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A member of the RPS Group Plc

Attn: Peter Debnam  
Chairman  
Sydney North Planning Panel  
320 Pitt Street  
Sydney NSW 2000

**Date:** 7 September 2018  
**Our ref:** 130797-7  
**Via:** Letter

Dear Mr Debnam,

## 810 Pacific Highway, Gordon: DA610/2017

Reference is made to the planning report prepared for 810 Pacific Highway, Gordon (DA610/2017), planning panel reference no. 2017SNH084, which has been recommended for refusal.

We wish to address the Panel members with regards to the given reasons for refusal and provide this document with information as to why the reasons either are misleading, inconsistent with advice previously given by Ku-ring-gai Council or can be addressed by an effective amendment.

### Formal Pre-Development Application Meetings with Council

The project team recognised that this site being adjacent to the Council's heritage listed chambers and part of the Gordon Cultural Hub Master Plan (in development) would be of high interest to Ku-ring-gai Council and sought to engage with Council early in the development process.

In addition, due to the site's location and the existing through-site-link which transverses the boundary shared with Council, it was agreed early on that the assessment of the application was by an independent planner. This existing through- site- link, also acts as a fire exit for the Council, although there are no easements or rights of way, therefore it was necessary to incorporate 818 Pacific Highway (Council Chambers).

As a result, the Council looked to engage a team of independent consultants which would result in an independent assessment of Council with regards to planning, heritage and urban design.

It should be noted that the project team met with Council on two prior occasions through a formal pre-DA meeting. The first pre-DA was held on 28/06/2017 and a further pre-DA was held on 13/09/2017.

These formal pre-DAs were attended and chaired by independent planners, with direction received and taken on board by the project team. The minutes of those meetings are attached for your information. It is important to note that clear direction was given at these meetings and every attempt to address the concerns raised by Council was made the project team.

Unfortunately, the original Town Planning Consultant, Helen Deegan of TPG who had provided direction and comment was unable to carry through the assessment of this application due to an unnamed conflict. A new Town Planning Consultant, Kerry Gordon of KGPS, was engaged. Furthermore, during the assessment of the application, the independent Heritage Consultant Paul Davies of Paul Davies PL Architects was determined to be no longer available, as he stopped talking to Council and the current consultant at Council was used.

This was unfortunate as the direction sought at the initial meetings have since proven to be at odds with the direction the later independent planner sought to introduce.

Furthermore, it appears that some of the report was prepared prior to 01/06/2018 as the report refers to a number of items that were amended following the meeting at council on that date.

### Amended Plans – Increase GFL, remove ramp & replace with planter

In order to address a number of overall concerns raised in the planning report and reflected in the reasons for refusal no's 2, 3, 4, 5, 6, 7 and 8, and

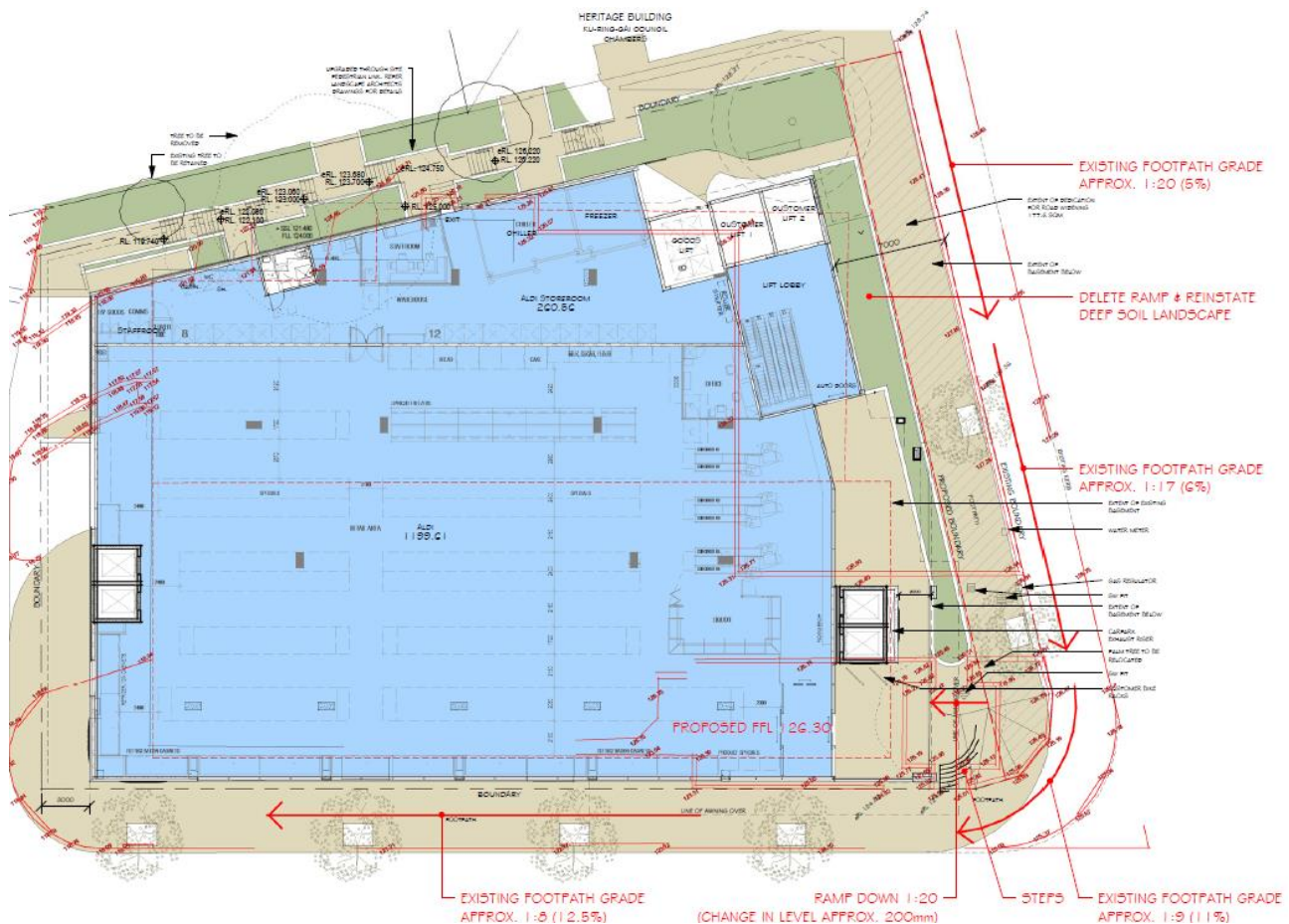
- improve the accessibility of the Ground Floor and therefore remove the need for the separate ramp;
- improve its visibility and activation to the Pacific Highway; and
- increase the landscaping to the front setback to the Pacific Highway;

it is proposed to raise the ground floor level by 0.6m and have a reduce floor to ceiling height in the ground floor of 4.4m, whereas 5m was previously proposed. See attached plan & figure 1 below.

