JOINT REGIONAL PLANNING PANEL Sydney West

JRPP No	2015SYW186
DA Number	DA0434/15
Local Government Area	Ku-ring-gai
Proposed Development	Demolish existing improvements and construct a residential flat building containing 34 apartments, basement car park and landscaping
Street Address	28-32 Dumaresq Street, Gordon
Applicant/Owner	Gelder Architects Pty Limited / Qun Lun Developments Pty Limited
Number of Submissions	Nil
Regional Development Criteria (Schedule 4A of the Act)	Schedule 4A(4)(b) & (d)
List of All Relevant s79C(1)(a) Matters	 s79C(1)(a)(i) Ku-ring-gai Local Environmental Plan 2012 SEPP No. 55 SEPP No. 65 SEPP (BASIX) SREP (deemed SEPP) (Sydney Harbour Catchment) 2005 s79C(1)(a)(iii) Local centers DCP 2013 s79C(1)(a)(iv) Dumaresq Street Gordon Roadworks Planning Agreement, prepared by Lindsay Taylor Lawyers s79C(1)(a)(iv) Environmental Planning & Assessment Regulation 2000
List all documents submitted with this report for the panel's consideration	 Voluntary Planning Agreement Urban Design Report by Angelo Ksanos Development Plans Clause 4.6 variation Location diagrams
Recommendation	Deferred Commencement Consent

Report by	Anne Moore, Consultant Planner

REPORT TITLE:	Nos. 28 – 30 Dumaresq Street Gordon - Demolish existing structures and construct a residential flat building containing 34 units, basement parking and associated landscaping works	
ITEM/AGENDA NO:		

APPLICATION NO:	DA0434/15
PROPERTY DETAILS:	Address: Nos.28 – 30 Dumaresq Street Gordon Lot & DP No: Lot 100 DP 1211427 Site area (m²):2423m² Zoning: R4 High Density Residential
WARD:	GORDON
PROPOSAL/PURPOSE:	Demolish existing structures and construct a residential flat building containing 34 units, basement parking and associated landscaping works. This proposal includes a Voluntary Planning Agreement to construct a road adjacent to the development site.
TYPE OF CONSENT:	Local
APPLICANT:	Gelder Architects

OWNER:	Qun Lun Developments Pty Ltd
DATE LODGED:	1/10/2015
RECOMMENDATION:	Approval

PURPOSE OF REPORT

To determine Development Application No.0434/15 which seeks consent for the demolition of the existing dwellings and structures on site and construction of a residential flat building containing a total of 34 apartments, basement car parking and associated landscape works on land at Nos.28-30 Dumaresq Street, Gordon.

The application is required to be determined by the Joint Regional Planning Panel (JRPP) 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 where Council is a party to a Voluntary Planning Agreement relating to the development (Schedule 4A(4)(d) of the Environmental Planning & Assessment Act). A Voluntary Planning Agreement (VPA) has been adopted by Council and executed which requires the construction of a proposed new road adjacent to the development site and with the residual part of the lot being incorporated into the subject site.

The Development Application seeks to vary the development standard within Clause 4.4 – Building height of the Ku ring gai Local Environmental Plan (KLEP) (Local Centres) 2012 and is supported by an objection to this development standard pursuant to Clause 4.6 Exceptions to development standards of this LEP.

INTEGRATED PLANNING AND REPORTING

Places, Spaces & Infrastructure

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

EXECUTIVE SUMMARY

Issues:	Height

Submissions: No

Land and Environment Court: N/A

Recommendation: Approval

HISTORY

Site

On 23 May 2014, the Sydney West Joint Regional Planning Panel granted consent to DA0501/12 for the demolition of existing structures and erection of a residential flat building comprising 34 units, basement car park and associated landscaping. The proposal also included a Voluntary Planning Agreement which facilitated the construction of a new public road and subdivision of surplus Council land that was to be incorporated into the development site.

The deferred commencement consent required that two items be addressed and satisfied within 12 months of the date of the 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.

To date, only the subdivision of 32 Dumaresq Street (i.e. Item A) of the deferred commencement consent has been satisfied. The road design (i.e. Item B) has not been finalised or approved by Council.

On 19 May 2015, a Section 96 MOD0064/15 was lodged with Council seeking to amend the consent by extinguishing the deferred commencement components of the consent and incorporating those matters into the body of the consent as general conditions. The modification application also sought to delete Condition 19 of the consent allowing for the retention of Unit 3 and a re-configuration of the majority of apartment layouts to incorporate storage areas to satisfy the Apartment Design Guidelines (ADG) of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.

However, on 30 May 2015 the development consent associated with DA0501/12 lapsed. This occurred as not all the deferred commencement items (A and B above) were satisfied within the prescribed time frame of 12 months, stated within the consent.

Whilst the Section 96 Application was lodged with Council prior to the lapsing date of the consent, insufficient time was available for this Section 96 Application to be assessed and determined prior to the lapsing date (30 May 2015).

This was conveyed to the applicant on 6 July 2015 and it was suggested that the application be withdrawn as no valid consent exists. Council also sought legal advice which confirmed that it had no authority to deal with a lapsed consent. The applicant provided contrary legal advice, dated 5 August 2015 and 1 September 2015 with justification as to why the consent can be modified and why the consent had not lapsed. Council considered these positions but maintained the view that the consent had lapsed and no authority exists to modify the consent as proposed.

Subsequently, a new development application DA 0434/15 was lodged with Council on 1 October 2015 after Council advised that no valid consent exists for the site, this report assesses this application.

The Section 96 Application was reported to the Sydney West Joint Regional Planning Panel meeting of 4 December 2015 as required by Clause 21 of SEPP (State & Regional Development) 2011. The Panel resolved to defer the application as conflicting legal advice had been tabled by the applicant and Council and the Panel was to refer these advices to its legal advisors for comment. The Panel also requested that a merit assessment of the Section 96 Application be completed and reported to the panel in conjunction with the legal advice.

Pre-DA

No Pre-DA consultation was undertaken with Council prior to the lodgement of this Development Application.

DA History

1 October 2015	Application lodged.
16 October 2015e	The application was notified to neighbouring property owners for a period of 30 days. No submissions were received.
8 December 2015	A letter was sent to the applicant seeking additional information as follows: submission of detailed survey plan, consistent documentation, changes to the design of the proposed building, amended landscape plan to reflect the changes including deep soil calculations.
11 January 2016	A meeting was held with the applicant outlining concerns with application.
15 January 2016	Amended plans were submitted to Council.
5 February 2016	Further amendments were requested to address issues associated with retaining walls details and access to the hydrant & pump room at the north western corner of building.
12 February 2016	Further information was requested from the applicant with regards to matters that had not been addressed

in terms of the previous letter, dated 8 December 2016, including layout of units, storage facilities, solar access to apartments taking into consideration adjoining development.

19 February 2016 Amended architectural plans were

submitted detailing retaining wall heights adjacent to hydrant pump room and information relating to storage room facilities within

apartments, solar access, etc.

THE SITE AND SURROUNDING AREA

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 No

item:

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 along the southern side of Dumaresq Street, approximately 310 metres west of the Pacific Highway and the Gordon retail/commercial precinct.

The site has been consolidated into one allotment and is known as Nos. 28 - 30 Dumaresq Street Gordon. Approximately 300m^2 of the former No. 32 Dumaresq Street (i.e. Lot 2 DP 1200525) now forms part of the subject site with the remainder being used for the future road link between Dumaresq and Moree Streets. An extract of this Deposited Plan is attached to this report at **Attachment A**. The new road will form the western boundary of the site.

The real property description of the subject site is Lot 100 DP 1211427. The site is of an irregular shape, with an area of 2423m² and frontages of 35.1 metres to Dumaresq Street and 71.5 metres to the new road.

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 the properties 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.



Figure 1: 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. A development application for a proposed four storey residential flat building has been lodged with Council for No. 26 Dumaresq Street. Five (5) storey residential flat buildings occupy Nos. 6 -14 and Nos. 16 – 22 Dumaresq Street being to the east of the subject site.

Properties along the northern side of Dumaresq Street are occupied by detached dwellings with town house developments positioned upon Nos. 19-21 and Nos. 23 - 25 Dumaresq Street and residential flat buildings now occupy 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 house 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 1** 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 the site and the construction of a residential flat building comprising 34 apartments, basement car parking for 45 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:
 - 7 x 1 bedroom apartments;
 - 15 x 2 bedroom apartments;
 - 10 x 3 bedroom apartments.

The applicant in accordance with the executed VPA (**Attachment B**) is required to construct a proposed new road. As previously stated, 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 (**Attachment C**). This will allow construction of two (2) driveways to the site. This new road is subject to a separate approval process and the road constructed prior to the issuing of an occupation certificate for this residential flat building (Condition 79). Commencement term A of the consent requires that the road design to be approved by Council prior to any consent becoming operational.

It is proposed to excavate the site to provide two levels of basement car parking. The basement level provides 31 car spaces with bicycle parking with access available via driveway 2 being located off the proposed road towards the rear of the site. The lower ground floor level will provide 14 car spaces of which 5 spaces are designated

for visitor parking. A waste storage area and a turning area for garbage and other trucks will be provided at this level. Access will be available via driveway 1 off the proposed road. Two (2) lifts and stairways will provide access from basement car parking facilities to upper residential levels. A box room (i.e. storage area) is proposed at the ground floor level of the proposed building whilst a roof top communal open space area will be provided at the fourth floor level with access being available via lifts and stairs.

The site supports clusters of mostly mature exotic trees. There are no significant trees located within the Dumaresq Street frontage or 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. Other associated works will include provision of footpaths and steps from the Dumaresq Street and the proposed road, retaining walls and drainage works.

