for further details. Existing dwellings upon Nos. 31, 33 and 35 Moree Street are positioned near the Moree Street frontage of each lot and are well separated from the subject site. However, the existing dwelling upon No 29A Moree Street is positioned in close proximity to the rear boundary of the subject site being described as a battle axe allotment. This existing dwelling is described as being a single storey detached brick dwelling with a paved outdoor patio being positioned on its western side.

THE PROPOSAL

The application proposes the demolition of existing structures upon two of the allotments and the construction of a residential flat building comprising 34 apartments, basement car parking for 44 vehicles and associated landscaping. Specific details of the proposed development are as follows:

- Demolition of the existing dwellings situated upon Nos. 28 and 30 Dumaresq Street including the removal of carports, garages, outbuildings, swimming pool, a number of trees, driveways and other paved areas;
- Construction of a residential flat building comprising:
 - **Basement Level**
Provision of 31 car parking spaces with vehicular access being available via a 3.6 metre wide driveway 2 to be located towards the rear of the site off the new road. Two (2) lifts will provide access to upper residential levels;
 - **Lower Ground Level**
Provision of 13 car parking spaces, motor bike parking, bicycle storage area, waste storage area with vehicular access being available off a 6.0 metre wide driveway 1. Two (2) x one (1) bedroom and one (1) x two (2) bedroom apartments with attached front courtyards with pedestrian access being provided to these apartments from the new road;
 - **Ground Level**
Provision of one (1) x one (1) bedroom with attached courtyard, three (3) x two (2) bedroom and one (1) x three (3) bedroom apartments with attached balconies, plant room, switch room, toilet, etc. Pedestrian access to these apartments is available via the new road via two residential lobbies;
 - **First Floor Level**
Provision of two (2) x one (1) bedroom and five (5) x two (2) bedroom apartments with courtyards attached to the two front apartments and balconies to rear apartments;

- Second Floor level
Provision of two (2) x one (1) bedroom and five (5) x two (2) bedroom apartments with attached balconies;
- Third Floor Level
Provision of two (2) x one (1) bedroom, three (3) x two (2) bedroom and one (1) x three (3) bedroom apartments with attached balconies;
- Fourth Floor Level
Provision of four (4) x two (2) bedroom apartments with attached balconies and communal roof top area; and
- Fifth Floor Level
Provision of one (1) x two (2) bedroom and one (1) x three (3) bedroom apartments with attached balconies.

The applicant in accordance with the adopted VPA (**Annexure C**) is required to construct a proposed new road with the residue part of No 32 Dumaresq Street being incorporated into the subject site. The proposed road will be positioned adjacent to the western boundary of the site, comprising a two lane local road with footpath along the eastern side that terminates at the rear of the subject site (**Annexure D**). This will allow construction of two (2) driveways to the site. A retaining wall will need to be erected within the road reserve at the north eastern corner adjacent to the site, however whilst the wall itself will be positioned within the road reserve footings will extend 0.9 metres – 1.1 metres for the length of the wall into the development site. This new road will be subject to a separate approval process and the road constructed prior to the issuing of an occupation certificate for this residential flat building (**Condition 83**). As stated previously, Commencement terms A and B require that the subdivision be registered and the road design be approved by Council prior to any consent becoming operational.

The site supports clusters of mostly mature exotic trees. There are no significant trees located within the Dumaresq Street frontage nor within the proposed frontage to the new road. Several significant trees are to be retained towards the rear of the site. The proposal necessitates the removal of seven (7) significant trees on site and planting of sixteen (16) additional tall canopy trees. A fernery will be established along the rear boundary of the site with additional landscaping proposed along both street frontages of the site. Two driveways are proposed off the new road along the western boundary of the site, including a turning bay for service and garbage vehicles within the setback area between the proposed building and new road. Other associated works will include footpaths and steps from the Dumaresq Street, retaining walls and drainage works.

Amended plans dated (20/8/2013)

The amended plans proposed the following changes to the application:

- Provision of an additional car parking space at basement level with the width of Driveway 2 being reduced to 3.6 metres and installation of traffic lights to enable access from the new road;
- Changes to the floor plan layout of Apartment 2;

- Minor reconfiguration of the bicycle parking area at lower ground level to allow for vehicles to reverse in straight line to the waste storage room and for more convenient manoeuvring of garbage bins;
- Relocation of the substation adjacent to north-eastern corner of the site;
- Changes to the permeable loading area/turning bay adjacent to Driveway 1 being within the setback area of the building and the new road;
- Provision of informal communal open space areas along the frontage of the site with seating; and
- Amended landscaping plan depicting all private courtyards, levels of retaining walls, drainage pits, etc.

Amended plans dated (4/10/2013)

Further information and some minor changes were incorporated into the revised plans submitted to Council as follows:

- Landscaping plan amended depicting further levels, changes to retaining walls, drainage pits, additional annotations to clarify planting types to distinguish low shrubs and ground covers, area of low resistant tolerant species indicated, provision of a secondary communal open space area adjacent to the new road near Apartment 2, etc.
- Mirror to be installed in basement level in association with the use of Driveway 2 rather than traffic lights;
- Adjustment to stormwater plans;
- External loading/turning bay relocated 320mm towards building; and
- A revised SEPP No.1 objection due to the shortage of on site car parking spaces.

COMMUNITY CONSULTATION

In accordance with Development Control Plan No. 56, owners of surrounding properties were given notice of the application. In response, two submissions from the following were received.

1. *Ms Sheryll Young 33 Moree Street Gordon*
2. *Julian Fairfield 29A Moree Street Gordon*

The first submission raised issues in relation to the draft VPA that have been addressed in the report presented to Council on 27 August 2013.

The second submission raised the following issues:

The proposed building will tower over our property blocking out all mid-morning to mid afternoon sun

Shadow diagrams indicate that only the north-western corner of the outdoor patio attached to the western façade of the existing dwelling at 29A Moree Street will be affected by overshadowing at 12 noon mid winter. By 3pm most of this western patio and the northern façade of this dwelling will be affected by overshadowing. Two existing windows and a door in the northern elevation will be affected by

overshadowing from approximately 1pm onwards during mid winter. It is acknowledged that this dwelling will be affected by some increased overshadowing from this development proposal from 1pm onwards in mid winter, however reasonable levels of sunlight will still be available to main and outdoor living areas (i.e. 4 hours) between 9.00am to 1.00pm mid winter which is considered to be reasonable for this residential precinct.

There will be an extended period of noise and disruption

It is acknowledged that during the construction period increased noise vibration and disruption may result to surrounding residential properties. Recommended **Conditions 10 and 18** requires the preparation of both a construction and traffic management plan and a noise and vibration management plan including an outline of appropriate measures that can be implemented to minimise any potential impacts on nearby residential properties. Further conditions limiting hours of construction at the site and implementation of dust controls measures have also been recommended (**Conditions 41, 43 and 45**).

The car entrance will be noisy as multiple entries and exits take place during the day

Two vehicular driveways are proposed and will be positioned off the new road which is to be located along the western boundary of the site. The proposed building itself will shield these entrances and, given the distance to 29A Moree Street and shielding available from a masonry building, significant increased noise impacts are not likely to result onto this property from vehicular entries to the building.

Our beautiful wooded outlook will be destroyed

A setback of at least 15 metres is proposed from the lower ground level of this proposed building to the existing dwelling located upon No. 29A Moree Street. The existing dwelling is only set back between 2.5 metres to 3.0 metres from the rear boundary of the site. Existing mature trees will be retained within this rear setback area and will be supplemented with additional planting to create a fernery along the rear boundary of the site. Therefore, a green corridor and outlook from No 29A Moree Street and other adjoining rear properties will be retained.

Value of my property will decrease

This is not a relevant planning consideration.

Amended plans dated (20/8/2013) and (4/10/2013)

Subsequent amended plans were not notified to surrounding residents as the proposed amendments do not result in a greater environmental impact than the original proposal.

INTERNAL REFERRALS

Landscaping

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

Recommendations

The proposal is supported with conditions.

Site characteristics

The site (2424m²) falls to the south from Dumaresq Street approximately 8 metres and approximately 4 metres from the east to the west. Two existing dwellings are to be demolished. A 6 metre wide council lane is proposed along the western boundary. A draft approved plan of this road has been provided from Council.

Deep soil landscape area

Numerical compliance 50.0% (1212m²)

*Proposed deep soil area 50.01% (1212.43m²) **

**(Taken from Deep Soil Calculations- Drawing 6806 Rev E)*

To enable assessment, deep soil calculation plan should be provided at the same scale as the architectural and landscape plans.

*Agree with areas included in calculations? **No***

- *Area less than 2 metres in width between structures including -
 - *Area between the loading zone and basement (5.6m²).*
 - *Area between retaining wall along entry path and retaining wall to north of Apartment 08 (9.0m²).**

The exclusion of these areas (approx. 14.6m²) would result in the proposed development being non-compliant with the minimum 50% deep soil landscape area standard (i.e. 1197.83m²). In addition, the stormwater plan includes a retaining wall to Apartment 9 that is inconsistent with the deep soil plan and architectural plans. It is necessary that the deep soil plan demonstrate compliance with the development standard in accordance with the LEP definition.

It should also be noted that the paved loading bay within the front setback to the Council Road is not consistent with the definition of deep soil landscape area as it is an area of paving greater than 1 metre width. The area is also excluded as it is proposed to be used for parking as a loading bay (Clause 25B, 25I (2) (c) Part IIIA KPSO).

If the turning area proposed within the front setback was deleted, this area and the adjoining area between the loading zone and the basement could be included in the deep soil calculation making it comply with 1241.18m² or 51.2% of the site area as deep soil landscape area.

Tree impacts

The site supports a collection of mostly mature exotic trees. There are no significant trees located within the Dumaresq Street frontage nor within the proposed frontage to the Council road. Several significant trees are to be retained along the rear southern boundary. An arborist report, prepared by Footprint Green, dated 8/11/12, has been submitted as part of the original application. Tree numbers refer to this report.

The following abbreviations have been used to describe the size of existing trees in metres: height (H), canopy spread(S), diameter at breast height (DBH), diameter immediately above root buttress (D), tree protection zone (TPZ) and structural root zone (SRZ).

Significant trees to be removed

Tree 47/ Brachychiton acerifolius (Flame Tree). This 20 metres high tree is located at the centre of the rear of the site. There is no objection to the removal of this tree.

Tree 48/ Liquidambar styraciflua (Liquidambar). This 25 metres high tree is located at the rear of the site. The tree displays evidence of branch failure, decay and epicormic growth. There is no objection to the removal of this tree.

Tree 50/ Jacaranda mimosifolia (Jacaranda). This 12 metres high tree is located on the eastern boundary at the rear of the site. The tree has decay evident in a basal inclusion of the trunk. The tree is 2.5 metres from the basement excavation and 2 metres from the excavation for Apt 1. There is no objection to the removal of this tree.

Tree 51/ Jacaranda mimosifolia (Jacaranda). This 25 metres high tree is located at the centre of the site. The form is suppressed due to adjacent trees. There is no objection to the removal of this tree.

Tree 52/ Liquidambar styraciflua (Liquidambar). This 25 metres high tree is located at the centre of the site. The tree displays evidence of branch failure, decay and epicormic growth. There is no objection to the removal of this tree.

Tree 53/ Araucaria heterophylla (Norfolk Island Pine). This 20 metres high tree is a good specimen and is located at the centre of the site. There is no objection to the removal of this tree.

Tree 54/ Cupressus macrocarpa 'Brunniana' (Golden Cypress). This mature 8 metres high tree is a good specimen and is located at the centre of the site. There is no objection to the removal of this tree.

Trees to be retained

Tree 31/ Araucaria heterophylla (Norfolk Island Pine). This 25 metres high tree is located on the southern boundary of the site. The proposed basement is 6.6 metres from the tree. Existing levels are to be retained within tree protection zone of tree.

Tree 32/ Araucaria heterophylla (Norfolk Island Pine). This 25 metres high tree is located on the southern boundary of the site. The proposed basement is 6.25 metres from the tree. Existing levels are to be retained within tree protection zone of tree.

Tree 33/ Araucaria heterophylla (Norfolk Island Pine). This 25 metres high tree is located on the southern boundary of the site. Climber should be removed from trunk. The

proposed basement is 6.5 metres from the tree. Existing levels are to be retained within tree protection zone of tree.

Street trees

Three small existing street trees along the Dumaresq Street frontage are to be retained and protected, two *Alectron tomentosus* (Rambutan) and a *Pistacia chinensis* (Pistacia). No street trees to be removed.

Flood zone

Extending along the southern boundary of the site is a drainage channel that conveys overland flow from the upstream properties. A flood study prepared by Hyder Consulting (dated 16/11/12) has been submitted with the application. The results of the modelling indicate a flood zone along the southern boundary of the site. The development footprint is to be mitigated by limiting development works to beyond the extent of 100 year ARI flows. The landscape plan has proposed a fernery within the drainage channel.

Landscape plan

Grades of garden beds

Further to level information being provided, the proposed gradients of lawn in excess of 1:6 and garden beds in excess of 1:3 are not considered viable. The areas that are particularly steep are located to the north of the northern drive, to the east of the main entry steps from Dumaresq Street and at the north-west corner of the site adjacent to the Council reserve. The additional stormwater pits further exacerbate these grades. The area between the northern driveway and the north-west corner of the site provides significant planting of tall trees in association with the development. This is to be conditioned to include retaining walls as per the stormwater plan. **Condition 20.**

Driveway turning area

The proposed turning area for waste collection vehicles is located in the Council road front setback. The inability of waste vehicles to turn in the basement has resulted in the proposed additional paving within the front setback. This will have an adverse impact on landscape character as it prevents the provision of a high proportion of deep soil area landscape to the site frontage which is typical of the zoning. In particular the view up the driveway will be of a large area of paving and courtyard fencing. To achieve a high level of residential amenity, it is preferred if the turning area and loading zone are relocated within the basement and the front setback used as an area of accessible communal open space.