This modification has the following benefits:

- The ground floor level is similar to the ground floor of the existing building and allows for a pedestrian entry just south of the entry to the existing building, therefore making the proposed ramp unnecessary;
- A planter in front of the landscaped podium, to allow for additional landscaping in front of the podium and to the south of the Council Chambers
- Increase the landscaped area and deep soil planting around the Canary Island Palm in order to improve the setting of the heritage item and its view 'in the round'; and
- Improves the level of activation and visibility provided by the ground floor retail space.

**This proposed amendment satisfactorily addresses a number of Council's concerns. We respectfully ask the Sydney North Planning Panel to defer the matter to review the proposed amendment to allow for Council's Independent Planning Consultant to assess the plan.**



**Figure 1 Amended Plan – Increasing Ground Floor Level RL 126.3**

## Refusal Reasons

The following responses to the 11 reasons given for recommending refusal at the conclusion of the Council Panel Assessment Report:

1. *The mitigation measures proposed by the applicant of modifying the traffic signals and road markings in Dumaresq Street have not been given concurrence by the Roads and Traffic Authority. In the absence of the mitigation measures, the proposed development application as the functioning of the intersection of Pacific Highway and Dumaresq Street will be detrimentally impacted by the proposal by increasing the queuing length of traffic waiting on Dumaresq Street to turn into the Pacific Highway. Unless queuing lengths are shortened, the proposed development will result in unacceptable delays to traffic entering and exiting the Gordon Centre and Radford Place.*

With regards to the above reasons for refusal it is important to understand the history of the site and the requested information from the RMS.

**Table 1 Traffic Assessment History**

Party	Date	Action
Traffic Impact Assessment	14 November 2017	Assessment of Traffic and its impacts was based on the intersection upgrades identified in Ku-ring-gai Council's current developer contribution plan (s94/7.11)

Party	Date	Action
RMS letter in response to the DA	18 March 2018	<p>RMS identify that the traffic modelling is based on future road upgrades at Pacific Highway and Dumaresq Street.</p> <p>RMS stated there is no funding committed to undertake these road works and requested modelling to be based on existing conditions and to identify any interim measures to mitigate the potential impact in the road network</p>
Response to RMS from Cardno	21 March 2018	<p>The response to RMS identified existing queues along Pacific Highway and importantly Dumaresq Street, with the network exceeding capacity without the development application.</p> <p>Interim measure proposed was a dual right turn out of Dumaresq Street provided at the intersection of Pacific Highway &amp; Dumaresq Street.</p>
Ku-ring-gai Council Letter	28 March 2018	<p>Ku-ring-gai Council states initial comments from RMS requiring additional modelling has previously been forwarded to the applicant and the response provided has been forward to RMS.</p> <p>Council are awaiting a reply from RMS.</p> <p>Council felt until such reply is received it is unknown if a portion of the site may be necessary for road widening on Pacific Highway and/or Dumaresq Street; and furthermore, the proposal (with future road upgrades) is still likely to cause queuing back in Dumaresq Street from Pacific Highway on Saturday peak hour, and impact on access between Radford Place and Dumaresq Street.</p> <p>The proposal under existing conditions is likely to impact significantly on the access to/from Radford Place, and as a consequence, the exit from the Gordon Centre car park in Dumaresq Street. This should be addressed by the applicant</p>
Cardno reply to Council	16 April 2018	<p>Queuing within Dumaresq Street is an existing issue, irrespective of the development application. As traffic in the Gordon area increases with other development applications, queuing in Dumaresq Street will continue to be an ongoing issue, again irrespective of the application at 810 Pacific Highway.</p> <p>The intersection of Radford Place / Dumaresq Street could be managed through the implementation of "keep clear" pavement markings inclusive of the Gordon Centre retail centre.</p>
RMS email from Hans Pilly Mootanah	27 April 2018	<p>RMS state that proposed mitigation measure is not supported.</p> <p>The proposed dual right turn out of Dumaresq Street would require full time pedestrian protection for pedestrian crossing on Pacific Highway as opposed to current timed protection.</p> <p>This would require more green time allocated to Dumaresq Street resulting in increased delays on Pacific Highway.</p> <p>Further regardless of the location of the site, close proximity to Gordon Station that a 30% trip reduction in trip generations applied is not supported as the RMS require the worst case scenario to be modelled and addressed.</p>
Project Team	3 May 2018 11 May 2018 21 May 2018	<p>Project Team request meeting to discuss the site mitigation measures and rumoured requested land dedication.</p>
RMS Council Traffic Engineer Project Team	4 June 2018	<p>RMS did not provide clarity or detail to support the 27th April 2018 email.</p> <p>RMS advised that they have received information (internally) that the development site has been identified as potentially requiring partial acquisition. No details or evidence was provided to support this.</p> <p>Pacific Highway upgrade plan 'in development'.</p>

Party	Date	Action
Note: Ku-ring-gai Council's Traffic Engineer attended a pre-meeting with RMS and stayed after the project team left.		
RMS email from Hans Pilly Mootanah	6 June 2018	RMS request resubmission of traffic modelling adopting comments provided in the 27th April 2018 email.
Cardno	6 June 2018	Cardno request clarification on the 4th June and 27th April 2018 email. The 4th June 2018 meeting was intended to do just that, clarify RMS position and details which could not be provided by RMS.
RMS letter	10 June 2018	RMS state they raise no objection to the development proposal subject to conditional consent as listed within their letter. This includes road works within Pacific Highway.
Cardno email	20 June 2018	Cardo requested clarity on the RMS letter dated 10 June 2018 and the 4 June 2018 & 28 April 2018 email from RMS.
RMS email to Cardno	20 June 2018	Following discussion between Cardno and RMS, RMS advise that Roads and Maritime's response of 10 June 2018 is based on the assessment of the proposal in its current form and a no works scenario in the Pacific Highway corridor; and further that It is deemed the extension of the south bound right turn bay on Pacific Highway into Dumaresq Street would be the only reasonable traffic solution at this time.