Amended plans dated (15/1/2016)

The amended plans proposed the following changes to the application:

- Enclosed study rooms that could readily function as additional bedrooms within numerous apartments have been redesigned so these rooms are now of an open style with no door;
- Deep soil calculations were provided which are consistent with the current architectural plans;
- Amended landscape plans to reflect the current development scheme;
- Details of the relationship between the proposed residential flat building to be erected upon the subject site and the adjoining eastern site;
- Revised photomontage that reflects the current design;
- Driveway sections;
- An assessment of the development proposal against ADG requirements.

Amended plans dated (19/2/2016)

The amended plans proposed the following changes to the application:

- Retaining wall heights adjacent to the hydrant & pump room access were revised, however this change is not reflect in the landscape plans;
- Deep soil plan was revised to reflect the changes to the hydrant & pump room and associated retaining walls;
- Basix Certificate amended to include planters, etc.;
- Additional solar access study report table;
- Additional storage details including table and a plan demonstrating provision of storage facilities within apartments.

CONSULTATION

Community

In accordance with the notification controls of the Ku-ring-gai Local Centres Development Control Plan, owners of surrounding properties were given notice of the application. No submissions were received.

Internal referrals

Landscaping

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

Deep soil landscape area

Numerical compliance 50.0% (1212m2)

Proposed deep soil area 51.27% (1243m²)

Agree with areas included in calculations? No

Areas to be excluded:

- Retaining wall along the northern boundary of the private open space to Apartments 9 and 15 (3.5m²)
- Areas less than 2 metre width to planters adjacent to hydrant pump room (13m²).

Excluding the above, the proposal will comply with the minimum deep soil landscape area requirement.

Tree impacts

The site supports a collection of mostly mature exotic trees. There are no significant street trees. 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.

Significant trees to be removed

Tree 47/ Brachychiton acerifolius (Flame Tree) This 20 metre 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 metre 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 12m 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 2.5m from the basement excavation and 2 metres from the excavation for Apartment 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 6.6m 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 6.25m 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. The climber should be removed from trunk. The proposed basement is 6.5m 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 are proposed 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

The landscape plan is to be amended to include the retaining wall and associated terraced garden at the northern end of the private courtyard of Apartment 8 by condition (Condition 19).

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.

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. Access from the northern section of the building is possible via the basement garage. It also achieves outlook and reasonable solar access however no shade structure has been provided. This is conditioned (**Condition 19**).

Council road frontage

A small area of accessible area of communal open space 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. Seating to this area is to be conditioned. To provide a larger unified area, the proposed hedge planting along the northern side of the access path to the southern entry foyer is to be relocated onto the southern side of Driveway 1. This is conditioned. (Condition 19).

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 access path along the eastern boundary should be set back minimum 2 metres from the site boundary excluding where adjacent to the retaining wall to Apartments 10 and 11 and be shown as a mulch or stepping stone path. Existing levels should be retained within 2 metres of the site boundaries to preserve the natural landscape where possible. This is conditioned. (Condition 19)

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 conditioned. (**Condition 19**)

The landscape plans require detail as follows,

- 1. 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.
- 2. To preserve the following tree, a note requiring the removal of the ivy infestation in the trunk is to be shown on the plan.

Schedule

Tree/location

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

This is conditioned. (Condition 19)

Basix landscape

The basix certificate reflects the landscape plan submitted with the above application, including on slab planters within common areas and individual dwellings.

Conclusion

The proposal is acceptable, subject to conditions

Engineering

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

The applicant has submitted amended architectural and landscape plans.

The two matters raised within the previous report have been addressed. There are no engineering objections to the proposed development. Conditions are recommended " Conditions 1, 73, 74, 75 & 76.

External referrals

Urban Design

Council's Urban Design Consultant provided the following comments:

Principle 1 - Context and neighbourhood character

• The adjoining context is undergoing rapid change with redevelopment from suburban homes on individual lots to a neighbourhood of consolidated lots for the redevelopment of 4-5 storey apartment buildings while generally retaining a generous landscaped context. The project anticipates the future character of the neighbourhood, and the adjoining development which will have some impact on the building's amenity following redevelopment of the adjoining site, notably the higher eastern neighbour.

Principle 2 - Built form & scale

- The scale of the building is appropriate to the developing future character of the area. The scale of the building is articulated by stepping down towards the south to follow the topography of the site.
- The proposal responds well to the creation of the new street (west of the subject site).
- The minor encroachments of the building over the permissible height due to the sloping site and stepping form of the building are not inappropriate, and well managed within the form of the building.

Principle 3 - Density

• The density is consistent with the anticipated future character and other recent development.

Principle 4 - Sustainability

- The proposal meets BASIX requirements for water and energy efficiency.
- The internal layout of the apartments generally respond to orientation although some apartments have prioritise outlook to thermal performance.
- Lobbies are naturally lit and ventilated which assists with minimising energy consumption.

• There do not appear to be any active systems (solar panels / grey water recycling) over and above minimum BASIX requirements.

Principle 5 - Landscape

- The proposal provides a landscaped curtilage to the building that should provide a suitable context consistent with the developing character of the area.
- The retention of trees to the rear will assist with providing a mature context and preserve amenity to properties at the rear.
- Deep soil has been well managed in the design and by substantially confining the basement to the building footprint.

Principle 6 - Amenity

- The Amenity of the proposal is generally good. The 2 lift cores provide opportunity for a high proportion of cross ventilated apartments, and the associated recesses in the facades at the lift lobbies provide further opportunity to light and ventilate bathrooms that would otherwise be confined to the building interior.
- There is further opportunity to improve solar access to some apartments but recognition is noted that the southern and central eastern apartments have been configured to make the most of the leafy outlook and to take advantage of elevated views.

Principle 7 - Safety

• The streetscape context, including the assignment of the main building entries to the new street are well considered to provide "eyes over the street" and optimise safety of the street and the associated building curtilage.

Principle 8 - Housing diversity & social interaction

- A broad mix of units sizes and types is included offering a variety of accommodation to suit different lifestyles.
- The generous, naturally lit lobbies and communal terrace provide opportunities for social interaction amongst residents.

Principle 9 - Aesthetics

• Gelder Architects have chosen to differentiate the balconies in the elevational treatment (relative to the Tzannes Proposal). While this is a variation to the original scheme submitted it is no less justified, but it does appear that the applicant is seeking to use more generic (off the shelf) elements in the construction and composition of the facades.

There are some areas of non-compliance noted within the attached compliance table; notably the eastern setback of the middle portions of the building at the fourth floor. In the context of the proposal a single terrace at the fourth floor, the slight increase in setback of the proposed neighbouring proposal (as demonstrated by the applicant) and general openness above this level is not cause for concern, and does not significantly diminish the amenity of the proposal or effect its impact on neighbours.

There is, however, cause for some concern in the configuration of the storage spaces. As storage is consolidated into a single room and not distributed throughout the apartment, a subsequent revision of the units (either with or without Council consent) may lead to alternate use of the allocated storage rooms that may not comply with the relevant codes and standards, while also diminishing the units' capacity for any storage.

Suggested amendments to the design & Identified discrepancies in documentation The following amendments could readily be integrated into the design, but are not cause for concern:

• Ground Floor terraces to Apartments 4 and 8 have not been amended to provide terrace dimensions that are consistent with item 4E-1 of the ADG and could readily be adjusted to comply. Please note that there are provisions in the ADG in addition to those quoted by the Applicant (refer letter dated 19 February 2016) that require ground floor terraces to provide a minimum of 15sqm and 3 metres depth.

The following discrepancies are noted and should be identified with the Development Determination:

- That the landscape plans do not reflect the current Architectural drawings.
- While the Solar Access study has been amended and the proposal complies with ADG requirements for Solar Access, there are still discrepancies in the table (relative to inspection of the 3D Solar Studies) refer notes against provision 4A-1 within the Compliance Table.

It is acknowledged that the amended architectural plans are inconsistent with the submitted landscape plan as revised retaining wall details have been provided adjacent to the hydrant & pump room due to concerns raised by Council's Landscape Assessment Officer. An amended landscape plan will need to be submitted with the Construction Certificate (**Condition 19**) that will address any inconsistencies.

Other matters such as separation distance, storage facilities, ground floor terraces and solar access issues are addressed in respect of the ADG requirements in a later section of this report. A full copy of the SEPP 65 Assessment of DA Application for 28 -32 Dumaresq Street Gordon prepared by RedShift Architecture & Art Pty Ltd is attached at **Attachment D**.

STATUTORY PROVISIONS

The proposal is "Local Development" under Part 4 of the EP&A Act, 1979 and requires development consent.

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 likely impacts, suitability of the site and public interest are also addressed below. The proposed development is subject to a VPA. An assessment of the VPA was undertaken during the assessment of the previous development application DA0501/12 approved by the JRPP on 23 May 2014 for erection of a similar residential flat building upon the subject site.

State Environmental Planning Policy No. 55 - Remediation of Land

The provisions of SEPP 55 require Council to consider 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

An amended BASIX certificate was submitted to Council. 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 quality of residential flat buildings across New South Wales and to provide an assessment framework and design code for assessing "good design".

A Design Verification Statement, has been submitted with the application in accordance with clause 50(1A) of the Environmental Planning and Assessment Regulation 2000.

The application has been assessed by Council's Urban Design Consultant and is considered to be acceptable.