Fire hydrant

The proposed location for the fire hydrant on the corner of the site is not supported. To enhance the streetscape, the fire hydrant should be located in a visually discreet position. This can be relocated by **Condition 20.**

Common open space

4.5.5 C-9 At least 30% of the site area is to be common open space principally for tall tree planting.

The proposal provides in excess of 30% of the site area as common open space. This area supports tall tree planting in the front setback and the retention of existing trees along the southern boundary, however, tall tree planting in scale with the building along

the eastern elevation has not been provided. Additional planting along the eastern boundary is to be conditioned. **Condition 20.**

Communal open space (SEPP65, RFDC)

A significant objective of the zoning is the achievement of a high level of residential amenity including provision of generous communal open space to create opportunities for recreation and social activities.

Roof top communal open space

The principal communal outdoor space has been provided as a roof garden on the fourth floor of the development. This area has casual surveillance from only one apartment. The area has direct access from the southern section of the building, outlook and reasonable solar access. Access from the northern section of the building is possible via the basement garage.

Dumaresq Street frontage

A communal open space with seating and lawn has been provided within the north facing Dumaresq Street frontage. The area receives good solar access however it is not accessible and lacks visual or acoustic privacy.

Council road frontage

A small area of accessible area of communal open space with seating and lawn has been provided within the front setback to the Council road. Access from the northern section of the building is possible via the basement garage. The area receives good afternoon sun and has good visual and acoustic privacy. This area would benefit from the removal of the loading zone.

Screen planting

*Eastern boundary – To allow for effective planting including tall trees, small trees, large shrubs and small shrubs and groundcovers in accordance with zoning requirements, the proposed turf access path along the eastern boundary should be relocated within side setback where possible rather than running parallel to the site boundary and be provided as a mulch path or stepping stone path. Existing levels should be retained within 2 metres of the site boundaries to preserve the natural landscape where possible. **Condition 20.***

*Southern boundary – Additional screen planting is required to the adjoining property. The proposed fernery mix does not indicate numbers or species location. This is to be conditioned, **Condition 20.***

On slab planting

*The proposed on slab areas shown as planting to both the northern and southern entries is to provide sufficient depth to be viable for the proposed planting. This is to be conditioned, **Condition 20.***

The landscape plans require detail as follows,

- *Proposed planting plan should indicate location of species and number in accordance with Council's DA Guide. The plant schedule should include the pot size and quantity of all species;*
- *Symbol for turf to be shown;*
- *Existing street trees along Dumaresq Street should be shown;*

- *All paving associated with the loading zone is to be replaced with soft landscape treatment of trees, shrubs and lawn that is consistent with the soft landscape treatment proposed to the south of the southern pedestrian entry path;*
- *A small paved area should be incorporated into the private courtyards of Apartment 15.*

BASIX landscape

The BASIX landscape assessment is considered satisfactory.

Stormwater plan

The stormwater plan includes retaining walls to Apartment 9 that are inconsistent with the deep soil plan and architectural plans. This is to be conditioned to include retaining walls as per the stormwater plan.

Conclusion

The proposal is supported.

Engineering

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

If the application is to be recommended for approval, deferred commencement conditions would be recommended that the subdivision to create the new road reserve be registered and that the road design be approved by Council prior to operation of the consent.

Water management

As previously stated, the application was lodged under the provisions of LEP 194, before the Local Centres LEP was adopted. Therefore Council's DCP 47 Water Management applies to the development. Only the BASIX water commitments must be implemented in regard to rainwater retention and reuse.

The Hyder Consulting plans are compliant with the on site detention requirements of DCP 47 and the rainwater retention and re-use requirements of BASIX.

Traffic and parking

A mirror is now proposed at the entry to the lower basement level, to allow for residents entering and leaving the carpark to give way where necessary. The low traffic generation associated with the carpark for 31 vehicles means that it will be unusual for vehicles to have to wait and this arrangement is expected to function satisfactorily.

The development requires 37 resident and 9 visitor parking spaces under the KPSO. A shortfall of two spaces results.

Under the Local Centres DCP, 36 resident and 9 visitor parking spaces are required (from Volume C Part 2R.2 – site further than 400 metres from Gordon Station). The plans show a total of 44 spaces, a shortfall of one or two spaces.

If a unit were to be deleted, for example Unit 3, then that additional parking space could be provided, as well as a standing and turning area for the small waste collection vehicle.

If sufficient space is provided in the basement for the small waste collection vehicle to turn around, then the turning bay in the front setback could be deleted.

*The driveway crossings of the new nature strip will be required to follow the road levels at the kerb line. The recommended conditions include a requirement that longitudinal sections be provided of each side of the new crossings, to ensure that vehicular access will be satisfactory. **Condition 31.***

Waste collection

A waste storage area is provided in the upper basement, with sufficient space for the 34 containers required. Council's Manager, Waste Services, will accept collection by reversing the small waste collection vehicle down to the waste room. Therefore, the proposed turning bay in the front setback could be deleted without affecting waste collection from the development.

Other servicing could be from the road frontage or by similar small trucks, as is the case for many other developments which have been approved in such locations as Pacific Highway, Boundary Street, Mona Vale Road etc.

Road design

*A retaining wall is required at the corner of Dumaresq Street with the new road. Although the wall will be constructed within the road reserve, it is proposed that the footing extend into the boundary of the development site, due to the limited space. An easement for support would have to be created over the section of the footing within the development site. Because the works would be carried out at the same time, the easement for support could be registered prior to the issue of the Occupation Certificate. This is included in the recommended conditions (**Condition 69**).*

Urban design

Council's Urban Design Consultant has reviewed the application against the provisions of SEPP 65 with a full copy of the report attached as **Annexure F** and a summary of the comments follows:

"Principle 1: Context

Good design responds and contributes to its context. Context can be defined

as the key natural and built features of the area.

Comment:

The proposal responds to the characteristics of the precinct in the following ways.

- *The building generally reflects the controls in the KPSO, and DCP55 in terms of the location of the site. The controls envisage five storey apartment buildings with underground car parking located in a landscape garden setting. There are similar apartment buildings already in Dumaresq Street. There are small discrepancies in the front set back distances for both the building and the basement car parking. These impacts on the percentage of area considered deep soil but do not affect the relationship of the proposal to the street and its neighbours adversely.*
- *The proposed development is well integrated with the site topography, the natural bushland features and the exotic plant species. The rear gardens of this site and within this block are the traditional areas of natural bush and gullies. Exotic species have also been introduced usually in the front and side gardens.*
- *The building is designed to create a positive arrangement of space with neighbouring buildings through its alignment to the new street frontages and side boundaries. It also aligns with the development along the street. For this reason, it does not stand out as an "object building" but forms an end to the street block and an edge to both streets.*

Principle 2: Scale

Good design provides an appropriate scale in terms of bulk and height that suits the scale of the street and the surrounding buildings.

Comment:

The actual height and overall size of the building is in large part dictated by the planning controls. The height control that prevails in the KSPO states that the height is 13.4 metres to the underside of the utmost ceiling. One additional floor can be set back above this height. This results in a five storey building.

The overall form of the building is well proportioned. This is the result of how the building is organised into three solid sections around two full height cores and relating these to the ground plane.

The solid elements use the extension of the concrete slabs as framing around brickwork and together with the full height glazing they create a balance of horizontal and vertical elements.

The form is then further articulated into simple facades that address the site, the orientation and the locality. There are no "hole in the wall" openings and the success of the design depends on maintaining this simplicity of articulation.

- *The western elevation introduces sun-shading elements.*
- *The roof is flat and integrated with the treatment of the elevations.*

- *The organisation of the form, materials; openings and walls will create "depth" in the external walls. The use of panels of glazing to the underside of the ceiling and location of windows on the internal skin all assist in this modulation.*
- *The design is sophisticated and relies on implementation that respects quality of the detailing.*

Principle 3: Built form

Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and manipulation of building elements

Comment:

The proposal resolves the building mass into an appropriate built form in the following ways:

- *It creates a building that aligns with the new street, side boundary and with its existing and potential neighbours so that the space becomes the dominant element/*
- *It distributes the floor space into three solid elements linked by two cores. These elements are then articulated at a detail scale in keeping with their overall scale.*
- *It is well articulated by openings, screening, projections and the use of materials*
- *It uses flat roofs and screening to form a building top that is regular in shape and provides a clear profile against the sky.*

Principle 4: Density

Good design has a density appropriate for a site and its context in terms of floor space yields (or numbers of units or residents).

Comment:

The proposal reflects the objectives in the KSPO and DCP 55 in terms of the location of the site. The objectives are to create a specific area of medium to high density development that is close to the rail station and Gordon town centre. The proposal achieves the maximum density in a well designed residential flat building.

Principle 5: Resource, energy and water efficiency

Good design makes efficient use of natural resources, energy, and water throughout its full life cycle including construction.

Comment:

The proposal meets the targets set out in BASIX.

Northern solar access is provided to some apartments. Twenty of the apartments have two or more orientations. Fourteen have only easterly or westerly aspects. There are no apartments that have only a south facing aspect.

There are fixed timber sun shading devices to the western facing bedrooms.

The sun shading devices on the western elevation need to be tested to ensure that they work internally and externally. Given the sheltered location of this site, they may not all be necessary on the lower levels. It may be more useful to use moveable shutters as these may provide better internal amenity and improved outlook. There is a central heating and cooling system. Ideally the development should provide an option to install ceiling fans. Water is heated by a gas-fired boiler.

There are indoor clothes drying lines.

Principle 6: Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both the residents and for the public domain.

Comment:

The underground car parking and the size of the building footprint will result in changes to the topography but the terracing of the site, internally and externally, and location and form of the building enables the topography to be clearly read.

The building will be the end building in the newly created street block so that protruding into the Dumaresq street space will subtly define the end of the new block while the length will give definition to the new street. This is a reason for not reducing the rear set back.

The proposed landscaping uses plant species from the Blue Gum High Forest and Sydney Turpentine / Ironbark Forest vegetation. A fernery has been created in the drainage channel at the rear of the site under the existing tree canopy. It will be rehabilitated with plants designed to define the watercourse, prevent erosion, and enhance the aesthetic appeal of the area. The planting around the building at the front of the site has been designed to create the feel of the bush and integrate the site with the neighbouring natural bush. Planting is proposed or will be retained to side boundaries to protect the amenity of adjacent residents. On the roof gardens and courtyards native and exotic species are used. Some herbs and edible species are introduced.

Principle 7: Amenity

Good design provides amenity through the physical, spatial and environmental quality of a development.

Comment:

The overall quality of the apartments and the interior of the building are very high.

Principle 8: Safety and security

Good design optimises safety and security, both internal to the development and for the public domain

Comment:

*The basic principles of CPTED are evident throughout the proposal.
The building addresses both streets and provides overlooking of entrances.*

The building is secure and there is controlled access to basements and entrance gates. There is a clear delineation of public and private domain.

Principle 9: Social dimensions

Good design responds to the social context and needs of the local community in terms of lifestyles, affordability and access to social facilities.

Comment:

The location of the precinct provides excellent access to shops; services; railway station; bus routes and open space.

The introduction of quality apartments in this area provides the opportunity for people to buy at a more affordable level or to downsize from the larger houses and gardens in the surrounding suburbs. It also adds to the housing mix and enables people without cars or who can no longer drive to be able to live here with reasonable access to immediate facilities and other parts of Sydney including facilities in the City; Chatswood; St Leonards and Hornsby, all these centres are on a direct train line. Although hilly, the site is accessible by foot to public transport.

Principle 10: Aesthetics

Quality aesthetics require the appropriate composition of building elements, texture, materials and colours and reflect the use, internal design and structure of the development.

Comment:

The proposal is aesthetically well considered in terms of the massing arrangement of the overall form to the site, the street frontages and the potential neighbours. It is also well considered in terms of the detailed architectural resolution.

Conclusion

The proposal consists of a residential flat building containing 34 apartments. The density and form are appropriate for the location and reflect the aspirations of the Council as expressed in the KPSO and DCP 55. The floor space is organised into a building that reveals and respects the street and the natural features of the site. The site is terraced so that the building sits on a series of platforms. These relate to the slope of the natural ground. The form reveals the natural and topographical features of the site through the changes of levels and the open entry spaces. Levels, entrances, glazing, courtyards and planting link the internal and external spaces. There is a clear public and private spatial system.

The height relates to the size of the footprint of the building; the apartment blocks in the area and the other controls of density, setbacks and site

coverage. The height exceeds slightly the KPSO but the additional height of six storeys in two places has minimal adverse impacts on other development within or around the site.

The apartments themselves are well designed and maximize the use of space. Circulation is direct and legible through the building and within the apartments.

The planting and landscape design reinforces the quality of the building and responds to the natural bushland character of the area. The proposal is developed around a strong idea about space and the organisation of the buildings on the ground coupled with considered resolution of the details.

The proposed development is of the highest standard and is supported.

EXTERNAL REFERRALS

No external referrals were necessary.

STATUTORY PROVISIONS

Environmental Planning and Assessment Act

The provisions of Section 79C(1) of the Environmental Planning and Assessment Act, 1979 (as amended) determine the matters for consideration in assessing a development application as stated below:

- (a) *The provisions of:*
 - (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) *any development control plan; and*
 - (iv) *any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and*
 - (v) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*
 - (vi) *any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates.*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

The relevant provisions of environmental planning instruments, proposed instruments, DCPs, the regulations and policies are addressed in the following sections of this report. The VPA has been considered during the assessment of this application and details provided in other sections of the report. The likely impacts, suitability of the site and public interest are also addressed below and the submissions received have previously been addressed.