Based on the abovementioned sequence of events the Project Team led by Cardno has made numerous attempts to resolve any traffic issues raised by both Council and RMS. RMS have provided their concurrence for the application (10th June 2018 letter).

In response to the Council's concern about potential queueing in Dumaresq Street, table 2 from Cardno's modelling outlines that queueing within Dumaresq Street is an existing issue, it is not a new issue introduced by the application.

The following table has been prepared and takes into consideration some of the comments received by RMS. The updated model includes revised cycle times and recommended road works (to the Pacific Highway) as per RMS comments.

**Table 2 Queuing within Dumaresq Street**

Scenario	Queue Distance (vehicles / distance)		
	AM	PM	SAT
Site Observations	8 / 56m	11 / 77m	9 / 63m
2018 Base Model	5 / 35m	11 / 77m	7 / 49m
Future Base Model	5 / 35m	14 / 98m	14 / 98m
Future Base Model w Development	5 / 35m	14 / 98m	14 / 98m



This demonstrates that the influence of the development, across the peak hour, is negligible in terms of queue impacts. The number of additional trips through the Dumaresq Street / Pacific Highway intersection is equivalent to 3-4% of the forecast baseline traffic, which is relatively low.

This reinforces that the corridor of Pacific Highway is currently operating unsatisfactorily, and this development alone is not the sole responsibility of this performance. Additionally, the road works contained within RMS' June 2018 letter is a benefit for all users of Dumaresq Street, particularly the Gordon Centre and residents within Dumaresq Street.

It should be noted that despite no mechanism in place to acquire part of the land, the development proposal includes land reservation for the future needs of RMS, as part of an upgrade to the Pacific Highway, which again will have a larger community benefit.

RMS have formally indicated that the dual right hand turn out of Dumaresq Street was not supported, as it would result in further delays of the movement of traffic along the Pacific Highway. As noted in the email received from the RMS dated 27 April 2018;

*"Proposed mitigation measure is not supported. The proposed dual right turn out of Dumaresq Street would require full time pedestrian protection for pedestrian crossing on Pacific Highway as opposed to current timed protection. This would require more green time allocated to Dumaresq Street resulting in increased delays on Pacific Highway."*

Furthermore following additional information and a meeting, RMS letter dated 10 June 2018 the RMS raised no objection to the proposal;

*Roads and Maritime has reviewed the submitted application and the additional modelling information provided on 8 March 2018. Roads and Maritime further held a meeting with the developer inclusive of Council on 4 June 2018 and determined that the mitigation measures would be required to accommodate the proposed Aldi development at this site. To alleviate queuing on Pacific Highway southbound due to proposed development, the right turn bay shall be extended by 40 Metres at the full cost to the developer. It is further noted that all access to the site will be provided via the local road network from Radford Place. Therefore Roads and Maritime raises no objections to the development proposal subject to the following conditions being included in any determination issued by Council.*

The assertion from Council's Traffic Engineer in the Planning Panel report regarding the RMS's view on mitigation measures in Dumaresq Street as follows;

*The RMS was contacted by Council to clarify whether it supported the proposed modification of the lane arrangements in Dumaresq Street [and subsequent modifications required to the traffic signals] but to date RMS has not provided a response. The proposal to modify the lane arrangements and traffic signals is supported in principle but Council is unable to provide approval for traffic signal modifications, or line marking/lane arrangements associated with traffic signals, as councils do not have delegations from RMS to approve or authorise these types of traffic facilities. This remains an outstanding matter.*

This is inconsistent with the direction received to date from RMS, most notably the email received from RMS on the 27 April 2018 and from which the RMS has based its conclusion including the requested WAD.

It is noted that the report refers to correspondence date 29 June 2018, this date is queried as we have not been a party to that correspondence, nor is it available on Council's DA tracking website.

However, the completed modelling based on RMS requirements demonstrates that the impact on the queue lengths in Dumaresq Street to be negligible. Therefore, this reasons for refusal should be deleted.

Council's desire to fix an existing situation in Dumaresq should not be borne solely by the proponent in this situation, noting the developer contributions which will be paid.

2. *The height of the proposal is excessive, in breach of Clause 4.3 of Ku-ring-gai Local Environmental Plan (Local Centres) and is not supported by a well-founded clause 4.6 variation request as there are not sufficient environmental planning grounds to justify contravening the development standard.*

Clause 4.6 requires the applicant to demonstrate that there are sufficient environmental planning grounds to contravene the development standard. In this instance, there are strong planning grounds in support of the variation to the maximum building height control.

- The proposed development will fully comply with the objectives of the B2 Local Centre zone within which the site is located as it will:
  - provide employment opportunities in an accessible location;
  - maximise public transport patronage and encourage walking and cycling;
  - provide for residential housing close to public transport, services and employment opportunities; and
  - be a mixed use building integrating commercial and residential uses.
- The creation of the supermarket space for ALDI provides an additional anchor store for the Gordon Town Centre.
- Contravention of the height control will enable the provision of seven levels of residential apartments above the ground floor thus providing greater housing supply and choice in the Ku-ring-gai LGA and assisting with achieving regional housing targets.
- The breach in height in part is a result of the built form having a slender building, with increased separation to the adjacent heritage listed Council Chambers at 818 Pacific Highway, Gordon. This building siting and design allows for increased visual separation and landscape buffer to the adjacent Council Chambers.
- The proposed slender design situated on the southern boundary allows for improved environmental amenity to the pedestrian through site link.
- The breach in height does not result in a breach of the maximum floor space ratio (FSR) of the site and the extent of the variation is minimal.
- The design of the proposed development will not result in any detrimental impacts on local amenity or on any sensitive land uses such as open space or heritage items.
- The site slopes steeply from its front boundary to the rear of the site therefore the minor contravention of the height control enables the building to respond to the topography appropriately.
- There will be no adverse amenity impacts upon surrounding uses, including the heritage-listed Council Chambers to the north of the site.
- The height contravention will not be out of character with the desired future character of the Gordon local centre and the greater density which the zoning of the centre provides for.