Apartment Design Guide

Pursuant to Clause 30(2) of SEPP 65 in determining a development application for a residential flat building the consent authority is to take into consideration the Apartment Design Guide (ADG). The proposal has been assessed against the SEPP

65 design principles (**Attachment E**) and the associated ADG requirements in **Attachment F**. The proposal satisfies most controls and the following provides further discussion of where some variations are being sought to the ADG requirements identified within the accompanying table (i.e. **Attachment F**) and earlier issues identified by Council's Urban Design Consultant:

Objective 3D-2 - Communal open space and facilities

Adequate communal open space is to be provided on site in various locations comprising an area within the Dumaresq Street setback towards the north-eastern corner, an area along the proposed road and a roof top area positioned at the fourth floor level of the building. Whilst these areas may not be suitable for active recreation purposes, a variety of areas will be available on site to cater for the demands of residents and similar to other developments surrounding the site. All these areas will benefit from good solar access. No facilities such as seating, children's play equipment, etc. have been provided upon the architectural or landscape plans accompanying the application including suitable weather protection upon the roof top communal open space area at the fourth floor level so to enable year round use. **Conditions 18 and 19** will require these details to be provided at the Construction Certificate stage.

Objective 3F-1 - Separation between buildings

The fifth floor level does not satisfy the 9m set back to the side boundary as the proposed balcony attached to Apartment 33 is only set back 6m. A planter box is proposed partly along this balcony with privacy screens attached to the bedroom windows incorporated into the eastern elevation. A DA for a proposed residential flat building has now been lodged for the adjoining eastern site. This proposed building has a variable setback (i.e. min 6m increasing to 10m) from the western boundary of the site, with a driveway to the basement level being located adjacent to western boundary along with some deep soil landscaping. Some privacy devices have also been incorporated into the western facade of this proposed building at upper residential levels. Apartment 29 at the fourth floor level also does not comply with this 9m setback, however provides a uniformity of street address to Dumaresq Street frontage including an outlook towards this street whilst privacy screens have

also been incorporated into bedroom windows and balcony along the eastern elevation of this apartment.

Given the design of both residential flat buildings, notwithstanding non compliance of the numeric standard, adequate separation is provided between buildings to maintain reasonable privacy levels and minimise visual impacts. Also the previous development application DA0501/12 approved for the subject site for erection of a residential flat building proposed these same setbacks and was considered acceptable.

Objective 4A-1 Solar access

A table has been provided indicating that 82.3% of apartments meet the 2 hour minimum sunlight in mid winter requirement taking into consideration the adjoining proposed residential flat building. This table has been further reviewed and there appears that a number of additional apartments do not achieve the minimum 2 hour solar access requirement bringing the number of complying apartments down to 70.6%. This satisfies ADG requirements and is considered acceptable with all apartments provided with reasonable amenity due their orientation and outlook.

Objective 4E-1 -Private open space

Council's Urban Design Consultant has indicated that Apartments 4 and 8 do not comply with the minimum private open space of 15m² with a dimension of 3m. A further examination of plans indicates that Apartment 4 has been provided with a paved terrace having an area of 14.9m² and a depth of 2.4m that extends into a soft landscaped courtyard that is defined by a series of retaining walls. Apartment 8 has also been provided with a paved terrace of 12.5m² with a soft landscaped courtyard that is defined by retaining walls and fencing. In both cases the soft landscaped areas will function as extensions to the paved terraces offering a variety of private open space areas and satisfying the objective of this control in that sufficient private open space is being available for residents of these apartments.

Objective 4G-1 - Storage

Plans accompanying the application indicate that apartments will be provided with storage facilities within individual apartments and then a box room for each apartment is provided at ground floor level. Council's Urban Design Consultant has raised concerns that with the provision of designated storage rooms within apartments that these rooms may be converted for habitable uses and hence will not comply with relevant codes and standards and diminish storage facilities. Council does not have control over this matter in the longer term, however, a condition that storage rooms within apartments shall only be used for storage purposes given that these rooms do not have any windows, poorly ventilated and are provided with doors. (Condition 87)

Objective 4Q-1 - Universal design features

These types of apartments have not been incorporated into the design of this building. Notwithstanding, apartments of a flexible and adaptable design will provide a range of housing types within this apartment building and a condition (**Condition 17**) is recommended requiring that at least 20% of apartments within this proposed building satisfy the "Living Housing Guideline."

Objective 4V-2 – Urban stormwater

Information accompanying the application indicates that rain tanks will be installed on site to collect water with re-use for irrigation, clothes washing and toilet flushing, as well as a proprietary water treatment device.

Ku-ring-gai LEP (Local Centres) 2012

Zoning and permissibility:

The site is zoned R4 High Density Residential pursuant to KLEP (Local Centres) 2012. The proposed development is defined as a residential flat building containing thirty four (34) apartments with associated parking and landscaping.

The R4 High Density Residential zone objectives are:

- To provide for the housing needs of the community within a high density residential environment.
- To provide a variety of housing types within a high density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide for high density residential housing close to public transport, services and employment opportunities.

The development involves:

- The construction of a five (5) storey residential flat building that is described as a high density residential type development within a high density residential environment on the fringes of the Gordon town centre;
- Provides increased housing choice for residents;
- A variety of housing types (including adaptable apartments) will be provided within this designated high density residential area of the Ku ring gai local government area; and
- The subject site is in close proximity to existing public transport services, retail
 and commercial facilities within the Gordon town centre with public transport
 services being available to major employment centres such as Chatswood, St
 Leonards, North Sydney, etc.

The proposed development therefore upholds the zone objectives.

Development standards:

Development standard	Proposed	Complies
Height of buildings:	Part of proposed	NO
Height of Building 17.5m	building exceeds the	
(site exceeds 2400m²)	height limit by 1.4 –	
	3.3m (max height	
	20.8m)	
Floor space ratio (FSR):	1.28:1	YES
Floorspace Ratio 1.3:1		

Development standard	Proposed	Complies
(site exceeds 2400m²)		
Site requirements for residential flat buildings:	Site Area: 2423m ²	YES
Site Area 1,800m² or more	Site Frontage: 35.1	
Site Frontage 30m.		

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 at the middle section of the western elevation of the proposed building. 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 noted that a development application for a residential flat building of the same height pursuant to DA 0501/12 was approved for the site.

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 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, being 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.

Clause 4.6 Exceptions to development standards

The proposed development breaches height development standards contained within the KLEP (Local Centres) 2012. The applicant has made a submission pursuant of Clause 4.6 to vary those development standards. Clause 4.6 provides flexibility in applying certain development standards on the following grounds:

- (1) The objectives of this clause are as follows:
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Development 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 by demonstrating:
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Development consent must not be granted for development that contravenes a development standard unless:

- (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- (b) the concurrence of the Director-General has been obtained.

Whether compliance with the standard is unreasonable and unnecessary in the circumstances of the case

The applicant has provided the justification that strict compliance with height development standards is unnecessary and unreasonable for the following reasons:

- "The extent of the exception to the height of buildings standard is relatively small and isolated to the central portion of the proposed development footprint reducing its visibility from the street and properties to the north and east. Being central within the development footprint, the exception won't be prominent from Dumaresq Street. The proposed Dumaresq Street building façade presents as a 5 storeys and is well within the maximum building height limit.
- The overall form of the building has been designed to reduce the bulk and scale of the structure as viewed from Dumaresq Street, the proposed new road and neighbouring residential properties. In particular, from the proposed new road, the length of the building has been articulated with deep recesses at the foyers to 'crease' the appearance of three smaller built forms.
- The proposed structure has a maximum height of 6 storeys but steps in response to the sloping character of the land displaying a graduation of heights from 5 to 6 storeys. The building steps down the slope of the site towards the rear and the upper levels are set back to reduce their visual prominence, apparent height and shading impact.

- The building design is of high architectural quality and uses modulation, articulation and varied materials to effectively minimise its scale and apparent height in order to meet the objectives of the zone and the Height of Buildings development standard.
- The roof planes of the proposed development have been kept low in order to minimise the development's height and roof envelope whilst also achieving a contemporary building design compatible with the transforming character of this location."

The proposed development is of a height, bulk and scale that is envisaged by the Local Centres LEP 2012 for this high density residential precinct and is consistent with other residential flat buildings along Dumaresq Street being of an appropriate height, bulk and scale for this high density residential locality of Gordon. The proposed building has been designed to follow the topographic nature of the site and to minimise potential amenity impacts onto any adjoining properties or public domain areas. The proposal is well articulated and responds to the context of the site.

The proposal is consistent with the zone objectives as previously demonstrated and the height development objectives as contained within Local Centres LEP 2012 as demonstrated 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,
- (b) to establish a transition in scale between the centres and the adjoining lower density residential and open space zones to protect local amenity,
- (c) to enable development with a built form that is compatible with the size of the land to be developed.

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

Environmental planning grounds to justify contravening the development standard

The applicant has provided sufficient grounds/reasons for the proposed variations to the development standards as follows:

- (i) The variation is small and isolated to the central portion of the proposed building footprint reducing its visibility from the street and properties to the north and east;
- (ii) The variation to the development standard is attributed to part of the western elevation of the building only due to the topography of the site and locality;
- (iii) The proposed Dumaresq Street building façade presents as 5 storeys and is well within the maximum building height limit;
- (iv) The built form is compatible with the site as it has been designed to follow the topography of the site which slopes from front to rear and which is also affected by an east to west crossfall;
- (v) The proposed building is well articulated with recessed components and thereby creating a good design outcome for the site; and
- (vi) 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.

Public interest – Development 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. The development is consistent with all of the objectives of the zone:

- (i) To provide for the housing needs of the community within a high density residential environment.
- (ii) To provide a variety of housing types within a high density residential environment.
- (iii) To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- (iv) To provide for high density residential housing close to public transport, services and employment opportunities.

In this regard, the development is considered to be in the public interest.

Concurrence of the Director General

Circular PS 08-003 issued on 9 May 2008 informed a consent authority that may assume the Director-General's concurrence for exceptions to development standards.