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP 55 require consideration of the potential for a site to be contaminated. The subject site has a history of residential use and, as such, it is unlikely to contain any contamination and further investigation is not warranted in this case.

Sydney Regional Environmental Planning Policy (Sydney Harbour Catchment) 2005

Matters for consideration under SREP 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. Water re-use measures will minimise the impact on downstream waterways.

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

A valid BASIX certificate has been submitted. The certificate demonstrates compliance with the provisions of the SEPP and adequately reflects all amendments to the application.

State Environmental Planning Policy No. 65 - Design quality of residential flat development

SEPP 65 aims to improve the design of residential flat buildings across NSW and to provide an assessment framework and design code for assessing good design.

An Architectural Statement prepared by Tzannes Associates has been submitted with the application in accordance with the requirements of the SEPP.

Council's Urban Design Consultant has reviewed the application against the 10 design quality principles of SEPP No. 65 (refer Internal Referrals). In summary, the development satisfies SEPP No. 65 in the following ways:

- The proposed development is consistent with the local context being an area comprising five (5) storey residential flat buildings in close proximity to Gordon Town Centre. The scale, built form and density of the proposed building responds to the desired future character of the locality as intended by provisions of KPSO and DCP No. 55;
- The proposal is for a five (5) storey building being of similar scale, bulk and

height to nearby residential flat buildings along Dumaresq Street and is of an appropriate design for this locality given the topography of the site and surrounds;

- The proposed building is of an appropriate built form for the site given that it is well articulated, addressing both street frontages with inclusion of numerous openings, screening, projections and use of a variety of finishes and materials;
- The density of the development is consistent with existing and future densities of the area as identified by KPSO, KLEP (Local Centres) and DCP No. 55;
- A BASIX Certificate has been lodged which indicates that the building will satisfy the energy and water use targets set by the BASIX SEPP. The proposal also satisfies principles in terms of passive solar design, cross ventilation and re use of water;
- With some modifications to deep soil landscaping to be implemented upon the site as outlined within other sections of this report, the proposed development can achieve a good landscape outcome for the site that responds to the desired future character of the area as well as creating an aesthetic quality and amenity for occupants, adjoining properties and the public domain;
- The proposal satisfies relevant guidelines in respect to apartment size, access to sunlight, ventilation, visual and acoustic privacy, storage and access requirements ensuring amenity for both occupants of this residential flat building and adjoining property occupants;
- The development optimises safety and security, both internal to the development and for the public domain in that passive casual surveillance is achieved by the building addressing two street frontages and by provision of suitable openings and secure entrances;
- The development will include a mix of apartment sizes thus providing a range of options for residents with inclusion of some smaller units to create more affordable housing in this locality and allowing for downsizing by existing residents. Therefore the proposal responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities;
- The aesthetics of the proposed building responds well to the environment and local context and will contribute to the desired future character of the area.

Residential Flat Design Code

The SEPP also requires the consent authority to take into consideration the

requirements of the Residential Flat Design Code. These matters are addressed in the following table.

Primary Development Control and Guidelines	Comments	Complies
Part 01 – Local Context		
Building Height Where there is an existing floor space ratio (FSR), test height controls against it to ensure a good fit. Test heights against the number of storeys and the minimum ceiling heights required for the desired building use.	The FSR applicable to this site is 1.3:1. The proposal envisages a FSR of 1.3:1 which satisfies the control envisaged by DCP No.55. The proposal given its density & site coverage will fit appropriately within its local context. The proposal is for a 5 storey building with an additional top floor which satisfies provisions of KPSO.	Yes
Building Depth In general, an apartment building depth of 10-18 metres is appropriate.	All apartments have a depth less than 18 metres.	Yes
Building Separation Building separation for buildings 5 to 8 storeys should be: <ul style="list-style-type: none"> - 18 metres between habitable rooms/balconies - 13 metres between habitable/ balconies and non habitable rooms - 9 metres between non habitable rooms Developments that propose less distance must demonstrate that adequate daylight access, urban form and visual and acoustic privacy has been achieved.	Fifth Storey 30 metres to No.29A Moree St 10 metres to No.26 Dumaresq St Over 27 metres to No.34 Dumaresq St No 26 Dumaresq Street is likely to be redeveloped in the future. Appropriate screening has been attached to bedroom windows within the eastern elevation. Also conditions will be attached to any development approval requiring additional screening along eastern edges of three eastern balconies and further landscaping to be implemented along the eastern boundary to minimise overlooking.	Part Compliance This matter is discussed within another section of this report
Street Setbacks Identify the desired streetscape character. In general, no part of the building should encroach into a setback area.	The DCP requires 10 metres - 12 metres setbacks to Dumaresq Street and to the new road. The above ground component of the proposed building addressing Dumaresq Street generally satisfies this requirement, despite a small component of the north eastern corner occupying this setback zone. The lower ground	Yes See detailed discussion within later section of this report

	<p>basement level occupies a large proportion of this setback zone limiting provision of deep soil landscaping adjacent to the building along the Dumaresq Street. However the proposal will form a block end to a row of apartment buildings along the southern side of Dumaresq Street and the proposed front setback is appropriate within this context.</p> <p>The proposal also satisfies the setback provision to the new road, although a minor infringement results, however with implementation of additional landscaping as suggested and a well articulated western façade the desired character will be achieved.</p>	
<p>Side and Rear Setbacks</p> <p>Relate side setbacks to existing streetscape patterns.</p> <p>These controls should be developed in conjunction with building separation, open space and deep soil zone controls. In general, no part of the building should encroach into a setback area.</p>	<p>The DCP allows for 6 metres setbacks to side and rear boundaries. The proposed building satisfies these setback requirements. Landscaped areas will be established along the eastern boundary of the site with some additional tall tree planting being necessary to minimize any overlooking whilst existing significant trees along the rear boundary will be retained and a ferny created along an existing watercourse.</p>	Yes
<p>Floor Space Ratio</p> <p>Test the desired built form outcome against the proposed floor space ratio to ensure consistency with building height, building footprint, the three dimensional building envelope and open space requirements.</p>	<p>The permitted FSR is 1.3:1. The development satisfies this FSR control.</p>	Yes
Part 02 – Site Design		
<p>Deep Soil Zones</p> <p>A minimum of 25% of the open space area of a site should be deep soil zone. 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 RFB.</p>	<p>Subject to conversion of the loading/turning area into a landscaped area, required by Condition 20, the development would achieve a compliant deep soil zone of 51.2% of the site area. This deep soil landscaped area will provide for planting of appropriate sized trees and other shrubs, etc. to create a</p>	Yes

	landscaped setting that is consistent with the desired future character of the area.	
Fences and Walls Fences and walls are to respond to the identified architectural character for the street and area. They are also to delineate the private and public domain without compromising safety and security.	No fences or walls are proposed along Dumaresq Street or the new road. Appropriate palisade fencing of 1200mm will delineate private courtyards at ground level.	Yes
Landscape Design Landscaping is to improve the amenity of open spaces as well as contribute to the streetscape character.	The proposed landscaping to be implemented on site, provided that the external turning/loading area is converted into a landscaped area, will enhance the building and its setting, contributing to the landscape character of the streetscapes.	Yes
Open Space The area of communal open space required should generally be at least between 25% and 30% of the site area. Where developments are unable to achieve the recommended communal open space, they must demonstrate that residential amenity is provided in the form of increased private open space and/or in a contribution to public open space. The minimum recommended area of private open space for each apartment at ground level or similar space on a structure, such as a podium or car park is 25m ² .	Communal open space is provided in the form of a roof top terrace with two areas available at ground level being along the Dumaresq Street frontage and an area in front of Apartment No. 2. This communal open space equates to approx. 21% of the site. Additional landscaped/open space areas are provided along the eastern and the rear boundaries of the site and with inclusion of these areas over 50% of the site will be landscaped with sufficient levels of open space being available for occupants of the building. Ground floor apartments have been provided with courtyards of approx. 25m ² and upper level apartments have access to balconies which are attached to main living areas.	Yes
Orientation Optimise solar access to living areas and associated private open spaces by orientating them to the north.	Over 60% of balconies and living areas of apartments benefit from either a northerly or north westerly aspect. This orientation is considered appropriate and will allow adequate solar access to most apartments. No apartments have a single southerly orientation.	Yes
Planting on Structures		

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 proposal involves some planting above basement & communal roof top levels, however a majority of deep soil landscaping can be implemented outside basement structures allowing for planting of tall trees.	Yes
Stormwater Management Reduce the volume impact of stormwater on infrastructure by retaining it on site.	Council's Engineer has reviewed the proposed stormwater management measures and considered them to be generally adequate.	Yes
Safety Optimise the visibility, functionality and safety of building entrances. Improve the opportunities for casual surveillance and minimise opportunities for concealment.	The design provides for good passive surveillance of both streets due to the incorporation of numerous balconies and windows within the front and western facades. Appropriate access control is provided throughout the building with provision of a security system at basement and street entries.	Yes

Visual Privacy The building separation requirements should be adopted.	Visual privacy is considered to be acceptable. Some overlooking will occur from apartments over the rear yard of No. 26 Dumaresq Street and yards to rear of the proposed development. Over time No. 26 Dumaresq Street will be redeveloped. Existing trees and new plantings at the rear of the site will assist to provide screening of rear properties.	Yes
Building Entry Ensure equal access to all. Developments are required to provide safe and secure access. The development should achieve clear lines of transition between the public street and shared private, circulation space and the apartment unit.	The proposal provides for equal access to all parts of the building that is also safe and secure. Also the development achieves clear lines of transition between the public street and private areas of the building.	Yes
Parking Determine the appropriate car parking numbers. Where possible underground car parking should be provided.	The KPSO requires 46 car spaces to be provided on site. The proposal provides 44 car spaces being a deficiency of two spaces. All car parking is located underground.	No This matter is discussed in other sections of this report
Pedestrian Access		

Provide high quality accessible routes to public and semi-public areas of the building and the site. Maximise the number of accessible, visitable and adaptable apartments in the building.	The proposal allows for ready accessible routes to public and semi public areas of the building. Four (4) adaptable apartments (i.e. 4, 7, 14 & 21) have been provided which satisfy DCP requirements.	Yes
Vehicle Access To ensure that the potential for pedestrian / vehicle conflicts is minimised. The width of driveways should be limited to 6 metres. Vehicular entries should be located away from main pedestrian entries and on secondary streets.	Vehicular access to the proposed building is via two driveways off the new road with one being 6.1 metres wide and the second only 3.6 metres. Council's Engineer has advised that the width of the second driveway is acceptable given the number of vehicles that will use the facility and installation of a mirror. The vehicular entry points are well separated from main pedestrian entries to the proposed building.	Yes
Part 03 – Building Design		
Apartment Layout Single aspect apartments should be limited in depth to 8 metres from a window. The minimum sizes of the apartments should achieve the following; Studio - 38m ² 1 bedroom – 50m ² 2 bedroom – 70m ² 3 bedroom – 95m ²	The proposal incorporates one apartment with single aspect (i.e. Apartment No.3) with a depth of 6.8 metres. It is noted that this apartment is recommended for deletion so as to allow for a redesign to provide additional parking spaces on site. All of the apartments achieve the minimum apartment sizes. 1 bedroom – 53 - 64m ² 2 bedroom – 90 - 101m ² 3 bedroom – 122 – 136m ²	Yes
Apartment Mix The development should provide a variety of types.	The proposed apartment mix provides a variety of apartment sizes (i.e. range from 1 to 3 bedrooms) within the development.	Yes
Balconies Where private open space is not provided, primary balconies with a minimum depth of 2 metres should be provided.	All balconies will have a minimum depth of 2 metres.	Yes
Ceiling Heights The following recommended	The proposed building achieves a	Yes

<p>dimensions are measured from finished floor level (FFL) to finished ceiling level FCL).</p> <p>These are minimums only and do not preclude higher ceilings, if desired.</p> <p>In general, 2.7 metre minimum for all habitable rooms on all floors, 2.4 metres is the preferred minimum for all non habitable rooms, however 2.25 metres is permitted.</p>	<p>ground floor to ceiling height of 2.7 metres for habitable rooms and 2.4 metres for non habitable rooms which is considered to be acceptable</p>	
<p>Ground Floor Apartments</p> <p>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>	<p>Access to the ground floor apartments is via the two entries servicing residential apartments of the building which is considered is desirable given the design of the building. Four apartments are designated as adaptable apartments, with accessibility to all apartment main living areas being available via lifts.</p>	Yes
<p>Internal Circulation</p> <p>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>	<p>Lobbies at each level will generally service 3 or 4 apartments only.</p>	Yes
<p>Storage</p> <p>In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:</p> <ul style="list-style-type: none"> • studio apartments - 6.0m³ • one-bedroom apartments - 6.0m³ • two-bedroom apartments - 8.0m³ • three plus bedroom apartments - 10m³ <p>50% of the above areas may allocate within each respective apartment while the remaining 50% is to be located within the car parking area.</p>	<p>Sufficient storage areas have been provided for 34 apartments with storage areas being provided within apartments whilst some apartments have been provided with additional storage at basement level.</p>	Yes
<p>Acoustic Privacy</p> <p>Apartments within a development are to be arranged to minimise noise transitions.</p>	<p>The apartment layout is considered appropriate, as like rooms are located adjacent to each other.</p>	Yes
<p>Daylight Access</p> <p>Living rooms and private open</p>	<p>More than 70% of apartments (i.e. 25</p>	Yes

spaces for at least 70% of apartments in a development should receive a minimum of three hours direct sunlight between 9.00am and 3.00pm in mid winter. In dense urban areas a minimum of two hours may be acceptable. Limit the number of single-aspect apartments with a southerly aspect (SW- SE) to a maximum of 10% of the total units proposed.	apartments) receive at least 3 hours sunlight between 9am to 3pm mid winter. The development involves provision of one (1) apartment with a single aspect which benefit from a westerly aspect and is recommended for deletion.	
Natural Ventilation Building depths which support natural ventilation typically range from 10 to 18 metres. 60% of residential units should be naturally cross ventilated. 25% of kitchens should have access to natural ventilation.	Apartment depths are less than 18 m 70.5% (or 24) apartments will have naturally cross ventilation. 50% (or 17) apartments have kitchens with access to natural ventilation.	Yes
Facades Facades are to be of appropriate scale, rhythm and proportion which respond to the building's use and the desired contextual character.	The proposed facades of the building are of an appropriate scale and proportion given the incorporation of openings, balconies and screening with components of the building also being well recessed. A variety of finishes and materials have been incorporated into the design so as to achieve the desired future character of this precinct.	Yes
Roof Design Roof design is to relate to the desired built form as well as the size and scale of the building.	The roof has been integrated into the overall design of the building. A flat roof form is proposed which assists to minimize the bulk and scale and follows the topography of the site.	Yes
Maintenance The design of the development is to ensure long life and ease of maintenance.	The proposal is considered to be acceptable in terms of building maintenance.	Yes
Waste Management A waste management plan is to be submitted with the development application.	A waste management plan has been submitted with the DA and considered acceptable.	Yes