A correct clause 4.6 has been attached.

The assessment of the clause 4.6 asserts that a supermarket is not suitable for the site noting the required loading facility and steeply sloping site.

It is considered that the proposed design is consistent with desired outcome encouraged by the controls.

With regards to the site suitability for a supermarket the following is noted from a strategic policy perspective. The Ku-ring-gai Retail Centre Study 2005 found the following for Gordon:

*“Gordon*

*Demand for additional retail space in Gordon will increase over the next decade or so for all expansion options – particularly for Option 3 which involves at least a three-fold increase in retail floor space.*

*A masterplan should be prepared to identify all possible options for expansion of the centre.*

*Objectives should include:*

- *Maximising concentration of activity in the centre including commercial and residential as well as retail floor space. Based on Option 3 this may mean incorporating higher FSR and building heights;*
- *Containment of the centre and minimisation of retail sprawl;*
- *Improvement of pedestrian links across the highway and a greater priority given to pedestrians rather than cars through the centre;*
- *Improvement of relationship between the railway station and the retail.*

*Large areas are required to accommodate some major tenants including a second supermarket, at least one, if not two, discount department stores and possibly entertainment uses such as a cinema complex. Options for expansion of retail space include the multi-level Council car park, the Gordon Centre car park and the Council Library site as well as site amalgamations of strip shops.”*

The Ku-ring-gai & Hornsby Subregional Employment Study 2008 also identifies the site as part of the retail main street and as Ku-ring-gai main town centre, noting *“Town Centres are expected to have one or two supermarkets, community facilities, medical centre, schools, etc. They are expected to contain between 4,500 and 9,500 dwellings and are usually a residential origin rather than an employment destination.”*

The proposal is consistent with these strategic directions and that of the Greater Sydney Commission. The Sydney North District Plan 2018 by the Greater Sydney Commission identifies Gordon as a Local Centre. Principles for Local Centres include “

*Councils will need to consider which centres:*

- *will be appropriate to accommodate additional housing as part of their housing strategy*
- *will need to grow to provide for the required goods and services of the community*
- *may also need to grow to deliver other roles for the community, such as recreational, cultural and community hubs.*

Noting the fragmented land subdivision of Gordon’s retail main street, this site offers the opportunity for Gordon town centre second supermarket and residential dwellings, in a manner which preserves the ‘view of the heritage item’ and the concern relating to the loading dock is not subjective and in-consistent with the desired retail character of the Gordon Town Centre.

3. *The setback and design are inconsistent with Control 7vii of Part 14D.9 Precinct G3: Civic Hub of Ku-ring-gai Development Control Plan (Local Centres) which requires a 15m setback to the Pacific Highway to provide for a landscaped forecourt and view corridors to the heritage item at 818 Pacific Highway. The proposed lack of setback, provision of accessible pedestrian ramp and elevated northern podium and associated fences result in an inadequate landscaped forecourt and interrupted public views to the heritage item.*
4. *The proposal does not satisfy Clause 5.10(1)(b) of Ku-ring-gai Local Environmental Plan (Local Centres) 2012 or Controls 14D.9.1(iii) and 19F.1.2 of Ku-ring-gai Development Control Plan (Local Centres) as the setting associated with the heritage item will not be conserved and the development does not protect and enhance the setting of the Council Chambers and for the building to be viewed in “the round”.*
5. *The finished level of the supermarket is below the footpath level of Pacific Highway, which, in combination with the inadequate setback from the Highway and poorly resolved accessibility, results in a poor level of activation of the frontage to Pacific Highway. Further, the provision of highlight windows in the façade*



of the supermarket fronting Dumaresq Street (in proximity to the corner with the Pacific Highway) also prevents the activation of the frontage to an unacceptable level. Therefore, the proposal is inconsistent with the activation requirements of Clause 6.6 of Ku-ring-gai Local Environmental Plan (Local Centres) and cannot be approved. The design is also inconsistent with Objectives 1, 2, 3 and 4 and Controls 1, 2, 3, 4 and 7 of Part 8C.10 Ground Floor Commercial Use of Ku-ring-gai Development Control Plan (Local Centres).

As reasons for refusal no.3, 4 & 5 are related they will be addressed together.

At the first pre-DA meeting the Council's Independent Development Assessment team were presented drawings which proposed a variation to this control and a scheme which was compliant with the 15m setback from the Pacific Highway, in addition to a scheme which proposed a variation to the 15m setback and located the proposed building on the southern boundary with a greater setback to the northern boundary.