Conclusion

The development satisfies the criteria outlined in Clause 4.6. The variation is considered acceptable as the proposal has been designed to comply with provisions of the Ku-ring-gai LEP (Local Centres) 2012 and Ku-ring-gai (Local Centres) DCP 2013.

Part 5 Miscellaneous provisions

Clause 5.9 – Preservation of trees or vegetation

Council's Landscape Assessment Officer is satisfied that the proposed development will not unduly impact upon any existing significant trees or vegetation, subject to conditions.

Clause 5.10 - Heritage conservation

The site is not in the immediate vicinity of any heritage items or heritage conservation areas.

Part 6 Additional local provisions

Clause 6.1 – Earthworks

The proposed development will not restrict the existing or future use of the site, adversely impact on neighbouring amenity, the quality of the water table or disturb

any known relics. Additionally, the fill to be removed will be disposed of appropriately.

Clause 6.2 - Stormwater and water sensitive urban design

Council's Development Engineer is satisfied that the proposed development has been designed to manage urban stormwater as per the requirements of the LEP, subject to conditions.

Clause 6.5 – Site requirements for multi dwelling housing and residential flat buildings

The subject site has an area of 2423m² and a frontage of 35.1 metres to Dumaresq Street. The site meets the 1800m² minimum site requirement and the 30 metres minimum frontage requirement for a residential flat building.

Policy Provisions (DCPs, Council policies, strategies and management plans)

Ku-ring-gai Local Centres Development Control Plan Volume A

7A – Site design			
7A.1 Building setbacks			
Street setback	Street Setback	YES	
Minimum 10m	Dumaresq Street		
For corner sites minimum 10m on both	First floor – Variable 10.6 to 12.9m		
frontages			
	Proposed Road		
	First floor - Variable 10 – 12m	YES	
Sites in Building Setbacks map			
i) Complies with Volume B Part	i) No additional controls	YES	

ii) 8m to 4 th storey (street	ii) 10m to 13.0m	
boundary)	iii) Proposed road – 10 –	
iii) For corner sites i) and ii) above	12.2m	
apply		NO
	40.47% of first floor positioned	(minor)
2m articulation zone behind street	within 2m articulation zone along	
setback and <40% occupied by building	Dumaresq Street	
Building line to street parallel, or		YES
stepped for angled sites	36.75% of first floor positioned	
	within 2m articulation zone along	
	new road	
		YES
Side Setback	Side Setback	NO
i) 6m up to 4 th storey	i) Ground/ 4 th storey -6m	
ii) 9m to 5 th storey and above	ii) 5 th storey – 9m building	
	Front section of fifth storey setback	
	6m to balcony & 9m to building	
	itself with rear 9m.	
		YES
Rear Setbacks	Rear Setback	
i) 6m up to 4 th storey	Lower ground – 9.4m	
ii) 9m to 5 th storey and above	Ground – 8m	
	First/second/third – Variable from	
	8m – 9.4m	
	Fourth- 9.8 – 10.2m	
	5 th storey – 26.4 to 27.1m	
Side & Rear Setbacks at zone interface	Rear Setback at zone interface only	YES
i) 9m to 4 th storey and above	i) Ground to third -8m	
ii) >9m on steep sites upslope from	ii) 4 th storey- 9m	
lower density zone	5 th storey 26m	
Encroachments	Basement, lower ground and	YES
Basements do not encroach into setback	ground floors setback 10m from	

areas	Dumaresq Street boundary. However these floors all encroach into the 2m articulation zone.	
Ground floor terrace/courtyard walls min 8m to street boundary / 4m to rear &	1.2m high timber palisade fencing positioned 8m from front property	YES
side boundaries	boundary and 8 m to proposed	
	road.	NO (min a r)
	Some courtyards walls to eastern side boundary at ground level only	(minor)
	2m with others 3.4m.	
	2.11 With Garden 5.11111	YES
	7.5m to driveway wall to rear	
<15% of the street setback area	boundary	YES
occupied by terraces/courtyards		
	7.4% of street setback occupied by	
	soft landscaped courtyards.	
7A.2 Building separation		ı
The minimum separation between		
residential buildings on the development		
site and the adjoining sites is:		
Up to 4 th storey:		
12m between habitable rooms/balconies	15 metres to 29A Moree	YES
9m between habitable rooms/balconies	7.0 metres to 26 Dumaresq	NO
and non-habitable rooms	>27 metres to 34 Dumaresq	YES
6m between non-habitable rooms		
5 to 7 storeys:		
18m between habitable rooms/balconies	30 metres to 29A Moree (balcony)	YES
13m between habitable rooms/balconies	35 m to 29A Moree (building)	YES
and non-habitable rooms	10 metres to 26 Dumaresq	NO

9m between non-habitable rooms	31 metres to 34 Dumaresq	YES
7A.3 Site coverage		
35% of the site area	34.8% (848.9m²)	YES
7A.4 Deep soil landscaping		
A minimum deep soil landscaping area	>greater than 50% deep soil	YES
of 40% for a site area less than 1800m ² and 50% for a site area of 1800m ² or more	landscaping to be provided.	
Tree replenishment and planting $1200\text{m}^2 \text{ or less} - 1 \text{ tall tree per } 400\text{m}^2$ $1201\text{m}^2 - 1800\text{m}^2 - 1 \text{ tall tree per } 350\text{m}^2$ $1801\text{m}^2 + - 1 \text{ tall tree per } 300\text{m}^2$	Tree replenishment satisfied.	YES
7B – Access and parking		
7B.1 Car parking provision		
Design	All car parking provided within	YES
All parking within basement	basement levels.	
Car parking does not project more than	All parking below natural ground	YES
1 metre above natural ground level	level within two basement levels	
Car parking to comply with AS2890.1	Car parking complies with AS2890.1	YES
Car parking rates	One bed $9 \times 1 = 9$ spaces	NO
	Two bed 25 x1 = 25 spaces	(satisfies
Resident parking: 1 bedroom unit: 1	Three bed 3 x 1.5= 5 spaces	ADG
space per unit	Total = 39 spaces	requirement
2 bedroom unit: 1 space per unit		s)
3 bedroom unit: 1.5 spaces per unit	Provided 45 spaces	
Visitor parking: 1 space per 4 units		
Visitor spaces: 1 per 4 units (at least one	34 / 4 = 8.5 spaces, 9 spaces	NO
is adaptable)	required	(satisfies

		ADG requirement s)
Temporary service/removalist vehicle space provided	Temporary area provided	YES
Adaptable units have at least one disabled parking space each	Each accessible unit provided with car space	YES
7B.2 Bicycle parking and support facilities	es provision	
- A minimum of 1 bicycle space per 5 units provided within the residential car park area	7 bicycle spaces required Provided – 10 spaces	YES
A minimum of 1 bicycle space per 10 units provided for visitors in the visitor car park area	3 visitors bicycle spaces required Provided – 3 spaces	YES
7C – Building design and sustainability		
7C.1 – Communal open space		
At least 10% of the site area must be provided as communal open space	690m² or 28% of site	YES
A single parcel of communal open space with a minimum area of $80m^2$, minimum dimensions of $8m$ and 3 hours solar access to 50% of the space on 21 June is provided	120m² north eastern corner of site Communal roof top communal open space – 100m² Receives sufficient solar access	YES
Communal open space located behind building line at ground level	Some communal open space is not located behind building line. However these areas will be sufficiently landscaped to provide adequate privacy levels. A roof top communal open space is also provided.	NO (PARTIAL)
Shared facilities such as BBQs, shade structures, play equipment and seating provided in the communal open space	These facilities can be provided and conditioned	NO

Access for people with a disability is provided to communal open space	Communal roof top open space provides access for people with a disability	YES
Capable of surveillance, no entrapment areas and well lit	Capable of surveillance and well lit	YES
Garden maintenance storage, water and drainage connections provided	Can be provided	YES
7C.2 – Private open space		
Ground floor and podium apartments have terrace or private courtyard with a minimum area of 25m ²	Apartment 3 has a courtyard of 21.2 m ² which is slightly less than the 25m ² . However this courtyard abuts a landscaped area of the site which will also appear as an extension to the courtyard facility. However under the ADG this apartment would only need 15m ² which this courtyard exceeds.	NO (satisfies ADG requirement s)
All apartments not at the ground floor or podium level include private open space with a minimum area (internal dimension) of:: - 10m² – 1 bedroom apartment - 12m² – 2 bedroom apartment - 15m² – 3 bedroom or larger apartment	Apartments 10, 11, 17, 18 23, and 24 have balconies less than the 10m ² . However under the ADG these apartments only require 8m ² . All these apartments comply with this provision.	NO (satisfies ADG requirement s)
Primary outdoor open spaces have a minimum dimension of 2.4m Primary private open spaces have direct	All terraces and balconies have a width of 2.4m Primary open space accessible from	YES
access from the main living areas Private open space for ground and podium level apartments is differentiated from common areas by: • A change in level • Screen planting, such as hedges and	main living areas. Fencing and landscaping differentiate private open space from landscaped areas on site.	YES

low shrubs		
A fence wall to a maximum height of		
1.8m, any solid wall component is a		
·		
maximum height of 1.2m with 30%		
transparent component above plus		
gate to the common area. 7C.3 – Solar access		
A minimum of 70% of apartments in	24 apartments (or 70.6%) received	NO
each building receive at least 3 hours	2hrs sunlight	(satisfies
direct sunlight to living rooms and		ADG
adjacent private open space between		requirement
9am and 3pm on 21 June		s)
A minimum of 50% of the communal	>50% of common open space	YES
open space for residents use receive		
direct sunlight for 3 hours between 9am		
and 3pm on 21 June		
The number of single aspect apartments	<10% single aspect	YES
with a southerly aspect (SW to SE) is		
limited to 10% of the total number of		
apartments proposed in each building		
Development allows the retention of 3	A small part of the deck of No. 29	YES
hours sunlight between 9am and 3pm	Moree Street will be affected by	
on 21 June to living areas and the	overshadowing at 12 noon.	
principal portion of the private and		
communal open space of residential		
development on adjoining lots		
Where existing overshadowing is greater		
than sunlight shall not be reduced by		
more than 20%		
Development allows the retention of a	No solar collectors and solar hot	YES
minimum 4 hours direct sunlight to all	water services affected by this	
existing neighbouring solar collectors	development.	
and solar hot water services		
7C.4 – Natural ventilation		