Part A: Development

Development standard	Proposed	Complies
Site area (min): 2400m ²	2424.5m ²	YES
Deep landscaping (min): 50%	1197.83m ² or 49%	NO
Street frontage (min): 30 metres	35.1 metres	YES
Number of storeys (max): 5 storey plus top storey (Cl.25)(8) & Cl 25k	5 storey plus top storey	YES
Site coverage (max): 35%	34.8% (844.66m ²)	YES
Top floor area (max): 60% of level below	Rear of building (5D) 55.6% (or 137.18m ²) Middle of building (6C) 47.56% (or 152.83m ²) Front of building (5A) 54.8% (or 292.93m ²)	YES
Storeys and ceiling height (max): 5 storey and 16.4 metres	5 storey and 15.5 metres	YES
Car parking spaces (min): 9 (visitor) 37 (resident) 46 (total)	7 visitor 37 resident 44 total	NO YES NO
Steep slope sites (Cl25K) 25% (max) of footprint as additional floor (5 th floor):	17.8% or 144.35m ²	YES
Zone interface setback (min): 9 metres	12 metres south west	YES
Manageable housing (min): 10% or 4 units	10% or 4 units	YES
Lift access: required if greater than three storeys	Lift access provided	YES

Deep soil landscaping:

A review of the plans accompanying the development application by Council's Landscape Officer indicates that the development proposal will provide 1197.83m² of deep soil landscaping which is less than 50% as two areas have been excluded from this calculation as they do not satisfy the minimum 2 metre dimension requirements. However, if the loading / turning area adjacent to Driveway 1 is converted into deep soil landscaping as recommended in **Condition 20**, then 1241.18m² or 51.2% of deep soil landscaping will be available on site. Conversion of this turning area into a deep soil landscaped area, whilst assisting in compliance with numeric landscaping provisions of the KPSO, will also positively contribute to the amenity of the site, the desired future character of the area and satisfy the objectives of the KPSO relating to residential zoned areas, in that it will provide an additional area for provision of deep soil landscaping within a secondary setback area along a new street.

As the development proposal does not comply with the deep soil landscaping

development standard requirement pursuant to Clause 25I(2) of the KPSO, an objection under State Environmental Planning Policy No.1 – Development Standard (SEPP No.1) should accompany this development application. The applicant is of the opinion that the development proposal satisfies this development standard and has not lodged a SEPP No. 1 objection. However **Condition 20** requires compliance with this development standard by conversion of the loading/turning area into deep soil landscaping and therefore development approval may be issued without submission of a SEPP No.1 objection.

Top floor area:

The proposed building is of a stepped nature as demonstrated by **Figure 3** below and the top floors of each section of this building are less than the 60% maximum limit and hence satisfy this provision.

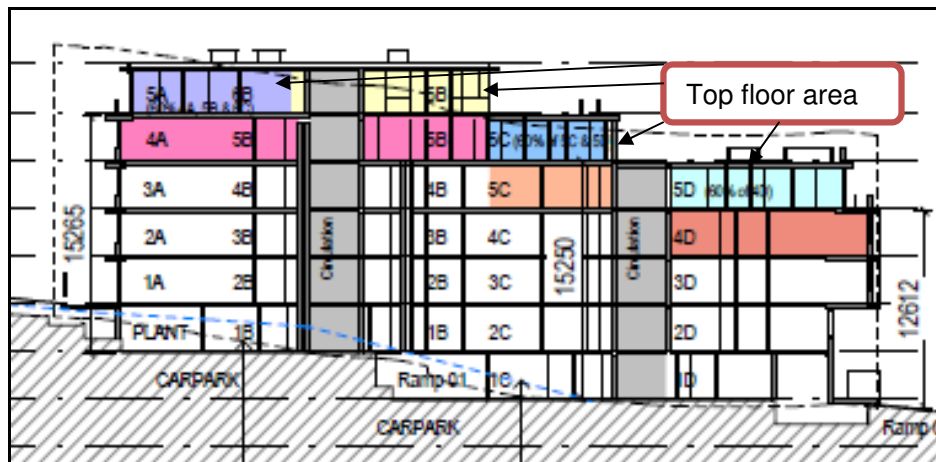


Figure 3- Proposed western envelope of building

Storeys and ceiling height:

Clause 25I permits a residential flat building located in the Residential 2(d3) zone to achieve a height of 4 storeys (excluding the top storey being 60% of the storey below). A maximum perimeter height of 13.4 metres is allowed for the 4th storey.

This clause is then subject to subclause (5) which stipulates a maximum of 5 storeys for a development on site of 2,400m² or more and clause 25K which allows height concessions, where a site has a slope of 15% or more.

The proposed development is described as 5 storeys plus a top storey of less than 60% of the floor below. Refer to **Figure 3** above for further details. The proposed development relies upon the steep slope provisions provided by Clause 25K in order to achieve the proposed building height.

Clause 25K Steep slope sites states: "consent may be granted to a building on a site with

a site slope greater than 15% that would:

- (a) exceed the number of storeys controls in clause 25I (8) by only one storey for up to 25% of the building footprint, or*
- (b) exceed the height controls in clause 25I (8), but only by up to 3 metres for up to 25% of the building footprint, or*
- (c) take advantage of the concessions conferred by both paragraphs (a) and (b), but only for up to the same 25% of the building footprint.*

The applicant seeks to utilise the allowance provided by Clause 25K. The site achieves a fall of 15% across the eastern section of the building footprint which permits additional height where the slope of the site results in the proposed basement to protrude above ground level by greater than 1.2 metres and results in a part 5th floor.

The resulting development achieves the concessions permitted by Clause 25K and would result in an additional storey of less than 25% of the total building footprint and not exceeding 3 metres above the ceiling height limit (i.e. 16.4m) imposed by Clause 25I (8).

The proposed development has a maximum storey height of 5 storeys with a top storey area that is less than 60% of the floor below. The proposal complies with the building height provisions of Clause 25I (8) and achieves the concessions permitted by Clause 25K.

Car parking:

The proposal requires a total of forty six (46) car parking spaces of which thirty seven (37) are resident and nine (9) visitor parking spaces to satisfy the provisions of KPSO. In this case only forty four (44) car parking spaces have been provided of which thirty seven (37) have been allocated for residents and seven (7) for visitors. Consequently, the proposal results in a deficiency of two (2) spaces.

As the non-compliance with Clause 25J (2) of the KPSO is a departure from a development standard, an objection made pursuant of SEPP No. 1 is required.

The applicant has submitted an objection pursuant of SEPP No. 1 to Council, arguing why it is unreasonable or unnecessary to comply with the car parking requirements in these circumstances.

SEPP No. 1 establishes a general principle that a development standard may be varied where strict compliance can be shown to be unreasonable or unnecessary or would tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979.

The proposal has been considered against the following assessment criteria:

Whether the planning control in question is a development standard

Clause 25J (2) of the KPSO contains minimum parking requirements for residential flat building developments which are numeric controls and therefore recognised as a development standard.

The underlying object or purpose of the standard

The purpose of this development standard is to ensure adequate car parking facilities are provided on site for residents and visitors of any residential flat building so as to minimise any overflow parking onto Dumaresq Street whilst taking into consideration the proximity of public transport facilities.

Whether compliance with the development standard is consistent with the aims of this policy, and in particular whether compliance with the development standard would tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979

The objects of the Act are to:

(a) to encourage:

- (i) the proper management, development and conservation of natural and artificial resources, including agriculture land, natural areas, forests, minerals, water, cities, town and villages for the purpose of promoting the social, and economic welfare of the community and a better environment.
- (ii) the promotion and co-ordination of the orderly and economic use and development of land.

It is considered that the proposal will be inconsistent with the objectives and intent of the Act in that insufficient on site car parking will adversely affect the surrounding environment and amenity of this precinct in that an increased demand of on street parking will occur in an area where shortfalls already occur.

Whether compliance with the development standard is unreasonable or unnecessary in the circumstance of the case

The applicant argues that compliance with the car parking standards for this residential flat building is unreasonable or unnecessary in the circumstances of the case for the following reasons:

- *“The breach of the car parking standard affects the provision of visitor parking for the proposed development with a shortfall of 2 spaces from the requirement. The proposal achieves the minimum levels of parking for the residential component. In addition it is also proposed to provide parking for motor bikes and bicycles part of which is for the use of visitors;*
- *The level of visitor parking provision (at 1 space per 4.9 units) is slightly greater than the range set out in the former RTA 's Guide to Traffic Generating Developments for high density housing being 1 space per 5-7 dwellings;*
- *The walking distance to Gordon Railway Station is 620 metres which is well within walking distance indicating that a reduction in such a parking requirement would be justified;*

- *Using an industry accepted walking design speed of 1.2m/s, it would take 8.6 minutes to walk to Gordon Railway Station which is considered to be walkable. Furthermore, the walking distance to Gordon retail area on the Pacific Highway is in order of 300m. This retail centre offers a wide range of retail and banking outlets, supermarkets, bus stops and civic services;*
- *Minor shortfall is not expected to give rise to significant adverse external parking impacts as the level of provision of visitor parking is slightly higher than the range anticipated for high density residential flat buildings;*
- *Public transport is readily available in walking distance from the site. In addition the proposal encourages the use of alternative forms of transport through the provision of bicycle parking for both residents and visitors in excess of Council's requirements;*
- *Car parking will be provided in a basement parking area located predominantly below the proposed structure. This maximizes the amount of natural ground area within the development and helps provide for sufficient deep soil planting;*
- *Basement car parking is proposed and visual impact is therefore minimal;*
- *The proposal meets the relevant objectives of KPSO in respect to residential zones.*

The following response is made to the applicant's SEPP No.1 objection:

- The short fall in on site parking has been designated by the applicant as visitor parking. A condition will need to be attached to any approval that thirty seven 37 spaces are allocated and available at all times for resident parking;
- It is acknowledged that Gordon Railway Station is located within 620 metres which is considered to be within a reasonable walking distance of the site. The main retail precinct of the Gordon town centre and the Pacific Highway where bus services operate is within 310 metres of the site. To access public transport services (rail and bus) and other services and facilities entails a 310 metres walk up a relatively steep hill given the topography of Dumaresq Street. This would be difficult for many people including the inactive, mothers with strolls, elderly and disabled people. Also, many people would be discouraged from using bicycles given the grade of Dumaresq Street being considered to be too steep for general bicycle usage. It is likely that people residing within this residential flat building due to the topographic character of this locality would use their vehicles to undertake short shopping and other trips to the Gordon town centre or access train services. Therefore, adequate parking facilities should be provided on site;
- A number of other residential flat buildings have now been completed along Dumaresq Street and on street parking spaces are already well utilised with little or no spare capacity. Other residential flat buildings along Dumaresq Street have provided excess parking spaces on site. This is also supported by Ku-ring-gai Town Centres Parking Management Plan which indicates for weekday long stay parking it has been predicted there will be no on-street capacity available along Dumaresq Street;
- Council to date has not varied its parking provisions in respect to residential

flat buildings and in most instances applicants having been seeking to provide additional parking spaces on site given high car ownership rates for residents of the Ku-ring-gai local government area rather than less parking than KPSO and DCP requirements;

- Whilst parking has been provided within two basement levels, these basement levels extend past the building footprint above and therefore reduce the area available for deep soil landscaping particularly along Dumaresq Street;
- Unless modifications are undertaken to this development proposal as suggested within this report the proposal would not satisfy the objectives of KPSO in that the desired landscape character of the site and municipality will not be achieved; and
- This development proposal could readily be modified with the reduction of one apartment at lower ground level allowing for the provision of one additional parking space due to the reduction in unit numbers, adequate waste storage facilities with an appropriate internal turning area and eliminating the loading/ turning area adjacent to driveway 1 and providing deep soil landscaping to satisfy KPSO provisions.

The variation to the parking standard within KPSO is not supported in this case for the reasons outlined above. It is recommended in **Condition 19** that Apartment 3 at the lower ground level be deleted which is a one (1) bedroom apartment with relatively poor amenity given its single westerly aspect, its positioning adjacent to driveway 1 and overlooking a turning/loading area. The deletion of this apartment would result in one less parking space being required pursuant to the KPSO. The car parking area at this lower ground level could readily be redesigned to provide one additional parking space, adequate waste storage area and an internal turning area for deliveries and waste collection. Refer to **Figure 4** for further details. Council's engineer supports this recommendation. The external turning/loading area could then be suitably landscaped.