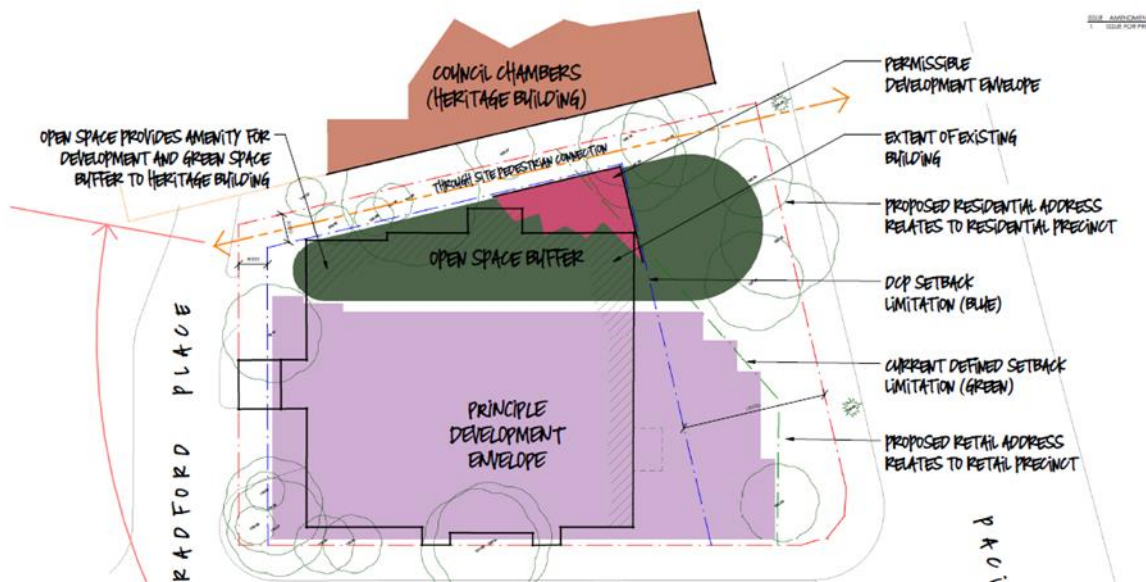


Figure 2 First Pre-DA Scheme Site Analysis

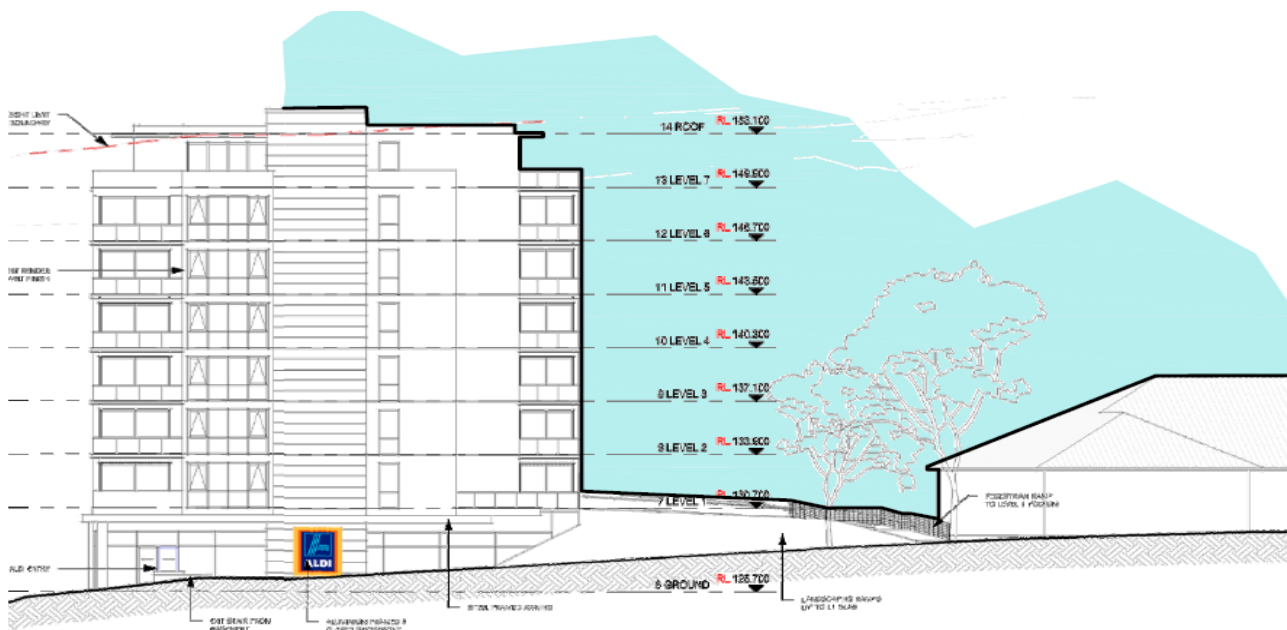


Figure 3 First Pre-DA Scheme – Variance to 15m setback.

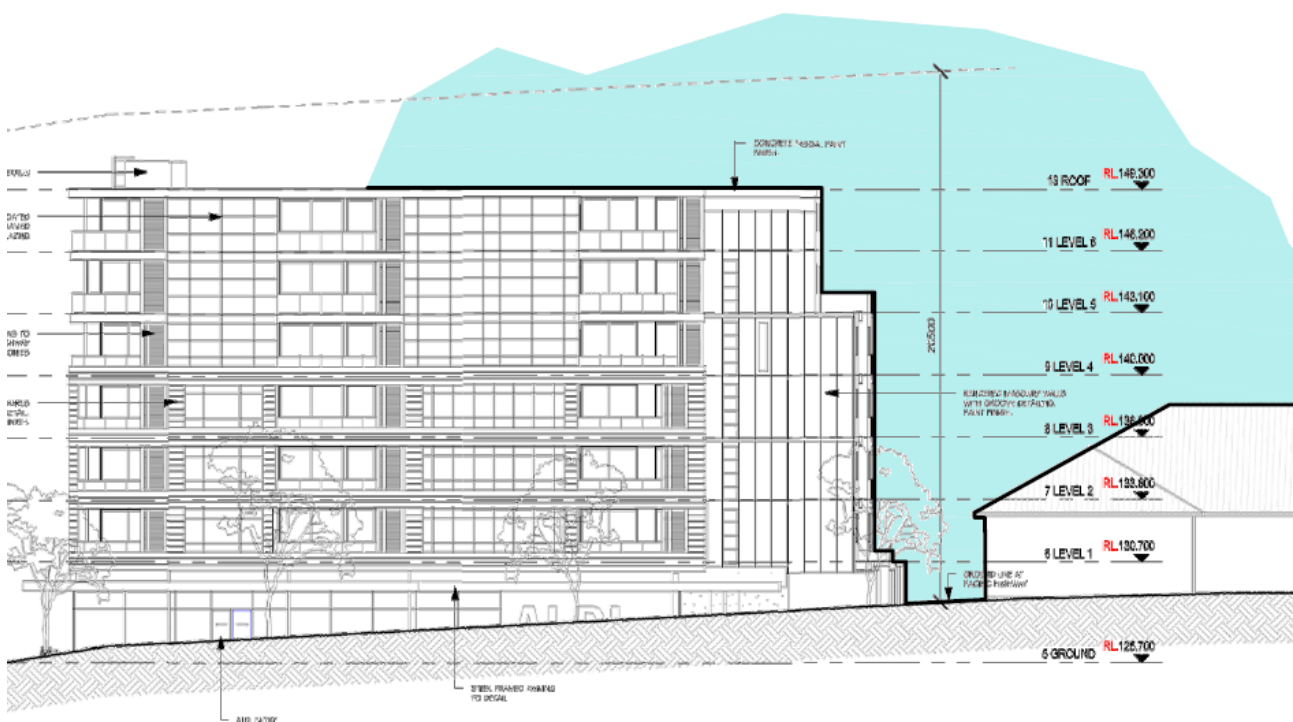


Figure 4 Compliant Scheme – Presented at the First Pre-DA Meeting.