All habitable rooms have operable	All units have habitable rooms with	YES
windows or doors	operable windows or doors	
At least 60% of apartments have natural	62% (or 21) apartments will have	YES
cross ventilation	naturally cross ventilation.	
At least 25% of kitchens are immediately	56 % (or 19 units have kitchens	YES
adjacent to an operable window	immediately adjacent to operable	
	window.	
Cross ventilation is not dependent on	Skylights or open corridors not	YES
skylights or open corridors where it	used for cross ventilation.	
would impact on privacy		
7C.5 – Apartment depth and width		
Dual aspect apartments have a maximum	Dual apartments have a max	YES
internal plan depth of 18m from glass	internal plan depth of less than	
line to glass line	18m.	
Single aspect apartments have a	The only single aspect apartment is	YES
maximum internal plan depth of 8m	Apt 3 at the lower ground level	
from glass line to internal face of wall of	which has a max depth of 7m.	
habitable area		
Width of dual aspect apartments over	No dual apartments over 15m	YES
15m deep is 4m or greater to avoid	incorporated into design.	
deep narrow apartment layouts		
All kitchens are not located more than	All kitchens less than 8m from an	YES
8m to the back wall of the kitchen from	external opening.	
an external opening		
7C.6 – Apartment mix and sizes		
Range of apartment sizes and types	9 x 1 bedroom apartments	YES
included in the development	25 x 2 bedroom apartments	
	8 x 3 bedroom apartments	
One bedroom and studio apartments	All one bedroom apartments	YES
have a minimum floor area of 38.5m ²	greater than 38.5m ²	
Two bedroom apartments have a	All two bedroom apartments	YES
minimum floor area of 70m ²	greater than 70m ²	
Three bedroom apartments have a	All three bedroom apartments	YES
minimum floor area of 95m ²	greater than 95m ²	

A mix of 1, 2 and 3 bedroom apartments	A mix of apartments provided at	YES
are provided on the ground level	ground level.	
At least one apartment for every ten	4 adaptable apartments proposed	YES
apartments is designed as Adaptable		
Housing Class C		
At least 70% of apartments in the	All apartments are designed are	YES
development are visitable	visitable.	
7C.7 – Room sizes		
Living areas in apartments with two or	All apartments of two or more	YES
more bedrooms have living areas with a	bedrooms achieve min dimension	
minimum internal plan dimension of 4m	of 4m within living areas.	
Living areas in one bedroom apartments	All one bedroom apartments	YES
have a minimum internal plan dimension	achieve the 3.5m min dimension.	
of 3.5m		
Two bedrooms in apartments with 3 or	All two bedroom apartments	YES
more bedrooms have minimum internal	achieve min dimension.	
plan dimension of 3m (excluding		
wardrobes)		
All bedrooms in one and two bedroom	All one & two bedroom units	YES
apartments have an internal plan	achieve min dimension	
dimension of 3m (excluding wardrobes)		
Built in wardrobes provided to:	Built in robes provided in all	YES
- all studio apartments	bedrooms of apartments.	
- all bedrooms – one and two		
bedroom apartments		
- at least 2 bedrooms in apartments		
with 3 or more bedrooms		
7C.8 – Building entries		
Buildings address the street either:	The proposed building addresses	YES
with main entrances to lift lobbies	the proposed road given the	
directly accessible and visible from	positioning of two entries. A	
the street; or	pathway is also provided off	
with the path to the building entry	Dumaresq Street providing access	
readily visible from the street where	to one of the main entry points.	
Todaily visible from the street where		

site configuration is conducive to	Vehicular access is provided off the	
having a side entry.	proposed road.	
Buildings with facades over 18m long	The proposed building has a length	YES
have multiple entries.	of over 18m with two entries	
	provided off the proposed road.	
Building entries are integrated into the	Building entries are integrated into	YES
building facade design. At street level,	the design of the building.	
entries are articulated with awnings,		
porticos, recesses or projecting bays for		
clear identification.		
All entry areas are well lit and designed	Entries to the building can be well	YES
to avoid any concealment or entrapment	lit.	
areas; with no light spill.		
Lockable mail boxes are provided close	Lockable mail boxes can be	YES
to the street; at 90 degrees to the street,	positioned close to the street	
meet Australia Post standards and	frontage and meet necessary	
integrated with front fences or building	requirements.	
entries.		
Large development sites provide clear	Clear and defined entries can be	YES
entries, sight lines and way finding signs	provided.	
7C.9 – Internal common circulation		
Internal common circulation spaces	Internal common circulation spaces	YES
comply with the provisions in AS1428.1	satisfy relevant standards.	
and AS1428.2 provides adequate		
pedestrian mobility and access.		
All common circulation areas including	Common areas are safe, accessible	YES
foyers, lift lobbies and stairways have:	and pleasant areas.	
i) appropriate levels of lighting with		
a preference for natural light		
where possible;		
ii) short corridor lengths that give		
clear sight lines;		
iii) clear signage noting apartment		
numbers, common areas and		

general direction finding; iv) natural ventilation; v) low maintenance, robust materials. Where artificial lighting is required energy efficient lighting can be installed Formula ventilation; v) low maintenance, robust materials. Where artificial lighting is required energy efficient lighting can be installed Formula ventilation; v) low maintenance, robust materials. Where artificial lighting is required energy efficient lighting can be installed Formula ventilation; v) low maintenance, robust materials. Formula ventilation; v) low maintenance, robust materials. Formula ventilation; v) low maintenance, robust materials. Energy efficient lighting can be installed Formula ventilation; vi) low maintenance, robust materials. Formula ventilation; vi) 4 apartments having a width of 3.2 ventilated Formula ventilated Form			
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surveillance to the site and on areas landscaped side and rear areas of the site.	Windows to habitable rooms are located	Windows of habitat rooms will	YES
surrounding the building the site.	to encourage opportunities for passive	overlook street frontages as well as	
3	surveillance to the site and on areas	landscaped side and rear areas of	
	surrounding the building	the site.	
7C.11 – Building storeys			
Maximum number of storeys above the Max height of 20.8m NO	Maximum number of storeys above the	Max height of 20.8m	NO
basement: This permits a five – six storey	basement:	This permits a five – six storey	

Maximum building	Maximum number	building.	
	of storeys		
11.5m	3	The proposal is for a part a part 5	
14.5m	4	– 6 storey building. Refer to	
17.5m	5	detailed discussion under KLEP	
23.5m	7	(Local Centres) 2012. Height of	
		building considered acceptable.	
7C.12 – Ground floo	r apartments		
Finished ground leve	l outside living	All living rooms of apartments at	YES
rooms are not more	than 0.9m below	ground level have ready access to	
existing ground level		ground level courtyards that are	
Ground level outside	living area lower	less then 900mm.	
than 0.5m are level for	or at least 2.4m		
No obstructions proje	ect beyond a 45°		
control plane	·		
7C.13 – Top storey o	design roof forms		
GFA does not exceed	60% of the floor	Top storey 58% of the floor below	YES
below			
Articulated and set b	ack from outer face	The top floor will be setback from	YES
of floors below		outer walls of the floors below with	
		balconies and landscaping provided	
		along the north, east and western	
		facades.	
Service elements (pla	nt, air conditioning,	Service elements integrated into	YES
solar panels, lift over	runs etc.) integrated	building design.	
into overall design			
7C.14- Internal ceili	ng heights		
Minimum 2.7m for ha	abitable rooms and	Floor to ceiling height of 2.8m	YES
2.25m non-habitable	rooms		
Ceiling height for the	ground floor in R4	N/A	
zones (where comme	ercial development is		
permitted) is a minim	num of 3.3m		
7C.15 – Visual priva	су		

B TIP		\/FC
Buildings are designed to ensure privacy	Privacy screening is proposed	YES
for residents of the development and of	along windows and balconies	
the neighbouring site	within the eastern elevation so as	
	to minimise overlooking impacts	
	onto the adjoining eastern	
	property.	
Privacy for ground floor apartments is	Planting is proposed to delineate	YES
achieved by a change in level and/or	and to provide screening to	
screen planting	apartments that are provided with	
	ground level private courtyards.	
No continuous transparent balustrades	Obscure glass balustrades to	YES
to balconies or terraces for the lower 3	balconies are provided within the	
storeys	lower 3 storeys of all elevations	
Screening between apartments is	Solid screening is provided	YES
integrated into the overall building	between balconies.	
design		
Landscaped screening is provided to	Existing trees will be retained along	YES
screen adjoining sites	the rear boundary and	
, ,	supplemented by additional	
	plantings to create a rainforest	
	environment. Additional tree	
	planting is to be undertaken	
	adjacent to eastern boundary of	
	the site.	
7C.16 – Storage		
Storage space is provided at the	Sufficient storage facilities provided	YES
following minimum volumes:	within apartments and associated	_
- 6m³ for studio bedroom	box rooms.	
apartments		
- 8m³ for one bedroom units		
- 10m³ for two bedroom units		
- 12m³ for units with three or more		
bedrooms		
At least 50% of the required storage		

space is provided inside the apartment		
7C.17 – External air clothes drying facilit	ies	
Each apartment has access to an external air clothes drying area, e.g. a screened balcony, a terrace or common area	No external drying areas provided	NO
External air clothes drying areas are screened from public and common open space areas	No external drying areas provided	NO
7C.18 – Fencing		
Fences in street set back not longer than: - 0.9m if of solid construction - 1.2m if of open construction	1.2m high timber palisade fence proposed along courtyards of Apartments 9 & 15.	YES
Solid front fence maximum 1.8m and set back minimum 2m on busy roads or from noise sources only		
Fences stepped to follow natural contours		
Hedges/shrubs along the entire front boundary do not exceed 1.2m		
External finishes are robust and graffiti resistant		

An assessment of the variations to the design controls identified in the compliance table is provided below.