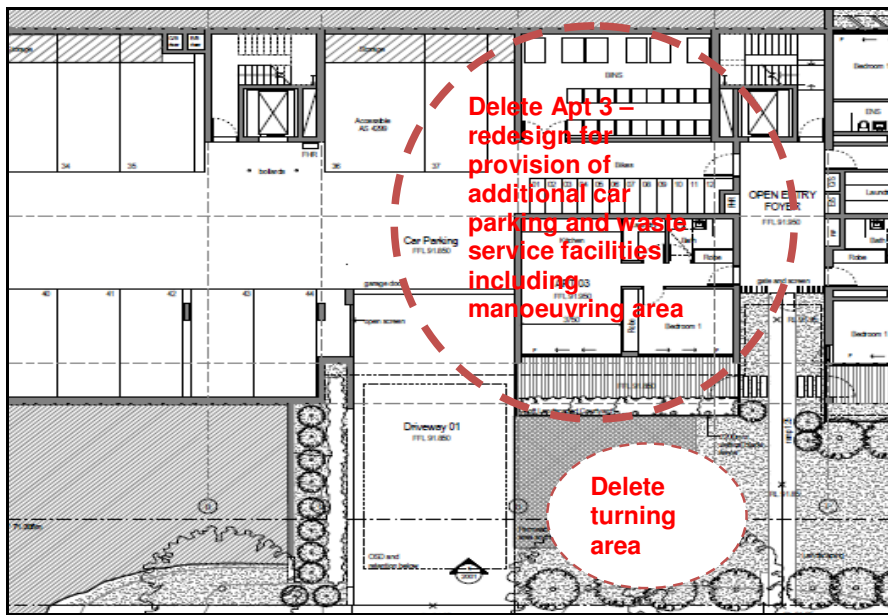


Figure 4 – Lower ground floor level

Whether the objection is well founded

The SEPP 1 objection is considered not to be well founded, in that, whilst it accurately cites the development standard to be varied, it does not provide sufficient justification for varying this development standard in this case for reasons outlined above.

Whether the proposed variation is of regional or state significance

The context and situation in which the departure from the development standards is proposed is not assessed as have any regional or state significance. It is isolated to this site and the proposed development and would only hinder the application of the development standards for car parking elsewhere in the Ku-ring-gai Local Government Area where KPSO applied.

The public benefit in maintaining the planning controls under the environmental planning instrument

It is considered that it is in the public benefit to maintain this particular development standard in this case, as on street parking along Dumaresq Street is in high demand with shortages already occurring at certain times and additional on street demand should not be supported where adequate provision can be provided on site.

Part B: Residential zone objectives:

The development satisfies the objectives for residential zones as prescribed in clause 25D, provided that the turning/loading area adjacent to driveway 1 is converted into a deep soil landscaped area and additional on site parking is provided within the lower ground floor level of this proposed building.

Part C: Heritage /conservation areas:

This development site is within close proximity to a heritage item known as the Moree Street Cottage Group that includes 4 timber cottages (Nos 42, 33, 49 & 55) pursuant to KPSO. The group of cottages are now physically separated from each other and do not appear as a group. Recent development in the street has altered its character with loss of its former identity. This has been reflected in KLEP (Town Centres) 2012 where the group of cottages is no longer listed as a heritage item. No 33 Moree Street is the closest cottage being located to the rear of part of the development site.

Consequently, no adverse impacts are likely to result onto these nearby heritage items due to physical and visual separation of the site from these nearby items and which have lost their heritage status under the KLEP (Town Centres) 2012.

Ku ring gai Local Environmental Plan (Local Centres) 2012

KLEP (Local Centres) 2012 was gazetted on the 25 January 2013 which was after lodgement of this development application to Council.

Clause 1.8A Savings provision relating to development applications of KLEP (Local Centres) 2012 states:

"If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced."

Due to a recent judgment (*Maygood Australia Pty Ltd v Willoughby City Council 2013 NSW LEC 142*) by Justice Pepper of the NSW Land and Environment Court any draft or newly gazetted LEP, notwithstanding inclusion of a savings clause as above, is required to be a relevant consideration in the assessment of any development application. Therefore, this development application has also been assessed in respect to provisions of the KLEP (Local Centres) 2012.

The subject site is zoned R4 High Density Residential pursuant to KLEP (Local Centres) 2012 and residential flat buildings are permissible with consent of Council.

The proposal is consistent with the objectives of the R4 High Density Residential zone as follows:

- *To provide for the housing needs of the community within a high density residential environment.*
The proposal is for construction of a five (5) storey residential flat building being described as a high density residential development within a designated high density environment close to the Gordon town centre;
- *To provide a variety of housing types within a high density residential environment.*
A variety of housing types will be provided within a designated high density area of the Ku ring gai local government area;
- *To provide for high density residential housing close to public transport, services and employment opportunities;*
The subject site is in close proximity to public transport, retail and commercial facilities within the Gordon town centre and ready public transport services being available to major employment centres such as Chatswood, St Leonards, North Sydney, etc.

Summary – Local Centres LEP 2012 compliance

Clause	Proposal	Complies
4.3 Height of Buildings(*) Height of Building 17.5 metres (site exceeds 2400m ²)	Part of proposed building exceeds the height limit by 1.4 metres – 3.3 metres (max height 20.8 metres)	NO
4.4 Floor space ratio Floorspace Ratio 1.3:1 (site exceeds 2400m ²)	1.26:1	YES

4.6 Exceptions to development standards	The applicant has sought a variation to building height standard as outlined below.	N/A
5.9 Preservation of trees or vegetation	Sufficient number of tall trees will be retained on site.	YES
6.1 Earthworks	Excavation of the site is proposed for basement car parking and waste management facilities, etc.	YES
6.2 Stormwater and water sensitive urban design	Adequate stormwater and water sensitive system can be implemented for this development.	YES
6.5 Site requirements for multi dwelling housing and residential flat buildings Site Area 1,800m ² or more Site Frontage 30 metres.	Site Area: 2424.5m ² Site Frontage: 35.1 metres	YES

Note: (*) building height (or height of building) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like

Building Height

The proposed building has a maximum height of 20.8 metres which exceeds the height limit of KLEP (Local Centres) 2012 by 1.4 metres to 3.3 metres for the middle section of the western elevation of the proposed building as demonstrated by **Figure 5** below. This non compliance is attributed to the topography of the site that slopes from front to rear and which is also affected by an east to west crossfall. The eastern elevation of the proposed building satisfies the height limit. It is emphasised the proposal has been designed to comply with Clause 25 – Rail Corridor and St Ives Centre provisions of the KPSO, which has a complex set of provisions relating to the number of storeys and ceiling heights to control the height of buildings.

Furthermore, the proposed building has been designed to follow the topographic characteristics of the site and the western elevation when viewed from the new road comprises three distinctive vertical elements and is well articulated building with inclusion of numerous openings, balconies, projections, etc. The overall scale and built form is consistent with other residential flat buildings along Dumaresq Street and appropriate for this high density residential locality of Gordon. As the proposal is located at the end of a row of residential flat buildings, it will act as a block end and be a transitional site between high density residential flat buildings to the east and separated by a new road to adjoining low density residential areas to the west. Consequently, the variation to this height control is considered acceptable in this case.

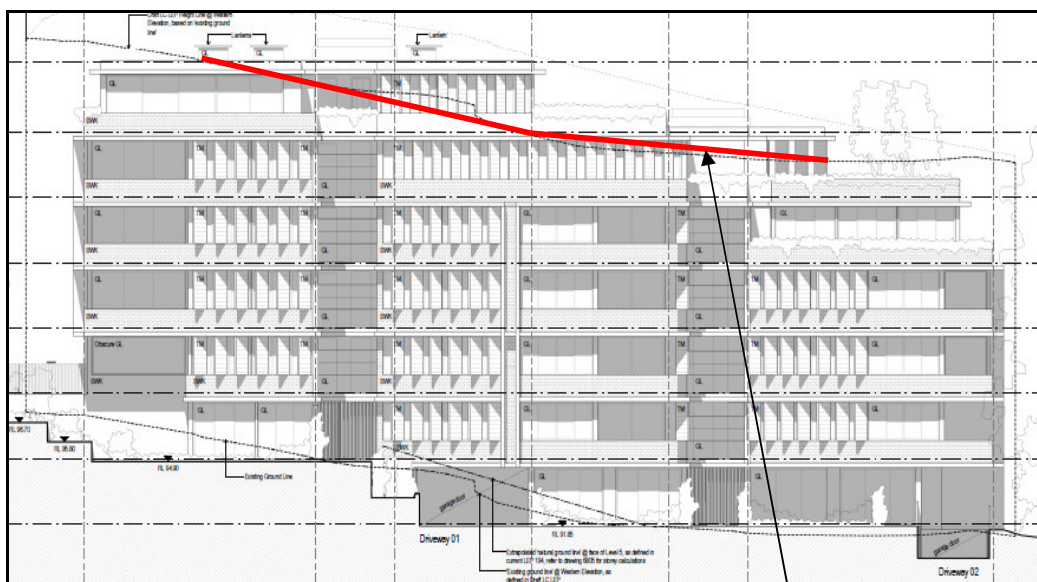


Figure 5 – Western elevation

Extent of non compliance

Exceptions to development standards

Clause 4.6 of the KLEP (Local Centres) 2012 allows exceptions to development standards. Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard. The consent authority must be satisfied that the applicant's written request has satisfied the relevant criteria and that the proposed development will be in the public interest as it is consistent with the zone objectives as well as the objectives of the particular development standard. In addition, consent cannot be granted unless the concurrence of the Director-General has been obtained. These matters are discussed below.

1. Written request provided by the applicant.

The applicant has provided a written request seeking to justify the variation to the development standard within the Statement of Environmental Effects ("SEE") prepared by Design Collaborative Pty Ltd, Planning and Development Consultants.

2. Whether compliance with the development standard would be unreasonable or unnecessary in the circumstances of the case

As demonstrated below, the proposed development will not result in any adverse impacts onto the amenity of adjoining properties or public domain areas or other impacts that arise from non compliance of the development standard. The proposed development is of a height, bulk and scale that is

envisaged by KPSO and will positively contribute to redevelopment of residential lands surrounding the Gordon town centre.

The proposal is consistent with the R₄ zone objectives as previously demonstrated and the height and FSR objectives as contained within Local Centres LEP 2012 as demonstrated below.

In these circumstances, compliance with the development standard would be unreasonable and unnecessary.

3. Environmental grounds to justifying contravening the development standard.

The applicant has provided the following grounds/reasons for the proposed variation to the height control:

- *"The noncompliance with the height standard is largely a reflection of the slope of the site, not only its slope from front to rear but also its cross fall;*
- *The overall scale and form of the proposed building is consistent with what could be expected under Council's controls;*
- *The visual bulk and scale of the building is reduced as a result of its well articulated design combining deep recesses in the built form and increased setbacks to the upper levels with recessed balconies, projecting slab edges and projecting timber shutters which articulate and modulate the façades. When viewed from the Dumaresq Street frontage, the height and scale of the proposed building is well within the height control having an overall height of five storeys with the fifth storey setback behind the lower levels and landscaping softening the edge of the upper level;*
- *The proposal will not result in any significant adverse impacts on the amenity of surrounding properties. The proposal has been designed to maintain visual privacy through separation, use of screening devices and proposed landscaping;*
- *It will not result in significant overshadowing and will not affect views;*
- *The proposal is considered to be consistent with relevant the objectives of the proposed R₄ zone in that :*
 - a *it provides for the housing needs of the community within a high density residential environment;*
 - b *it provides a variety of housing types within a high density residential environment; and*
 - c *it provides for high density residential housing close to public transport, services and employment opportunities.*
- *It is also consistent with the objectives of the height standard, in that:*
 - a *the height of the proposed development is appropriate for the scale of the Gordon Centre;*
 - b *the proposal provides for a transition in scale between the centres and the adjoining lower density residential and open space zones to protect local amenity; and*
 - c *the built form of the proposed development is compatible with the size of the land to be developed. Accordingly, it is considered that there are more than sufficient environmental planning."*

4. Consistent with the zone objectives and objectives of the development standard.

The zone objectives have already been identified in an earlier section of this report. As previously concluded, the development is consistent with all of the objectives of the zone.

The objectives of the height control are discussed below:

(a) to ensure that the height of development is appropriate for the scale of the different centres within the hierarchy of Ku-ring-gai centres,

The proposal is of an acceptable height being of five (5) storeys, on the fringes of the Gordon town centre and of similar height and scale to other residential flat buildings along Dumaresq Street.

(b) to establish a transition in scale between the centres and the adjoining lower density residential and open space zones to protect local amenity,

The proposal will act as a transitional site being at a block end with the new road providing a buffer between the high density residential area on the fringes of the Gordon town centre and lower density residential areas to the west.

(c) to enable development with a built form that is compatible with the size of the land to be developed.

The built form is compatible with the site as it has been designed to follow the topography of the site, the proposed building is well articulated with recessed components and thereby creating a good design outcome for the site.

Concurrence of the Director General.

Circular PS o8-003 issued on 9 May 2008 informed Council that it may assume the Director-General's concurrence for exceptions to development standards.

Conclusion

The 18% variation to the development standard is attributed to part of the western elevation of the building only and is due to the topography of the site and locality. The development satisfies the criteria outlined in Clause 4.6 and the variation is considered to be acceptable as the proposal has primarily been designed to comply with provisions of KPSO and DCP No.55. Hence the variation may be supported by Council and the JRPP.