As demonstrated in figure 3 and 4 the difference between the two schemes can be clearly seen. Furthermore, the minutes from this pre-DA meeting 28 June 2017 confirm the direction at the meeting which was;

*"A merit assessment to consider a variation to the 15m setback along the Pacific Highway (KDCP\_LC Urban Precincts) needs to be coordinated with Council's engineering requirements for future road upgrades (should there be any) with landscape for tree retention, and heritage considerations. **However, from an urban design perspective, there appears to be potential for a merit assessment for some relaxation of this setback provided there is a well-resolved public domain interface along the Pacific Highway ground plane and the relationship with the Council Chambers building.**"*

The design therefore was further resolved and subsequently presented at the second pre-DA meeting held on the 13 September 2017 (see figures 3, 4, & 5 below), the following minutes confirm advice received during this meeting;

"Relationship with the Council Chambers building is on the right track with proposed site arrangement so that view corridors can be maintained. (Also see comments on built form.) The elevated residential entry walkway needs further resolution. This may be a good space to accommodate hydrants and other services.



Figure 5 Second Pre-DA Scheme

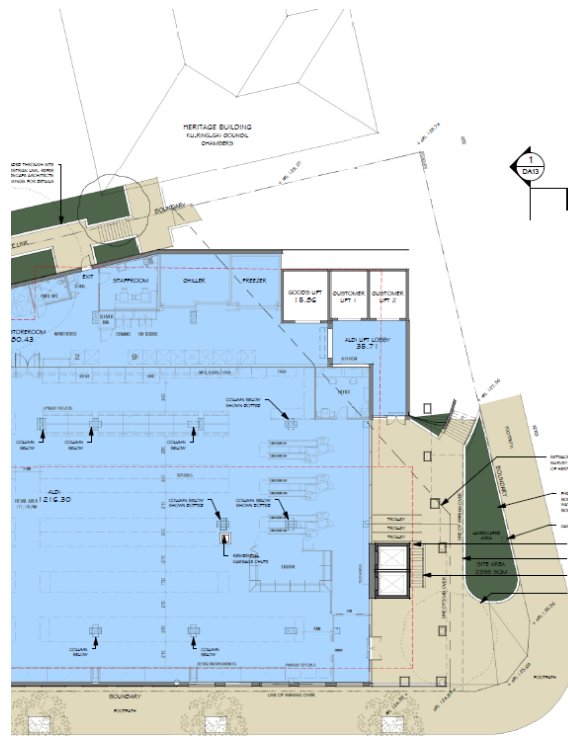


Figure 6 Second Pre-DA Scheme Floor Plan Ground

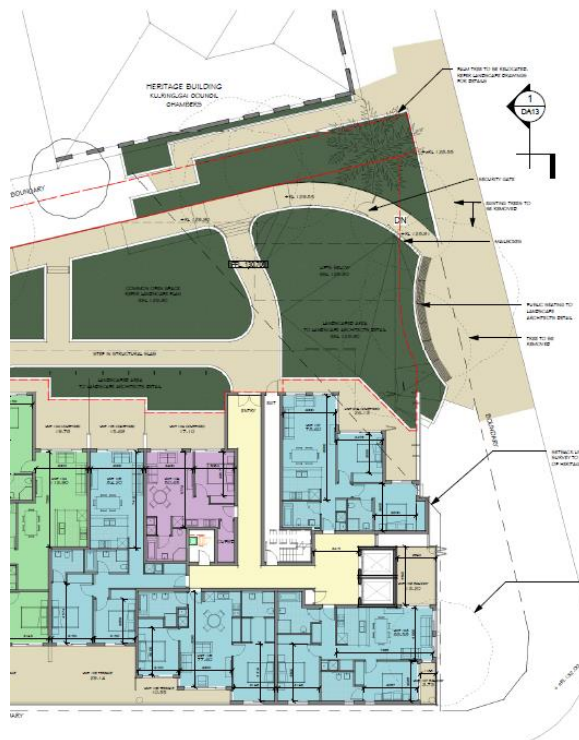


Figure 7 Second Pre-DA Scheme Floor Plan – First Floor



Following the two post lodgement meetings and on-going concerns regarding the levels of the customer lifts and views of the heritage item, additional sections and public domain views were requested to justify the variation. Council's Independent Consultant Planner made the following comment;

*"To maintain a reasonable view of the heritage item which would satisfy the objective of the specific setback control, the front setback of the north-eastern corner of the building should be increased to a minimum of 7m. No elements of the building (eg lifts, services/back of house, etc) shall be forward of this point where the finished level would be above the height of the adjoining footpath".*

Plans were amended accordingly with revised sections, public domain views and surveys and were submitted.

It should be noted that at this same time, the RMS determined it would like the development setback 4m from the eastern boundary for a future Pacific Highway widening.

Due to the concerns raised in the reasons for refusal, the open balustrade safety fencing (which appears opaque from the view to the south east of the site) has been setback behind landscaping. Figure 6 below demonstrates that this simple measure greatly improves the ability of a viewer to the south of the Council Chambers to see the subject building 'in the round'. It would also be worth noting that the proposed plants were directed by Council's landscape to enhance the 'old English' setting.



**Figure 8** Revised photomontage taken from the eastern side of the pedestrian crossing outside the Gordon centre.

Furthermore, the amendments to increase the ground floor level, remove the access ramp and replace with additional landscaping, will further allow the Council Chambers to be viewed in the round and improve its setting, as demonstrated in figure 1.

The amended plan to increase the finished level of the supermarket will address reason for refusal no. 5 and in addition to this it is noted that the assessment officer previously noted that:

*"Dumaresq Street is now appropriately designed in relation to permissibility and activation".*



Therefore the assertion that Dumaresq Street is not unsatisfactory is queried.