7A.1 Building setbacks

Dumaresq street setback

The front elevation of the proposed building is set back the required minimum 10 metres from Dumaresq Street with the north-eastern section of the proposed building above ground level (i.e. at first floor) encroaching into the 2m articulation zone. Also the ground, lower ground and basement levels also occupy this 2m articulation zone which limits the area at the front of the proposed building which can be used for planting of tall canopy trees. In this case a paved area associated with courtyards for apartments 9 and 15 at first floor level will be positioned within this articulated zone and screened by soft landscaping.

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 therefore the proposed setback to Dumaresq Street is considered acceptable. The height and scale of the proposed development is consistent with that envisaged by current 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.

Notwithstanding, the proposal satisfies the objectives of Section 7 A.1 Building setbacks of the DCP in that substantial landscaping can still be provided along the Dumaresq Street frontage with a combination of appropriate tall tree planting and a variety of shrubs and screen planting to assist to soften the impact of the built form onto Dumaresq Street and creating a landscaped setting.

Side boundary setback

The front section of this proposed residential flat building at the fifth floor level (i.e. balcony of apartment 33) is set back only 6 metres to the eastern boundary with the rear section of the proposed building (i.e. balcony of apartment 34) being set back 9m. Consequently, a small proportion of the proposed building does not satisfy the numeric standard of the DCP or ADG requirements. Architectural design measures have been incorporated into the eastern façade of the proposed building particularly at the fifth floor level to minimise potential impacts such as a planter boxer along

part of the balcony providing screening and increasing separation; privacy screens have been incorporated into bedroom windows and main living room is oriented towards the street with an additional balcony attached to the western façade overlooking the proposed road. Therefore, Apartment 33 has been designed to avoid overlooking of the adjoining eastern property to ensure adequate privacy levels are maintained and to avoid visual impacts. As previously outlined, a driveway facility is to be located immediately adjacent to the western boundary of adjoining site including a landscaped area with privacy devices incorporated into the western façade. Consequently, both proposals have been designed taking into consideration privacy impacts with suitable mitigation measures incorporated into the designs.

A courtyard retaining wall adjacent to the ground floor of Apartment 4 is positioned 3.4m from the eastern boundary of the site rather than 4m. This retaining wall has a length of 8.8m only and still allows for landscaping to be implemented adjacent to the eastern boundary of the site.

The proposal will satisfy the objectives of this control in that adequate landscaping can be provided along the eastern boundary of the site and adequate separation between buildings on these two sites is achieved to alleviate amenity impacts, including privacy, noise and ensuring daylight access, subject to **Condition 19**.

7A.2 Building separation

The adjoining property immediately to the east of the subject site is currently occupied by a single storey detached dwelling which has a window within the western elevation adjacent to the subject site. Over time, this site will be redeveloped and as previously stated, a development application for a 4 storey residential flat building has been lodged with Council and is currently under assessment.

The majority of apartments within this proposed residential flat building 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 the existing dwelling upon No. 26 Dumaresq Street. However, redevelopment of the site for a proposed residential flat building will provide compliance with 3rd and 4th storeys requirement of 12m. The fifth storey, as previously outlined, does not satisfy this separation distance. As stated above, this proposed building has been designed to minimise potential overlooking and privacy impacts onto this eastern property and is considered to be an appropriately designed building for the site. Furthermore, proposed external timber screens are attached to bedroom windows incorporated into the eastern façade of this proposed building at all levels to achieve increased privacy levels and to avoid potential overlooking. Plans also depict 1.6m privacy screen attached to the eastern edge of balconies of Apartments 16, 23 and 29 and, with implementation of landscaping adequate privacy levels will be achieved. 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 proposal is considered acceptable in terms of building separation and satisfies the intended objectives of this control as the proposed building has been designed to ensure adequate visual and acoustic privacy within a landscaped setting.

7B.1 - Car parking provision

The proposed development requires 39 resident car spaces and 9 visitor car spaces which equates to a total of 48 spaces. The proposal incorporates a total of 45 spaces which in terms of the DCP requirements results in a deficiency of 3 spaces. However the ADG necessitates the provision of only 34 resident spaces and 7 visitors that equates to 41 spaces and the proposal readily satisfies this requirement. Therefore, additional car parking spaces are not required in this case.

7C.1 – Communal open space

Sufficient communal open space will be available on site that includes passive landscaped areas at ground level and a roof top area. However, not all this communal open space is located behind the building line along Dumaresq Street or the proposed road. Notwithstanding, the communal open space located adjacent to

Dumaresq Street will be located below existing street level and with implementation of appropriate landscaping along the frontage will provide a pleasant sunny and protected area for residents. The communal open space along the proposed road will also benefit from good solar access and some additional landscaping will create a pleasant area for residents, this is conditioned (**Condition 19**).

Overall, the communal open space to be provided on site is useable for a variety of activities, safe and providing attractive areas for residents being integrated into various landscaped areas of the site that will be readily accessible to residents.

7C.2 – Private open space

Balconies of Apartments 10, 11, 16, 17, 24 and 25 are slightly below the minimum area required under the DCP, however they satisfy the requirements of the ADG requirements and therefore are considered to be of an adequate size for this development proposal. Also one ground floor apartment (i.e. 3) is slightly below the 25m^2 requirement of the DCP but also exceeds the requirements of the ADG in this case.

7C.3 – Solar access

This matter has been previously discussed within this report under ADG requirements. Whilst the 70% target for min 3 hours in mid winter is not reached due to redevelopment of the adjoining site, a sufficient number of apartments satisfy the ADG requirements and most apartments will benefit from a sunny aspect and good outlook due to the design of the building in that it addresses two street frontages and a significant rear landscaped area.

7C.11 – Building storeys

The proposed building has a max. height of 20.8m and exceeds the maximum height permitted for a 5 storey building. This matter has been discussed within another section of this report and found to be acceptable as the proposed building has been designed to be responsive to the site, its context with adequate open space and

deep soil landscaping being provided on site.

7C.17 – External air clothes drying facilities

The plans have not nominated any external air drying facilitates as required by the abovementioned control of the DCP. This issue may be resolved by a condition of consent (**Condition 67**).

Ku-ring-gai Local Centres Development Control Plan Volume B

Part 1 – Urban precincts and sites

The site is within the Gordon Centre Urban Precinct. There are no relevant provisions specifically for this site contained within Volume B of the DCP.

Part 2 – Site design for water management

Council's Development Engineer is satisfied that the proposed development has been designed to control stormwater run-off as per the requirements of the DCP, subject to conditions (**Conditions 1, 73, 74, 75 and 76**).

Part 3 – Land contamination

The 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.

Ku-ring-gai Local Centres Development Control Plan Volume C

Development control	Proposed	Complies
Part 1 Site Design		
1.2 Earthworks and slope		
Development consider site topography, drainage, soil, landscapes, flora, fauna and	The proposed building has been stepped down	YES

 Stepping buildings down the site Locate finished ground level as close to the natural ground level as practicable Level changes to occur primarily within building footprint Minimum 0.6 metres width between retaining walls Maintain existing ground level within 2m from any boundary Limit slope for embankments to 1:6 (grassed) and 1:3 (soil stabilising vegetation) No fill and excavation within sensitive environments Minimise altered groundwater flows 	the site taking into consideration the slope of the land. Excavation of the site is necessary to accommodate basement car parking facilities. Level changes occur within the building footprint. Retaining wall details provided on drainage and landscape plans.	
1.3 – Landscape Design		
Appropriate and sensitive site planning and design	An appropriate landscape design will be achieved for the site.	YES
Bushland Protection – buffer zone adjacent to bushland	Existing trees have been retained at rear of site with supplementary planting to further enhance this existing vegetation corridor.	YES
Part 2 – Access and parking		
2.1 Equitable Access		
Compliance with DDA demonstrated	Access Report accompanies the application that demonstrates the proposal can comply with	YES

	relevant standards	
Residential only	al only All apartments are	
 70% of dwellings in mixed use or high 	visitable.	
density developments must be		
visitable		
2.2 Vehicle Access		
Minimise width and number of vehicle	Two driveways provided	YES
access points	off proposed road.	
Access driveways set back at least 10m	Driveway 1 is located 33m	
from street intersections	from intersection with	
Vehicle and pedestrian access to	Dumaresq Street.	
buildings clearly distinguished and	Vehicle and pedestrian	
separated at	access to buildings clearly	
Vehicle crossing width is acceptable for	separated and	
intensity of use proposed	distinguished.	
• Vehicles must exit in a forward direction	Vehicles can enter and	
Vehicle entries are integrated into the	exit the building in a	
external façade and are finished in a high	forward manner.	
quality material	Appropriate retaining	
Retaining walls associated with driveways	walls to be erected along	
maximum height of 1.2m	driveways.	
2.3 Basement and visitor car parking		
Logical and efficient basement design	Basement designed to	YES
AS2890.1	satisfy AS 2890.1.	
Appropriate ceiling floor to ceiling heights	Adequate floor to ceiling	YES
and ventilation provided	heights are proposed	
	within basement car	
	parking levels.	
Basement is fully tanked	Basement level can be	YES
	fully tanked.	
Unimpeded access to visitor parking and	Adequate access available	YES
waste recycling rooms	to visitor parking and	
	waste room.	