Preservation of trees or vegetation

The development proposes to remove 7 significant trees and other exotic trees on site. The removal of these trees as discussed elsewhere in this report has been considered by Council's Landscape Assessment Officer and is supported.

Earthworks

The extent of excavation proposed is acceptable, given the prevailing topography of the site and given the approval of other residential flat buildings along Dumaresq Street where significant excavation has been necessary. The development has been supported by a geotechnical report. Recommendations of this report will need to be implemented during construction works and Council's Engineer has recommended conditions so as avoid any impacts resulting onto the surrounding environment and structures.

Stormwater and water sensitive urban design

The proposed development is acceptable with regard to water sensitive urban design. The development's stormwater system has been designed to include water quality improvement measures, prior to the site discharge into the Council's system.

POLICY PROVISIONS

Development Control Plan No. 55 – Railway/Pacific Highway Corridor & St Ives Centre

Development control	Proposed	Complies
Part 3 Local context:		
Part 4.1 Landscape design:		
Deep soil landscaping (min) One area of 150m ² per 1000m ² of site area = 363.83m ²	Two 150m ² areas of deep soil landscaping will be available if loading area deleted.	YES
No. of tall trees required (min): 8 trees	10 trees	YES
Part 4.2 Density:		
Building footprint (max): 35% of total site area	34.8%	YES
Floor space ratio (max): 1.3:1	1.3:1	YES
Part 4.3 Setbacks:		
Street boundary setback (min): 10-12 metres (<40% of the zone occupied by building footprint)	Dumaresq Street Lower Ground Floor 91% of building footprint occupies 10 metres – 12 metres zone Ground Floor 36% of building footprint occupies 10 metres -12 metres zone First Floor level 13.5% of building footprint	NO YES YES

	occupies 10 metres – 12 metres zone	NO
	Proposed New Road Lower Ground Floor level 40.4% of building footprint occupies 10 metres -12 metres zone	YES
	Ground Floor 38.95% of building footprint occupies 10 metres -12 metres zone	YES
	First floor level 37.8% of building footprint occupies 10 metres – 12 metres zone	

Rear boundary setback (min): 6m	7.7 metres – 9.3 metres	YES
Side boundary setback (min): 6m	6.0 metres	YES
Setback of ground floor courtyards to street boundary (min): 8m	Courtyards setback 8 metres to Dumaresq Street Courtyards of Apartments 2 & 3 setback 9.1 metres to proposed road	YES YES
% of total area of front setback occupied by private courtyards (max): 15%	Private courtyards are positioned along the entire frontage of the building which will comprise soft landscaping in the form of low shrubs & ground covers. This treatment is considered acceptable, however some paving will need to be incorporated into the courtyard of Apartment 15 to provide an all weather outdoor area.	NO

Part 4.4 Built form and articulation:

Façade articulation: <ul style="list-style-type: none"> ▪ Wall plane depth >600mm ▪ Wall plane area <81m² 	<600mm	YES
	<81m ²	YES
Built form: <ul style="list-style-type: none"> ▪ Building width < 36m ▪ Balcony projection < 1.2m 	18.5 metres Dumaresq Street	YES NO
	47.5 metres proposed road <1.2 metres	YES
Part 4.5 Residential amenity		
Solar access: <ul style="list-style-type: none"> ▪ >70% of units receive 3+ hours direct sunlight in winter solstice ▪ >50% of the principle common open space of the development receives 3+ hours direct sunlight in the winter solstice ▪ <15% of the total units are single aspect with a western orientation 	25 units or 73.5%	YES
	>50% of common open space	YES
	<15% single aspect	YES
Visual privacy: Separation b/w windows and balconies of a building and any neighbouring building on site or adjoining site: Storeys 1 to 4 <ul style="list-style-type: none"> ▪ 12 metres b/w habitable rooms ▪ 9 metres b/w habitable and non-habitable rooms ▪ 6 metres b/w non-habitable rooms 	15 metres to 29A Moree 7.5 metres to 26 Dumaresq >27 metres to 34 Dumaresq N/A	YES NO
	N/A	
5th Storey <ul style="list-style-type: none"> ▪ 18 metres b/w habitable rooms ▪ 13 metres b/w habitable and non-habitable rooms ▪ 9 metres b/w non-habitable rooms 	30 metres to 29A Moree 10 metres to 26 Dumaresq >27 metres to 34 Dumaresq N/A	YES NO
	N/A	
Internal amenity: <ul style="list-style-type: none"> ▪ Habitable rooms have a minimum floor to ceiling height of 2.7 metres ▪ Non-habitable rooms have a minimum floor to ceiling height of 2.4 metres ▪ 1-2 bedroom units have a minimum plan dimension of 3 metres in all bedroom ▪ 3+ bedroom units have a minimum plan 	2.7 metres	YES
	2.4 metres	YES
	>3 metres	YES
	>3 metres	YES

dimension of 3 metres in at least two bedrooms ▪ Single corridors: - serve a maximum of 8 units - >1.5 metres wide - >1.8 metres wide at lift lobbies	4 apartments max >1.5 metres >1.8 metres	YES YES YES
Outdoor living: ▪ ground floor apartments have a terrace or private courtyard greater than 25m ² in area ▪ Balcony sizes: - 10m ² – 1 bedroom unit - 12m ² – 2 bedroom unit - 15m ² – 3 bedroom unit NB. At least one space >10m ² ▪ primary outdoor space has a minimum dimension of 2.4 metres	All ground floor apartments have 25m ² except Unit 15 (i.e. 24.82m ²) 10.1m ² 12m ² 38m ² >2.4 metres	NO YES YES YES YES
Part 4.7 Social dimensions:		
Visitable units (min): 70%	70% of apartments visitable	YES
Housing mix: Mix of sizes and types	Mix of 1, 2 & 3 bedroom apartments	YES
Part 5 Parking and vehicular access:		
Car parking (min): 36 resident spaces 9 visitor spaces 45 total spaces	37 spaces 7 spaces 44 spaces	YES NO YES

Part 3 Local context:

The subject site is located within a section of Dumaresq Street that is currently being developed for high density residential housing purposes as intended by the current zoning of the land and the desired future character of this precinct. The proposal is consistent with existing residential flat buildings at Nos. 6 to 22 and Nos. 29 to 39 Dumaresq Street which have been designed to satisfy controls within KPSO being four and five storey residential flat buildings. The proposal will form a transitional site acting as a block end between existing high rise and lower residential development to the west. The existing vegetated corridor at the rear of the lot will be retained being consistent with adjoining development and providing a green buffer to properties at the rear of the site.

The proposal is satisfactory with regard to planning controls within KPSO and the design guidelines of DCP No. 55.

Part 4.1 Landscape design:

The proposal does not strictly satisfy the numeric standards of deep soil landscaping requirement of KPSO unless the area designated as a turning/loading area adjacent to driveway 1 is converted into a landscaped area as required by **Condition 20**. With conversion of this area into a landscaped area, a second area of 150m² will be available for landscaping within a central section of the site for communal open space purposes. Also, further landscaping along this street frontage will ensure the landscaping is of an appropriate scale for this development so as to reinforce the landscape character and amenity of the area, allowing adequate area for substantial planting along a secondary frontage to assist to soften the appearance of the built form and to provide well designed communal open space areas on site for future residents.

Part 4.3 setbacks:

Dumaresq Street Setback

A 10-12 metres setback where the building footprint occupies less than 40% applies to this development proposal as the width of the site equates to 34.6 metres. The front elevation of the proposed building is set back 10 metres from Dumaresq Street with the north-eastern corner of the proposed building above ground level occupying 13.5% of the 10 -12 metres setback zone. The lower ground level occupies 91% of this setback zone which limits the area at the front of the proposed building which can be used for planting of tall canopy trees and that has been used for planting of ground covers only. Notwithstanding, the proposal satisfies the intent of Part 4.3 of the DCP No. 55 in that substantial landscaping can be provided along the Dumaresq Street frontage with a combination of appropriate tall tree planting and a variety of shrubs and screen planting. Private courtyards have been positioned at ground level along the entire frontage of the proposed building which has been designated as a soft landscaped area. However, some of this soft landscaped area associated with Apartment 15 will need to be changed into a paved area which is not likely to adversely impact onto the landscaped character of the site provided it is discreetly implemented and will be conditioned accordingly. The proposed building will be located at the intersection of a new road and acts as an end block in a row of residential flat buildings and thus allowing for a reduced setback to Dumaresq Street. The height and scale of the proposed development is consistent with that envisaged by the Residential 2(d3) zoning and the presentation of the building to Dumaresq Street is of an articulated facade with incorporation of numerous openings and balconies, having a well recessed top storey and thus reducing the mass and bulk of the proposed building.

New Road setback

The subject site is described as a corner site and hence building setbacks of 10 metres - 12 metres with the building footprint occupying less than 40% of the frontage also applies to the new road. The proposed building is set back 10 metres from the new road boundary with parts of the proposed building occupying the 10 metres -12 metres setback zone. Whilst part of the building occupies the 10 metres -12 metres setback zone, the greatest affectation is at lower ground floor level where 40.4% results, being slightly higher than permitted. With conversion of the proposed loading/turning area into a landscaped area, further deep soil landscaping can be implemented along the secondary frontage of the building that will assist to soften the appearance of the building and to improve the landscaped aesthetics and amenity of the site.

Subject to the recommended modifications the proposal would be acceptable with regard to the setback requirements of the DCP No. 55.

Part 4.4 Built form and articulation:

The intention of Part 4.4 is to encourage buildings which do not dominate the street and to encourage a predominance of landscape features. The proposed building is considered to be well articulated, achieves adequate setbacks from both street frontages as discussed above and is satisfactory with regard to side and rear setbacks.

The proposed building being 47.5 metres in length along the new road exceeds the desired building width control. Despite this, the proposed building has been designed to follow the topography of the site with the proposal being stepped down the site, comprises three distinct elements which are well recessed by two foyer elements and inclusion of openings and balconies creating good relief to the western elevation of the building when viewed from the new road and the western part of Dumaresq Street. The proposed building also incorporates a mixture of horizontal and vertical building elements and diversified materials choice that contributes to a good design outcome for the site. With increased landscaping being implemented as discussed previously in this report, the proposed building will be situated within a well landscaped setting. The proposal is acceptable in relation to the built form and articulation.

Part 4.5 Residential amenity:

The building layout, orientation and provision of outdoor space and landscaping should ensure acceptable internal and external amenity for occupants.

The adjoining property immediately to the east of the subject site is occupied by a single storey detached dwelling which has a window in its western elevation adjacent to the subject site. Over time this site is likely to be redeveloped. The majority of apartments have been designed so that their main outlook is directed towards the two street frontages.

It is noted that the proposal does not satisfy the minimum numeric separation between windows and balconies of the proposed building with a habitable window within the western elevation of No. 26 Dumaresq Street. Despite this, the proposed building has been designed to minimise potential overlooking and privacy impacts onto surrounding properties. Proposed external timber screens are attached to bedroom windows at all levels directly opposite this window of No. 26 Dumaresq Street to achieve increased privacy levels and to avoid potential overlooking. Proposed balconies will be set back 7.5 metres from this window and whilst some implementation of landscaping is being proposed in the form of tree planting, some additional screening along the eastern edge of balconies attached to Apartments 16, 23, and 29 is recommended to maintain adequate privacy levels and are conditioned accordingly (**Condition 22**). Existing and further proposed landscaping along the eastern and southern boundaries of the site will assist to screen views towards any neighbouring residential properties.

The proposed communal roof top terrace is designed to avoid overlooking of

neighbouring residential properties given separation distances (i.e. 30 metres to rear and 10 metres to east boundaries) and incorporation of proposed planter and screening along all its edges.

All apartments within the development have sufficient private open space being in the form of a terrace or balcony attached to a main living area. Apartment 15 has slightly less than the 25m², however the occupants of this apartment due its positioning will also benefit from and overlook the larger communal landscaped area along the frontage of the site. Despite some variations to separation between habitable rooms and provision of private open space as discussed above, the proposal achieves compliance with the intent of this section of the DCP. The proposal provides good residential amenity for future occupants in terms of solar access, private open space and room dimensions. However, it is noted that Apartment 3, being the apartment recommended for deletion to enlarge the basement for provision of additional car parking, is a single aspect apartment with a westerly orientation, of relatively small size (i.e. 54.64m², is positioned immediately adjacent to a driveway facility servicing the building and will have an outlook onto a turning/loading area.

Part 4.6 Safety and security:

Apartments adjacent to public streets are required to have at least one window or a habitable room with an outlook to that area. Entries and common open space should be visible from public areas or apartments and lighting should be provided to increase visibility.

The proposed building has been designed so that apartment windows and balconies at all levels overlook Dumaresq Street or the new road. A main pathway has been provided from Dumaresq Street linking with pathways from the new road that are clearly defined and visible. All entries to the building from these pathways will be visible from apartments providing adequate passive surveillance and therefore areas for potential concealment have been limited.

Part 4.7 Social dimensions:

The proposed development will provide a variety of apartment types and sizes ranging from 9 x one bedroom, 22 x two bedroom and 3 x 3 bedroom apartments. The deletion of a one bedroom apartment will not significantly impact on the range of apartments incorporated into this building. The proposal will assist in the provision of a variety of residential accommodation for residents of the Gordon locality to downsize if desired.