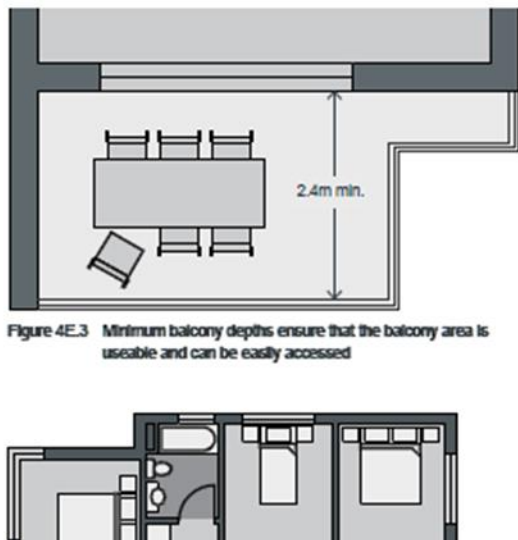
6. *The design provides a poor level of amenity to Apartments 109, 210, 310, 410, 510 and 606 by failing to provide balconies with a minimum depth of 2m as required by Part 4E of the Apartment Design Guide and due to the unacceptable relationship of Apartment 107 with the footpath level and pedestrian access ramp to the supermarket, which would result in unacceptable privacy impacts into Apartment-107 from the public domain.*

Apartments 109, 210, 310, 410, 510 have balconies which are consistent with the ADG (see figure 8 below).

At the meeting on 4 May 2018, the Council's Independent Consultant Planner, raised an objection to the design of the balcony for these units because of the 1.1m width in front of the living room, despite noting the south facing nature of the units meant that the 1.1m depth in this location would provide better daylight access into the unit.

The Applicant's Architect noted ADG allows a minimum balcony depth that can be contributed to the required balcony area is 1m and that the design provided a 2m x 3m *usable* space for outdoor furniture, as noted below. The Consultant Planners view was divergent on this issue, however conceded that the argument could be maintained if the living room had direct access on to the wider section of the balcony.

As a result, the plan was amended to locate the usable space for outdoor furniture in front of the living room, and an oversized balcony was provided.



#### Objective 4E-1

Apartments provide appropriately sized private open space and balconies to enhance residential amenity

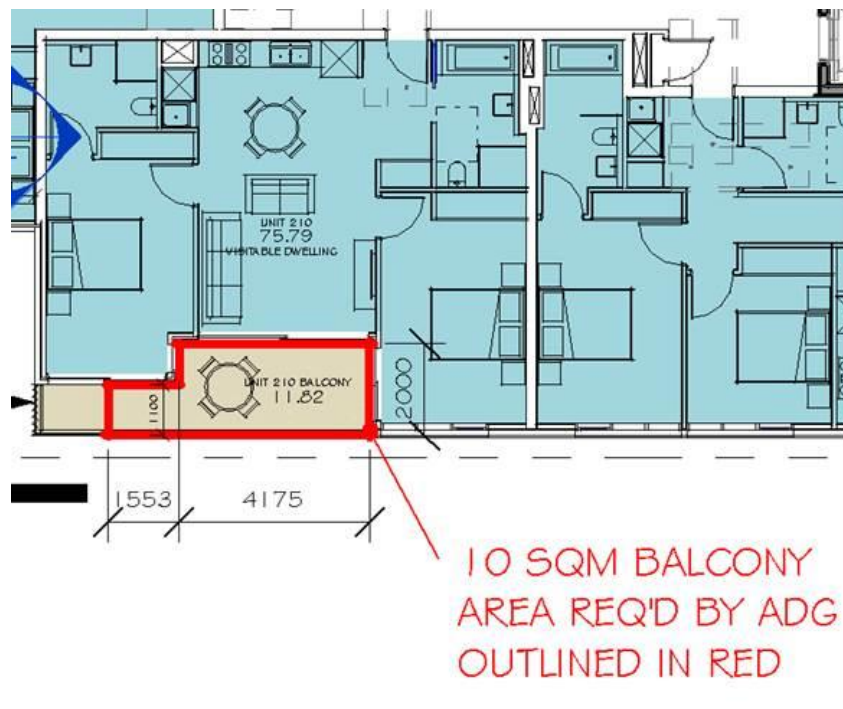
#### Design criteria

1. All apartments are required to have primary balconies as follows:

Dwelling type	Minimum area	Minimum depth
Studio apartments	4m <sup>2</sup>	-
1 bedroom apartments	8m <sup>2</sup>	2m
2 bedroom apartments	10m <sup>2</sup>	2m
3+ bedroom apartments	12m <sup>2</sup>	2.4m

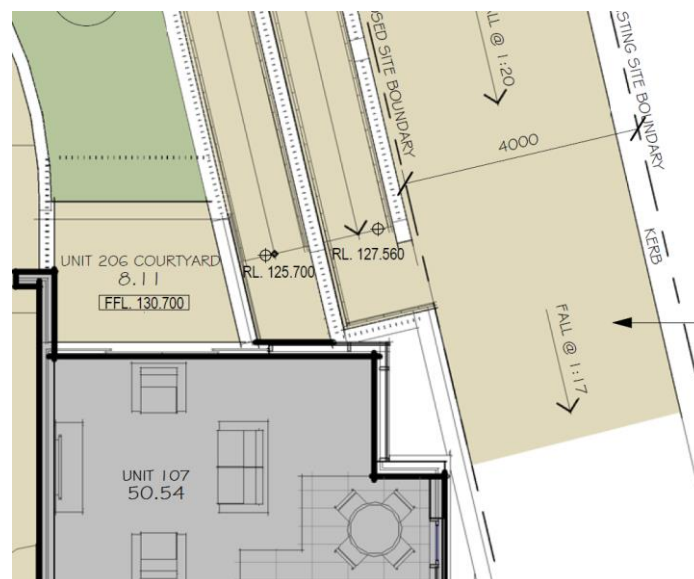
The minimum balcony depth to be counted as contributing to the balcony area is 1m

**Figure 9 Apartment Design Guide – Min. Balcony Area & Dimensions**



**Figure 10 Proposed Floor plans & balconies to Apartments 109, 210, 310, 410, 510**

With regards to the relationship between the access ramp & Unit 107, a closer analysis of the plans DA310 illustrates that there is a minimum vertical separation between the top of the ramp & Unit 107 of 3.140m. At the bottom of the ramp this vertical separation increases to 5m, therefore resulting in no privacy issue at this area. This issue would be resolved with the amendment allowing the removal of the access ramp and additional landscaping.