Ventilation grilles and screening devices are	Any ventilation grilles and	YES	
Ventilation grilles and screening devices are	Any ventilation grilles and	TES	
integrated into the landscape design	screening devices can be		
	integrated into the		
	landscape design for the		
	site.		
Vehicles access ways are not in close	Vehicular accessways	YES	
proximity to doors and windows of habitable	appropriately located in		
rooms	terms of doors and		
	windows of habitable		
	rooms.		
Safe and accessible intercom access provided	Intercom access to be	YES	
	provided		
Visitors' parking is finished appropriately and	Visitor parking spaces	YES	
is safe	appropriately positioned		
	in basement levels		
At least one visitor space is accessible and	Sufficient and	YES	
designed in accordance with AS2890.6	appropriately		
	located accessible spaces		
	are available.		
2.5 Parking for people with a disability			
Accessible spaces are signposted and have a	Accessible spaces will be	YES	
continuous path of travel to the principal	signposted and ready		
entrance or a lift	access available to lift		
	entrances.		
Each adaptable unit has at least one	Four accessible car spaces	YES	
accessible car space	provided to cater for each		
	accessible apartment.		
2.6 Pedestrian Movement within Car Parks			
Designed in accordance with AS1428.1	Basement car parks	YES	
	designed in accordance		
	with AS1428.1		
Marked pedestrian pathways have clear	Ready access available	YES	
sightlines, appropriate lighting, are visible,	from parking spaces to		
conveniently located and constructed of non-	lifts.		

slip material		
The number of single aspect apartments with	Less than 10% of	YES
a southerly aspect (SW to SE) is limited to	apartments are single	
10% of the total number of apartments	aspect.	
proposed in each building		
2.6 Bicycle Parking and facilities		
Bicycle parking and storage facilities satisfy	Sufficient bicycle storage	YES
AS2890.3	facilities provided in	
	basement car parking	
	levels.	
Bicycle access paths have a minimum width	No separate bicycle	YES
of 1.5metres	access paths provided	
	within development.	
3.4 Waste Management		
Efficient, effective and sustainable waste	A waste management	YES
management practices	plan prepared in	
	accordance with the DCP	
	has been submitted	
	and is acceptable.	
3.5 Acoustic Privacy		
Design minimises impact of internal and	Acceptable acoustic	YES
external noise sources	attenuation measures can	
	be implemented into the	
	proposed building to	
	protect resident amenity	
	from noise sources both	
	on and off the site.	
3.6 Visual Privacy		
Visual privacy maintained for occupants and	These matters have been	YES
for neighbouring dwellings	fully discussed within	
	other sections of this	

	report.	
3.7 Materials, Finishes and Colours		
External walls constructed of high quality and durable materials Use of materials and colours creates well-proportioned facades and minimises visual bulk	The applicant has submitted a materials and finishes board. The proposed materials and finishes to be used are acceptable. The use of appropriate materials will assist to create appropriate designed building for this locality.	YES
3.8 Roof Terraces and Podiums	recally.	
Podiums and roof terraces are trafficable and support landscaping	Podiums and the roof top communal open space terrace incorporate appropriate landscaping.	YES
Roof & terrace common areas design encourage usage	The provision of some seating and weather protection will encourage usage of roof top terrace. This will be conditioned (i.e. condition 18 &19)	YES
3.9 Construction, Demolition and Disposal		
Satisfactory Environmental Site Management Plan	An appropriate site management plan accompanies the application.	YES

The above table demonstrates that the development proposal fully complies with this DCP.

Part 4 – Water management

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

Part 5 - Notification

The application has been notified in accordance with the requirements of the DCP. No submissions were received.

Section 94 Development Contributions Plan 2010

A Voluntary Planning Agreement (VPA) was executed on the 25 September 2014 and registered on the title of the land for the delivery of a future public road at No.32 Dumaresq Street. The VPA specifies the relationship between works associated with this road and the development contributions arising from the proposed development and provides for the divestment by Council at an agreed market value of a strip of residual land between the road and Nos. 28-30 Dumaresq Street.

Part 8 Application S94, S94A, S94EF of the Act to the Development of the VPA excludes the application of S94 and S94A of the Act to this development proposal, however does not exclude S94EF.

Part 12 and 13 of this VPA establishes a separate mechanism for the payment of a monetary contribution as part of the VPA process for this proposed development.

Consequently, no S94 contributions need to be levied pursuant to Council's Section 94 Contributions Plan for this development proposal as the executed VPA dictates this process.

LIKELY IMPACTS

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

SUITABILITY OF THE SITE

The site is suitable for the proposed development.

PUBLIC INTEREST

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

CONCLUSION

Having regard to the provisions of section 79C of the Environmental Planning and Assessment Act 1979, the proposed development is considered to be satisfactory subject to the deferred commencement term that the final road design be approved prior to the consent becoming operational.

RECOMMENDATION

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

A. THAT the JRPP, as the consent authority, is satisfied that the request under Clause 4.6 of Ku-ring-gai LEP (Local Centres) 2012 to vary Clause 4.4 - Building height development standard is well founded. The JRPP is also satisfied that the proposed development will be in the public interest and is consistent with the objectives of the development standard and the R4 High Residential Use zone.

B. THAT the JRPP, as the consent authority, grant Deferred Commencement Development Consent to DA0434/15 for the construction of residential flat building containing 34 units, basement parking and associated landscaping works, at Nos. 28 – 30 Dumaresq Street Gordon, for a period of two (2) years

from the date on which the consent becomes operable, subject to the

following terms of Schedule A and conditions of Schedule B below.

SCHEDULE A: Deferred Commencement - Terms to be satisfied prior to the

consent becoming operable

The following deferred commencement terms must be complied with to the

satisfaction of Council within 48 months of the date of issue of this deferred

commencement consent:

A. 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.

Once the consent becomes operable, the following conditions apply:

SCHEDULE B – Conditions of Development Consent

CONDITIONS THAT IDENTIFY APPROVED PLANS:

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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
DA02 Site Plan Rev B	Gelder Architects	August 2015
DA03 Basement Level Rev C	Gelder Architects	August 2015
DA04 Lower Ground Floor Plan	Gelder Architects	August 2015
Rev C		
DA05 Ground Floor Plan Rev D	Gelder Architects	August 2015
DA06 First Floor Plan Rev D	Gelder Architects	August 2015
DA07 Second Floor Plan Rev C	Gelder Architects	August 2015
DA08 Third Floor Plan Rev C	Gelder Architects	August 2015
DA09 Fourth Floor Plan Rev C	Gelder Architects	August 2015
DA10 05 Fifth Floor Plan Rev C	Gelder Architects	August 2015
DA011 Roof Plan Rev C	Gelder Architects	August 2015
DA12 Elevation North Rev C	Gelder Architects	August 2015
DA13 Elevation West Rev D	Gelder Architects	August 2015
DA14 Elevation East Rev C	Gelder Architects	August 2015
DA15 Elevation South Rev C	Gelder Architects	August 2015
DA16 Section 01 Rev C	Gelder Architects	August 2015
DA17 Section 02 Rev C	Gelder Architects	August 2015

DA18 Section 03 Rev C	Gelder Architects	August 2015
CD 01 Landscape Plan Lower	Site Design + Studios	30/11/15
Ground Floor Level Rev B		
CD 02 Landscape Plan Ground	Site Design + Studios	30/11/15
Floor Level Rev B		
CD 03 Landscape Plan First Floor	Site Design + Studios	30/11/15
Level Rev B		
CD 04 Landscape Plan Third Floor	Site Design + Studios	30/11/15
Level Rev B		
CD 05 Landscape Plan Fourth	Site Design + Studios	30/11/15
Floor Level Rev B		
CD 06 Landscape Plan Fifth Floor	Site Design + Studios	30/11/15
Level Rev B		
CD07 Landscape Detail Planting	Site Design + Studios	30/11/15
Schedule		
CIV-010 Siteworks and	Hyder Consulting	1/10/13
Stormwater Management Plan		
Issue 4		
CIV-025 Stormwater OSD Details	Hyder Consulting	1/10/13
Issue 2		
CIV-030 Conceptual Combined	Hyder Consulting	1/10/13
Services Plan Issue 2		
CIV – 040 Site Catchment Plan	Hyder Consulting	1/10/13
Issue 2		
CIV -005 Erosion and Sediment	Hyder Consulting	1/10/13
Plan Issue 3		

Document[s]	Dated
Materials & Sample Board prepared by	Undated
Gelder Associates	
Basix Certificate 662858M_02	17 February 2016
Access report prepared by Mark Reif	26 November 2012 with Appendix B
	28/07/2015

Hyder Consulting Flood Study and	16/11/2012
Stormwater Management Issue 4	

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. 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.

4. 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.

5. Asbestos works

All work involving asbestos products and materials, including asbestos-cementsheeting (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

6. 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.

7. 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.

8. 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.

9. 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
- o 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.

10. 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.

11. 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.

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

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

13. 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.

14. 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.

15. 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 Waste Management controls within KDCP.

The plan shall address all issues identified within this DCP, 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.

16. 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:

17. Liveable housing guideline

Prior to the issue of any Construction Certificate, the certifying authority shall be satisfied that a minimum of 20% of units within the development incorporate the necessary design and construction required to meet and exceed The Liveable Housing Guideline's silver level universal design features. Comprehensive plans and specifications as required shall accompany the construction certificate in this regard.