Part 5 Parking and vehicular access:

As previously stated, it is proposed to provide a total of 44 spaces on site, comprising 37 resident spaces and 7 visitor spaces. Consequently, a shortfall of one visitor space occurs if using the DCP No. 55 figures as only 36 resident spaces need to be provided due to a slightly different calculations applying within the DCP compared to KPSO. If Apartment 3 is deleted from the development proposal, 35 resident parking spaces and 8 visitor spaces would be necessary. A redesign of the lower ground floor level, including removal of Apartment 3, would allow for adequate car parking (i.e. one

additional space only required) to be provided on site including a waste storage facility and adequate manoeuvring area for this facility. One of these spaces could be allocated for dual purposes functioning as a visitor space or for temporary parking of service vehicles and small removal vehicles to satisfy DCP requirements. Alternatively two additional spaces could readily be provided in the design allowing for a separate service space.

Development Control Plan No. 31 – Access

The aim of DCP No. 31 is to ensure access for all to public buildings, community facilities and new developments, excluding dwelling houses and dual occupancies and to ensure that people with a disability have equal access to employment opportunities by way of affording access to facilities, services and opportunities to meet their specific needs.

Matters for assessment under this DCP have been taken into account in the assessment of this application and the proposal is satisfactory in this regard.

Development Control Plan No. 40 – Construction and Demolition Waste Management

The key objectives of this DCP are to encourage building design and construction techniques which will minimise waste generation, implement the principles of the waste hierarchy of avoiding, reusing and recycling building and construction materials, and commercial waste, minimise the environmental impacts of waste, promote the principles of ecologically sustainable development, meet Council's responsibilities in relation to the Northern Sydney Regional Waste Plan and assist in achieving the Federal and State Government's waste minimisation targets.

A waste management plan, demonstrating compliance with the requirements of the DCP, has been submitted and is acceptable. Matters for assessment under DCP No. 40 have been taken into account in the assessment of this application pursuant to DCP No. 55.

Development Control Plan No. 43 – Car Parking

One of the aims of this DCP is to ensure that adequate parking is provided for developments in Ku-ring-gai, so as to minimise the overflow of parking onto surrounding streets. Under this DCP, 36 resident and 9 visitor spaces are required which is slightly less than the requirements of the KPSO. Consequently, the proposal results in a deficiency of one space. If Apartment 3 is deleted then 35 resident and 8 visitor spaces (i.e. total 43 spaces) would be required. The proposal generally satisfies other requirements relating to dimensions of parking spaces, manoeuvring areas, provision of bicycle parking, etc. of the DCP.

Development Control Plan No. 47 – Water Management

Matters for assessment under DCP No. 47 have been taken into account in the assessment of this application pursuant to DCP No. 55 and are considered to be satisfactory in this case.

Local Centres DCP

Whilst the Local Centres DCP broadly informs the context of the site, its controls do not apply to this development as the application was lodged prior to gazettal of KLEP (Local Centres) 2012.

Section 94 Plan

The development attracts a section 94 contribution of \$725,574.60, which is required to be paid by **Condition 38**.

LIKELY IMPACTS

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

SUITABILITY OF THE SITE

The site is zoned 'Residential 2 (d3)'. The site is therefore suitable for an appropriately designed residential flat building development.

ANY SUBMISSIONS

The JRPP is advised that **Condition Nos. 10, 18, 41, 43 and 45** are recommended to address the concerns of the objector.

PUBLIC INTEREST

The approval of the application is considered to be in the public interest, provided additional car parking and deep soil landscaping is provided on site as recommended by this report.

CONCLUSION

Having regard to the provisions of section 79C of the Environmental Planning and Assessment Act 1979, the proposed development is considered to be satisfactory provided that Apartment 3 is deleted, the external loading/turning area is changed into a deep soil landscaped area and part of the lower ground floor is redesigned to provide for additional car parking spaces to meet KPSO requirements and the provision of an adequate waste storage area. Also, subdivision to excise the road and registration of the subdivision and final approval of the road is necessary before any development consent becomes operational. Therefore, it is recommended that the application be approved subject to deferred commencement conditions as outlined below.

If the JRPP does not support the recommended conversion of the external turning /loading into deep soil landscaping in accordance with provisions of the KPSO, then a SEPP No.1 objection will need to be lodged and considered prior to any approval of this application.

RECOMMENDATION

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

- A. THAT the JRPP, as the consent authority, is of the opinion that the objection under State Environmental Planning Policy No. 1 – Development Standards to Clause 25 J (2) of the Ku-ring-gai Planning Scheme Ordinance is not well founded in its current form necessitating amendments as required by **Condition 19** of the recommended development consent.
- B. THAT the JRPP, as the consent authority, grant deferred commencement development consent to DA 0501/12 for demolition of existing improvements and construct a residential flat building containing 33 apartments, basement carpark and landscaping on land at Nos. 28-30 and part of No. 32 Dumaresq Street Gordon, for a period of two (2) years from the date of the Notice of Determination, subject to the following terms of Schedule A and foreshadowed conditions of Schedule B below.

Schedule A – Deferred Commencement terms

The following matters shall be addressed to the satisfaction of Council within 12 months of the date of consent, prior to the issue of an operational consent:

A. Subdivision of 32 Dumaresq Street

The applicant shall submit documentary evidence that the subdivision of Lot 1 DP949218 (No. 32 Dumaresq Street) to excise the future public road has been registered. This consent will not operate until the documentary evidence, in the form of a plan registered at the Department of Lands, has been submitted to and approved by Council.

Reason: To ensure that the development site exists separate to the future road prior to the development occurring.

B. Approval of road design

The applicant shall submit documentary evidence that the design of the new road along the western frontage of the site has been approved by Council's Director Operations. This consent will not operate until the documentary evidence, in the form of stamped endorsed plans, has been submitted to and approved by Council.

Reason: To ensure that the works along the site boundary both within and external to the site will be consistent in relation to levels, dimensions and materials.

Schedule B – Conditions of consent

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
000 Cover Sheet	Tzannes Associates	23/11/2012
0002 Site Plan Rev D	Tzannes Associates	30/9/2013
0003 Environmental Site & Management & Excavation Plan Rev C	Tzannes Associates	24/07/2013
1001 Basement Level Rev E	Tzannes Associates	30/9/2013
1002 Lower Ground Floor Plan Rev E	Tzannes Associates	30/9/2013
1003 Ground Floor Plan Rev E	Tzannes Associates	30/9/2013
1101 First Floor Plan Rev E	Tzannes Associates	30/9/2013
1102 Second Floor Plan Rev C	Tzannes Associates	24/07/2013
1103 Third Floor Plan Rev C	Tzannes Associates	24/07/2013
1104 Fourth Floor Plan Rev C	Tzannes Associates	24/07/2013
1105 Fifth Floor Plan Rev C	Tzannes Associates	24/07/2013
1106 Roof Plan Rev C	Tzannes Associates	24/07/2013
2000 Elevation North Rev C	Tzannes Associates	24/07/2013
2001 Elevation West Rev C	Tzannes Associates	24/07/2013
2002 Elevation East Rev C	Tzannes Associates	24/07/2013
2003 Elevation South Rev C	Tzannes Associates	24/07/2013
3001 Section_ 01 Rev C	Tzannes Associates	24/07/2013
3002 Section_ 02 Rev C	Tzannes Associates	24/07/2013
Landscape Plan Lo1	Jila	26.09.13
Levels Plan Lo2	Jila	26.09.13
Third Floor Garden Plan Lo3	Jila	25.09.13
Fourth Floor Garden Plan Lo4	Jila	25.09.13
Fifth Floor Garden Plan Lo5	Jila	25.09.13
Planting Schedule	Jila	25.11.13
CIV-010 Siteworks and Stormwater Management Plan Issue 4	Hyder Consulting Pty Ltd	01/10/13
CIV-025 Stormwater OSD Details Issue 2	Hyder Consulting Pty Ltd	01/10/13
CIV-030 Conceptual Combined Services Plan Issue 2	Hyder Consulting Pty Ltd	01/10/13
CIV – 040 Site Catchment Plan Issue 2	Hyder Consulting Pty Ltd	01/10/13
CIV -005 Erosion and Sediment Plan Issue 3	Hyder Consulting Pty Ltd	01/10/13

Document[s]	Dated
Materials & Sample Board prepared by	Undated

Tzannes Associates Drawing MSB1 Rev A	
Basix Certificate 455470m_02	1 August 2013
Access report prepared by Mark Reif	26 November 2012

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.

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. Asbestos works

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

Reason: To ensure public safety

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 over the site frontage.
- All driveway crossings and laybacks opposite the subject site.

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

The 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

- 26 Dumaresq Street, including the boundary retaining wall

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 Stage 2 geotechnical investigation comprising a minimum of four cored boreholes as recommended in the report by JK Geotechnics dated 18 September 2012, and groundwater monitoring.

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:

- Demolition

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

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

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

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

11. Work zone

A Works Zone is to be provided subject to the approval of the Ku-ring-gai Local Traffic Committee.

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

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

Reason: To ensure that appropriate measures have been made for the operation of the site during demolition, excavation and construction stages.

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.

Schedule

Tree/location	Radius from trunk
Tree 1/ <i>Alectryon tomentosus</i> (Rambutan) located on the Dumaresq Street nature strip.	2m
Tree 2/ <i>Alectryon tomentosus</i> (Rambutan) located on the Dumaresq Street nature strip.	2m
Tree 3/ <i>Pistacia chinensis</i> (Pistacia) located on the Dumaresq Street nature strip.	2m
Tree 31/ <i>Araucaria heterophylla</i> (Norfolk Island Pine) This 25 metre high tree is located on the southern boundary of the site.	5m
Tree 32/ <i>Araucaria heterophylla</i> (Norfolk Island Pine) This 25 metre high tree is located on the southern boundary of the site.	5m
Tree 33/ <i>Araucaria heterophylla</i> (Norfolk Island Pine) This 25 metre high tree is located on the southern boundary of the site.	5m
Tree 37/ <i>Lophostemon confertus</i> (Brushbox) located on the southern boundary of the site.	3m
Tree 38/ <i>Castanospermum australe</i> (Moreton Bay Chestnut) located on the southern boundary of the site.	4m

The tree protection fencing shall be constructed of galvanised pipe at 2.4 metres spacings 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

14. 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.

15. 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.

16. 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.

17. Construction waste management plan

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

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

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

Reason: To ensure appropriate management of construction waste.

18. 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 achieve the best practice objectives of AS 2436-2010 and NSW Department of Environment and Climate Change Interim Construction Noise Guidelines. The report shall be prepared in consultation with any geotechnical report that itemises equipment to be used for excavation works.

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

- identification of the specific activities that will be carried out and associated noise sources
- identification of all potentially affected sensitive receivers, including residences, churches, commercial premises, schools and properties containing noise sensitive equipment
- the construction noise objective specified in the conditions of this consent
- the construction vibration criteria specified in the conditions of this consent

- determination of appropriate noise and vibration objectives for each identified sensitive receiver
- noise and vibration monitoring, reporting and response procedures
- assessment of potential noise and vibration from the proposed demolition, excavation and construction activities, including noise from construction vehicles and any traffic diversions
- description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction
- construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency
- procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration
- contingency plans to be implemented in the event of non-compliances and/or noise complaints

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

Conditions to be satisfied prior to the issue of the construction certificate:

19. Amendments to architectural plans

Prior to the issue of a Construction Certificate, the Certifying Authority shall be satisfied that the approved architectural plans, listed below and endorsed with Council's stamp, have been amended in accordance with the requirements of this condition as well as other conditions of this consent:

Plan no.	Drawn by	Dated
1002 Lower Ground Floor Plan Rev E	Tzannes Associates	30/9/2013
2001 Elevation West Rev C	Tzannes Associates	24/07/2013
3001 Section_01 Rev C	Tzannes Associates	24/07/2013

The above plans shall be amended in the following ways:

- Apartment 3 shall be deleted from the proposed building and the basement car park is to be redesigned to provide car parking in accordance with clause 25 J(1) of the Ku-ring-gai Planning Scheme Ordinance as follows:-

(i) resident car parking spaces –	35
(ii) visitor spaces –	<u>8</u>
(iii) total spaces -	43
- This redesign is to include the waste storage facilities at the lower ground floor level and be carried out also in accordance with **Conditions 30, 31, 32, 33 and 34** of this consent.

Reason: To ensure adequate car parking and services are provided on site

20. 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:

Plan no.	Drawn by	Date
Landscape plan L01 - L07	Jila	26/09/13

The following changes are required to the Landscape Plan:

1. Changes to the deep soil landscaping to achieve compliance with the deep soil landscaping requirement of clause 25 I(2) of the KPSO and these changes are to incorporate and are to be consistent with changes referred to in items 2 – 12 following
2. To preserve the streetscape amenity, the area between the northern driveway and the north-west corner of the site shall be amended to include the proposed retaining walls as per the stormwater plan. The landscape plan is to be consistent with the stormwater plan -
3. To enhance the streetscape, the fire hydrant is to be relocated from the corner and located in a visually discreet position within the site.
4. To preserve neighbour amenity, at least three (3) additional locally occurring canopy trees that contain 13 metres in height are to be provided to the building along the eastern elevation.
5. To preserve the streetscape character and to ensure compliance with the deep soil development standard, all paving associated with the loading zone is to be replaced with soft landscaping incorporating trees, shrubs and lawn that is consistent with the soft landscape treatment proposed to the south of the southern pedestrian entry path.
6. Proposed planting plan shall indicate location of species and number in accordance with Council's DA Guide. The plant schedule shall include the pot size and quantity of all species.
7. Symbol for turf to be shown.
8. Existing street trees along Dumaresq Street shall be shown.
9. The proposed on slab areas shown as planting to both the northern and southern entries to the building is to provide sufficient depth to be viable for the proposed planting.

10. Existing levels should be retained within 2 metres of the site boundaries to preserve the natural landscape where possible.
11. To preserve the following tree, a note requiring the removal of the ivy infestation in the trunk is to be shown on the plan.
12. The private courtyard attached to Apartment 15 should be redesigned to incorporate a small paved area for future occupants whilst retaining ground covers given the front setback of the proposed building.

After the above changes have been incorporated into the amended landscaping plan(s) a further plan is to be prepared (and submitted to the certifier) showing all the deep soil landscaping areas and any necessary calculations to demonstrate compliance with the requirements of clause 25 I(2) of the Ku-ring-gai Planning Scheme Ordinance:

Prior to the issue of the Construction Certificate, the Principal Certifying Authority shall be satisfied that the landscape plan has been amended as 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

21. Voluntary planning agreement

Prior to the issue of any Construction Certificate, the Voluntary Planning Agreement between Ku-ring-gai Council and Australia Wenzhou Group Property Pty Ltd titled 'Dumaresq Street Gordon Roadworks Planning Agreement' to be executed and implemented in accordance with the timetable and terms set within the document.

Reason: Statutory requirement.

22. Privacy

A fixed privacy screen shall be attached to the eastern edge of balconies of Apartments 16, 23 and 29. The privacy screen shall have a height of 1.6m from the finished level of the balcony. The privacy screen shall be of durable material, appropriately integrated and shall be designed so as to prevent overlooking into the western window of No. 26 Dumaresq Street.

Reason: To maintain neighbour amenity

23. 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.

24. 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 \$20,000. The builder's indemnity insurance does not apply to commercial or industrial building work or to residential work valued at less than \$20,000, nor to work undertaken by persons holding an owner/builder's permit issued by the Department of Fair Trading (unless the owner/builder's property is sold within 7 years of the commencement of the work

Reason: Statutory requirement.

25. 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.

26. 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 relevant 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 the 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.

27. Access for people with disabilities (residential)

Prior to the issue of the relevant 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.

28. Adaptable units

Prior to the issue of the relevant Construction Certificate, the Certifying Authority shall be satisfied that the nominated adaptable units within the development application, 4, 7, 14 and 21 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.

29. Excavation for services

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

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

Reason: To ensure the protection of trees.

30. Recycling and waste management

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

The responsibility for:

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

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

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

Reason: Environmental protection

31. Driveway grades - basement carparks

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

- vehicular access can be obtained using grades of 20% (1 in 5) maximum and
- all changes in grade (transitions) comply with Australian Standard 2890.1 - "Off-street car parking" (refer clause 2.5.3) to prevent the scraping of the underside of vehicles.

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

32. Basement car parking details

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

- all parking space dimensions, driveway and aisle widths, driveway grades, transitions, circulation ramps, blind aisle situations and other trafficked areas

- comply with Australian Standard 2890.1 - 2004 "Off-street car parking"
- a clear height clearance of **2.6 metres** (required under DCP40 for waste collection trucks) is provided over the designated garbage collection truck manoeuvring areas within the basement
- no doors or gates are provided in the access driveways to the basement carpark which would prevent unrestricted access for internal garbage collection at any time from the basement garbage storage and collection area
- the vehicle access and accommodation arrangements are to be constructed and marked in accordance with the certified plans

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

33. Car parking allocation

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

- Resident car spaces 35
- Visitor spaces 8
- Total spaces 43

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. The spaces shall be painted nominating them as 'Visitor's Parking'.

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 relevant Construction Certificate.

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

34. Number of bicycle spaces

The basement car park shall be adapted to provide 10 bicycle spaces in accordance with DCP 55. The bicycle parking spaces shall be designed in accordance with AS2890.3. Details shall be submitted to the satisfaction of the Certifying Authority prior to the issue of the relevant Construction Certificate.

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

35. Utility provider requirements

Prior to issue of the relevant Construction Certificate, the applicant must make contact with all relevant utility providers whose services will be impacted upon by the

development. A written copy of the requirements of each provider, as determined necessary by the 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.

36. 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 relevant 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):

37. 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.

38. Section 94 Contributions – For Development within Centres

This development is subject to a development contribution calculated in accordance with Ku – ring – gai Contributions Plan 2010, being s 94 Contributions Plan in effect under the Environmental Planning and Assessment Act, as follows:

Key Community Infrastructure	Amount
Local parks and local sporting facilities	\$335,838.47
Local recreation and cultural facilities & local social facilities	\$58,052.14
Local roads, local bus facilities & local drainage facilities (new roads and road modifications)	\$124,215.60
Local roads, local bus facilities & local drainage facilities (townscape, transport & pedestrian facilities)	\$207,468.39
Total	\$725,574.60

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

Ku - ring – gai Contributions Plan 2010 may be viewed at www.kmc.nsw.gov.au and 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.

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

39. 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.

40. 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.

41. 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.

42. 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

Reason: To ensure public safety and public information.

43. 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

44. 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.

45. Hours of work

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

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

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

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

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

46. Temporary irrigation

Temporary irrigation within the Tree Protection Fencing is to be provided. Irrigation volumes are to be determined by the Project Arborist.

Reason: To protect trees to be retained on site.

47. 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 JK Geotechnics dated 18 September 2012 and the report submitted prior to commencement of bulk excavation. 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.

48. 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 JK Geotechnics dated 18 September 2012 and the report submitted prior to commencement of bulk excavation. 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.

49. 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

50. 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.

51. 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.

52. Recycling of building materials

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.

53. 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.

54. Maintenance period for works in public road

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

Reason: To protect public infrastructure.

55. 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.

56. 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.

57. 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 6m 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.

58. 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 <<http://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.

59. Arborist's report

The trees 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. An arborist report, prepared by Footprint Green, dated 8/11/12, has been submitted as part of the original application. Tree numbers refer to this report.

Regular inspections and documentation from the arborist to the Principal Certifying Authority are required at the following times or phases of work:

Schedule

Tree/location

Tree 31/ *Araucaria heterophylla* (Norfolk Island Pine) This 25 metre high tree is located on the southern boundary of the site.

Tree 32/ *Araucaria heterophylla* (Norfolk Island Pine) This 25 metre high tree is located on the southern boundary of the site.

Tree 33/ *Araucaria heterophylla* (Norfolk Island Pine) This 25 metre high tree is located on the southern boundary of the site.

Time of inspection

Commencement of excavation for driveway slab

Commencement of excavation for driveway

Commencement of excavation for driveway

Reason: To ensure protection of existing trees.

60. Canopy/root pruning

Canopy and/or root pruning of the following tree(s) which is necessary to accommodate the approved building works shall be undertaken by an experienced AQF level 3 Arborist under the supervision of the Project Arborist and in accordance with the reduction pruning clause of AS4373-2007. All other branches are to be tied back and protected during construction, under the supervision of a qualified arborist.

Schedule

Tree/location

Tree 31/ *Araucaria heterophylla* (Norfolk Island Pine) This 25 metre high tree is located on the southern boundary of the site.

Tree works

Minor pruning for building clearance

Tree 32/ <i>Araucaria heterophylla</i> (Norfolk Island Pine) This 25 metre high tree is located on the southern boundary of the site.	Minor pruning for building clearance
Tree 33/ <i>Araucaria heterophylla</i> (Norfolk Island Pine) This 25 metre high tree is located on the southern boundary of the site.	Minor pruning for building clearance

Reason: To protect the environment.

61. 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.

62. Hand excavation

All excavation excluding for the driveways and basement within the specified radius of the trunk(s) of the following tree(s) shall be hand dug under the supervision of the Project Arborist.

Schedule

Tree/location	Radius from trunk
Tree 31/ <i>Araucaria heterophylla</i> (Norfolk Island Pine) This 25 metre high tree is located on the southern boundary of the site.	7.8m
Tree 32/ <i>Araucaria heterophylla</i> (Norfolk Island Pine) This 25 metre high tree is located on the southern boundary of the site.	9m
Tree 33/ <i>Araucaria heterophylla</i> (Norfolk Island Pine) This 25 metre high tree is located on the southern boundary of the site.	4.8m

Reason: To protect existing trees.

63. 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.

64. 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.

65. 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.

66. Removal of noxious plants & weeds

All noxious and/or environmental weed species shall be removed from the property prior to completion of building works.

Reason: To protect the environment.

67. 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.

68. 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:

69. Easement for support

Prior to the issue of an Occupation Certificate, the applicant is to create an easement for support over the retaining wall footing in the north western corner. Following construction of the footing, but prior to backfilling, a registered surveyor is to prepare a plan of the extent of the footing inside the property for annexing to the easement documents. The terms of the easement for support are to require the footing, and any backfilling which forms part of the design, to be maintained for as long as the retaining wall is in place.

Reason: To protect Council's infrastructure.

70. Easement for waste collection

Prior to the issue of an Occupation Certificate, the applicant is to create an easement for waste collection. This is to permit legal access for Council, Council's contractors and their vehicles over the subject property for the purpose of collecting waste from the property. The terms of the easement are to be generally in accordance with Council's draft terms for an easement for waste collection and shall be to the satisfaction of Council's Development Engineer.

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

71. Compliance with BASIX Certificate

Prior to the issue of the relevant Occupation Certificate, the Principal Certifying Authority shall be satisfied that all commitments listed in BASIX Certificate No. 455470m_o2 have been complied with.

Reason: Statutory requirement.

72. Clotheslines and clothes dryers

Prior to the issue of the relevant 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.

73. 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 the relevant 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 adjoining the development site before 7am and after 10pm Monday to Friday and before 8am and after 10pm Saturday, Sunday and public holidays. The operation of the unit(s) outside these restricted hours shall emit a noise level of not greater than 5dbA above the background when measured at the nearest adjoining residential 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.

74. 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.

75. Completion of tree works

Prior to the release of the Occupation Certificate, the Principal Certifying Authority is to be satisfied that all tree works, including pruning in accordance with AS4373-2007 or remediation works in accordance with AS4370-2009 or removal of ivy from the trunk of Tree 33, have been undertaken in accordance with the approved plan(s) and conditions of consent.

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

76. Accessibility

Prior to the issue of the relevant 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.

77. Certification of drainage works (dual occupancies and above)

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

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

The rainwater certification sheet contained in Appendix 13 of the Ku-ring-gai Water Management Development Control Plan No. 47, must be completed and attached to the certification. Where an on-site detention system has been constructed, the on-site detention certification sheet contained in Appendix 4 of DCP 47 must also be completed and attached to the certification.

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

Reason: To protect the environment.

78. 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.

79. 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.

80. 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.

81. Certification of as-constructed driveway/carpark - RFB

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

- the as-constructed car park complies with the approved Construction Certificate plans
- the completed vehicle access and accommodation arrangements comply with Australian Standard 2890.1 - 2004 "Off-Street car parking" in terms of minimum parking space dimensions
- finished driveway gradients and transitions will not result in the scraping of the underside of cars
- no doors, gates, grilles or other structures have been provided in the access driveways to the basement carpark, which would prevent unrestricted access for internal garbage collection from the basement garbage storage and collection area
- the vehicular headroom requirements of:
 - Australian Standard 2890.1 - "Off-street car parking",
 - **2.6 metres** height clearance for waste collection trucks (refer DCP 40) are met from the public street into and within the applicable areas of the basement carpark.

Note: Evidence from a suitably qualified and experienced traffic/civil engineer indicating compliance with the above is to be provided to and approved by the Principal Certifying Authority prior to the issue of an Occupation Certificate.

Reason: To ensure that vehicular access and accommodation areas are compliant with the consent.

82. Reinstatement of redundant crossings and completion of infrastructure works

Prior to issue of the Occupation Certificate, 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 crossing 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.

83. Construction of works in public road - approved plans

Prior to issue of the Occupation Certificate, the Principal Certifying Authority must be satisfied that all approved road, footpath and/or drainage works have been completed in the road reserve in accordance with the Council Roads Act approval and accompanying drawings, conditions and specifications.

The works must be supervised by the applicant's designing engineer and completed and approved to the satisfaction of Ku-ring-gai Council.

The supervising consulting engineer is to provide certification upon completion that the works were constructed in accordance with the Council approved stamped drawings. The works must be subject to inspections by Council at the hold points noted on the Roads Act approval. All conditions attached to the approved drawings for these works must be met prior to the Occupation Certificate being issued.

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

84. Infrastructure repair

Prior to issue of the final Occupation Certificate, the Principal Certifying Authority must be satisfied that any damaged public infrastructure caused as a result of construction works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) is fully repaired to the satisfaction of Council Development Engineer and at no cost to Council.

Reason: To protect public infrastructure.

85. Fire safety certificate

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

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

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

Conditions to be satisfied at all times:

86. 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.

The use of visitor's spaces and tenant spaces is to be protected and 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 (Freehold Development) Act, 1973 to all lots comprising in part or whole car parking spaces

Reason: To ensure adequate provision of visitor parking spaces.

Signed



A. Moore
Consultant Planner

Attachments

Annexure A – Zoning Extract
Annexure B – Submitters Map
Annexure C – Voluntary Planning Agreement
Annexure D – Road Design
Annexure E – Proposed Subdivision
Annexure F – Urban Design Report by Jan McCredie
Annexure G – Environmental Site & Management & Excavation Plan
Annexure H – Basement Level Rev E
Annexure I – Lower Ground Floor Plan Rev E
Annexure J – Ground Floor Plan Rev E
Annexure K – First Floor Plan Rev E
Annexure L – Second Floor Plan Rev C

Annexure M - Third Floor Plan Rev C
Annexure N - Fourth Floor Plan Rev C
Annexure O – Fifth Floor Plan Rev C
Annexure P - Roof Plan Rev C
Annexure Q - Elevation North Rev C
Annexure R - Elevation West Rev C
Annexure S – Elevation East Rev C
Annexure T - Elevation South Rev C
Annexure U - Section_01 Rev C
Annexure V - Section_02 Rev C
Annexure W - Landscape Plan Lo1
Annexure X – SEPP No.1 Objection
Annexure Y – Deep Soil Plan