Reason: To ensure compliance with the Apartment Design Guideline.

18. 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	Date
DA 09 Fourth Plan	Gelder Architects	August 2015
Rev C		

The above plan shall be amended in the following way:

• A covered weather shelter of suitable materials and finishes, compatible with finishes of the proposed building, shall be incorporated into the communal roof top terrace. The weather shelter is to have maximum dimensions of 5m x 3m with a maximum height of 2.2m. This weather shelter, including suitable screening, is to be attached to the foyer providing access to the rooftop terrace.

Reason: To ensure good amenity to this designated roof top communal open space area.

19. 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	Site Design Studio	30/11/15
CD01 - CD07		

The following changes are required to the Landscape Plan:

- 1. The amendments to the north-western corner of the building showing the approved architectural plans shall also be incorporated into the landscape plan.
- 2. To preserve the streetscape amenity, the area between the northern driveway and the north-western corner of the site shall be amended to include the proposed retaining walls as per the stormwater plan. The landscape stormwater plan is to be consistent with the stormwater plan.

- 3. Appropriate domestic seating is to be provided to the small area of communal open space within the front setback to the proposed road (to be built as part of the Planning Agreement). To provide a larger unified area, the proposed hedge planting along the northern side of the access path to the southern entry foyer is to be relocated onto the southern side of Driveway 1.
- 4. To allow for effective planting, including tall trees, small trees, large shrubs and small shrubs and groundcovers in accordance with zoning requirements, the proposed access path along the eastern boundary is to be set back minimum 2 metres from the site boundary, excluding where adjacent to the retaining wall to Apartment 10 and 11 and be shown as a mulch or stepping stone path.
- To preserve neighbour amenity, the three *Glochidion ferdinandii* (Cheese Trees) located along the eastern boundary are to be substituted with a more upright species such as *Angophora floribunda* (Rough Barked Apple) or *Eucalyptus paniculata* (Grey Ironbark). The trees are to be shown at minimum 15 metres centres.
- 6. Proposed planting of three (3) *Eucalyptus mannifera* and one (1) *Angophora floribunda* at the north-western corner of the site is to be deleted and replaced with a single *Eucalyptus saligna* (Sydney Blue Gum).
- 7. 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.
- 8. The proposed structure shown shaded at the north-western corner of the site is to be deleted to ensure an attractive landscaped corner statement.
- 9. To preserve the following tree, a note requiring the removal of the ivy infestation in the trunk is to be shown on the plan.

Schedule

Tree/location

Tree 33/ Araucaria heterophylla (Norfolk Island Pine) This

25 metres high tree is located on the southern boundary

of the site.

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

shall be satisfied that the landscape plan has been amended are required by this

condition.

Note: An amended plan, prepared by a landscape architect or qualified

landscape designer shall be submitted to the Certifying Authority.

Reason:

To ensure adequate landscaping of the site

20. Long service levy

In accordance with Section 109F(i) of the Environmental Planning and Assessment

Act a Construction Certificate shall not be issued until any long service levy

payable under Section 34 of the Building and Construction Industry Long Service

Payments Act 1986 (or where such levy is payable by instalments, the first

instalment of the levy) has been paid. Council is authorised to accept payment.

Where payment has been made elsewhere, proof of payment is to be provided

to Council.

Reason:

Statutory requirement.

21. Builder's indemnity insurance

The applicant, builder, developer or person who does the work on this

development, must arrange builder's indemnity insurance and submit the

certificate of insurance in accordance with the requirements of Part 6 of the

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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.

22. 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.

23. 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.

24. 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.

25. 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.

26. 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.

27. Driveway grades - basement carparks

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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
- 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.

28. 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.

29. Car parking allocation

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

Resident car spaces 36 Visitor spaces 9 Total spaces 45

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

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

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

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

30. Number of bicycle spaces

The basement car park shall be adapted to provide 10 bicycle spaces in accordance with DCP. 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.

31. Energy Australia requirements

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

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

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

32. 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.

33. 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):

34. Infrastructure restorations fee

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

a) All work or activity taken in furtherance of the development the subject of this approval must be undertaken in a manner to avoid damage to Council Property and must not jeopardise the safety of any person using or occupying the adjacent public areas.

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

e) In this condition:

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

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

Reason: To maintain public infrastructure.

CONDITIONS TO BE SATISFIED DURING THE DEMOLITION, EXCAVATION AND

CONSTRUCTION PHASES:

35. 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.

36. 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.

37. Approved plans to be on site

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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.

38. 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.

39. 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.

40. 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

41. 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 preconstruction 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.

42. 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.

43. 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.

44. 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.

45. 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.

46. 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 en

To ensure safety and amenity of the area

47. 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.

48. 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.

49. Protection of public places

If the work involved in the erection, demolition or construction of the

development is likely to cause pedestrian or vehicular traffic in a public place to

be obstructed or rendered inconvenient, or building involves the enclosure of a

public place, a hoarding or fence must be erected between the work site and the

public place.

If necessary, a hoarding is to be erected, sufficient to prevent any substance

from, or in connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be

hazardous to persons in the public place.

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

Reason: To protect public places.

50. 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.

51. 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.

52. Maintenance period for works in Dumaresq Street road reserve

A maintenance period of six (6) months applies to all work in the Dumaresq Street 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.

53. 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.

54. 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.

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

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

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

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

56. 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
<a href="http://www.syd

Reason: Statutory requirement.

57. 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.

Time of inspection

Commencement of excavation for driveway slab
Commencement of excavation for driveway

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

Commencement of excavation for driveway

Reason: To ensure protection of existing trees.

58. 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 works
Tree 31/ Araucaria heterophylla (Norfolk Island Pine) This	Minor pruning for
25 metre high tree is located on the southern boundary of	building clearance
the site.	
Tree 32/ Araucaria heterophylla (Norfolk Island Pine) This	Minor pruning for
25 metre high tree is located on the southern boundary of	building clearance
the site.	
Tree 33/ Araucaria heterophylla (Norfolk Island Pine) This	Minor pruning for
25 metre high tree is located on the southern boundary of	building clearance
the site.	

Reason: To protect the environment.

59. 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.

60. 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/ Araucaria heterophylla (Norfolk Island Pine) This	7.8m
25 metre high tree is located on the southern boundary of	
the site.	
Tree 32/ Araucaria heterophylla (Norfolk Island Pine) This	9m
25 metre high tree is located on the southern boundary of	
the site.	
Tree 33/ Araucaria heterophylla (Norfolk Island Pine) This	4.8m
25 metre high tree is located on the southern boundary of	
the site.	

Reason: To protect existing trees.

61. 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.

62. 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.

63. 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.

64. 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.

65. 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:

66. 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.

67. 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.66285M_02 have been complied with.

Reason:

Statutory requirement.

68. 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.

69. 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

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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.

70. 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.

71. 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.

72. 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.

73. Retention and re-use positive covenant

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 property with the requirement to maintain the site stormwater retention and re-use facilities on the property.

The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instruments for protection of retention and re-use facilities" and to the satisfaction of Council (refer to Volume C Part 4R.9 of Kuring-gai Local Centres Development Control Plan). For existing titles, the positive covenant and the restriction on the use of land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the reuse and retention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.

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

Reason: To protect the environment.

74. Certification of drainage works

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 Ku-ring-gai Local Centres DCP, 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

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.

75. WAE plans for stormwater management and disposal

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.

76. 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 Volume C Part 4R.9 Ku-ringgai Council Local Centres DCP). 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.

77. 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.

78. Certification of as-constructed driveway/carpark

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 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.

79. 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.

80. 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.

To ensure that works undertaken in the road reserve are to the Reason:

satisfaction of Council.

81. 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.

82. 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:

83. **Voluntary planning agreement**

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In carrying out the development approved by this development consent, the developer must fulfil all of its obligations under the Dumaresq Street Gordon Roadworks Planning Agreement dated 25 September 2014, as amended by the Deed of Novation dated 25 September 2015. In the event of any inconsistency between that Planning Agreement and these conditions of consent, the conditions of this development consent prevail.

Reason: To ensure the orderly development of land.

84. 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.

85. Annual fire safety statement

Each 12 months after the installation of essential fire or other safety measures, the owner of a building must cause the Council to be given an Annual Fire Safety Statement for the building. In addition a copy of the statement must be given to

the NSW Fire Commissioner and a copy displayed prominently in the building.

Reason: To ensure statutory maintenance of essential fire safety measures

86. No door restricting internal waste collection in basement

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

by Council's Waste Collection Services. No doors, grilles, gates or other devices

shall be provided in any location which would prevent this service. Where a gate,

door or the like is to be erected, unimpeded access to the garbage collection

point is to be provided by other means through written agreement with Council's

Waste Collection Services.

Reason:

To facilitate access to the garbage collection point.

87. **Storage Rooms**

Storage rooms within apartments shall not be converted or used for habitable

living purposes at any time or without the consent of Council.

Reason:

To ensure adequate storage facilities are provided to each

apartment.

A. Moore

Consultant Planner

A. F-loore

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Attachments:

Attachment A: Deposited Plan

Attachment B: Voluntary Planning Agreement

Attachment C: Preliminary Road Design

Attachment D: Urban Design Report prepared by Redshift Architecture & Art Pty Ltd

Attachment E: SEPP 65 Design Quality Principles Assessment

Attachment F: Apartment Design Guide Assessment

Attachment G: Architectural Plans Attachment H: Landscape Plans

Attachment I: Stormwater Plans

Attachment J: Location Plan / submitters map

Attachment K: Zoning Extract

Attachment L: Clause 4.6 variation