**Figure 11 Proposed Floor Plan & Courtyard to Unit 107**

7. *The design provides an unacceptable landscaped setting for the development and for the adjoining heritage item. The RLs provided with the application will result in inadequate soil depth on parts of the northern podium to allow adequate landscaping. The main wall along the eastern side of the podium facing the Pacific Highway will be 2 to 3 metres higher than the footpath, with 1.2 metres high fencing above the retaining wall. The accessible pedestrian ramp to the supermarket forward and the wall will result in a hard, unrelieved edge to the eastern side of the podium area facing the Pacific Highway and an inappropriate landscaped forecourt setting for the building and the heritage item.*

The Applicant's Landscape Architect worked closely with the Architects and Councils Landscape Officer to create a suitable and respectful interface to the adjacent Council heritage building.

This has been achieved by:

- Working with Councils officers in meetings on site to select the most appropriate location for the relocation of the Canary Island Palm in the North Eastern corner of the property
- Council has made detailed species-specific suggestions of plant material and location of planting which the consultant has incorporated into the design submitted
- The landscape proposition provides a variety of soil depth conditions across the site including deep soil zones, planters on slab of depth up to 900mm, planter on slab soil depth 400-500mm & soil depth of 200mm. Planters are designed as large volumes of soil and not small boxes of soil which is typical in most podium situations. Large volumes of soil are acknowledged as best practice for long term performance of plant material.

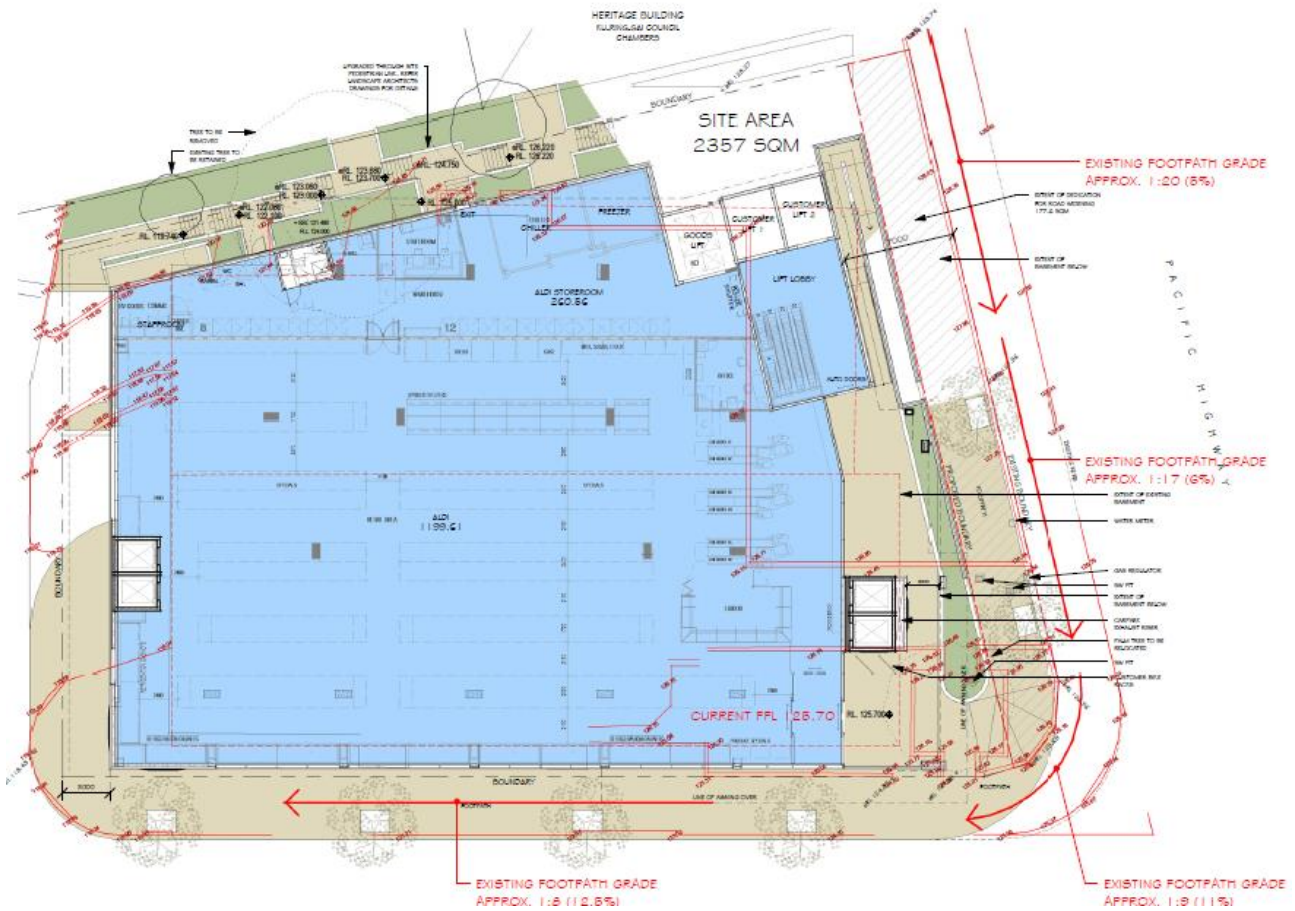
A revised soil depth plan LA-06 (SOIL DEPTH DIAGRAM) dated 05.09.2018 and a revised LA-02 LANDSCAPE PLAN dated 05.09.2018 has been attached. These plans are coordinated with the latest Architectural slab levels and subsequent potential depths of available soil.

8. *The proposed design of the access ramp to the supermarket is unacceptable, significantly increasing the distance required to be travelled by pedestrians (with trolley, prams or mobility issues) from the intersection of Pacific Highway and Dumaresq Street. The resolution of the pedestrian access at the intersection of Pacific Highway and Dumaresq Street is unclear and would function poorly due to the inadequate front setback in combination with the cross fall of the slope of the site at the south-east corner of the site. The proposal fails when assessed against Controls 2 and 5 of Part 22.1 Equitable Access of Ku-ring-gai Development Control Plan (Local Centres).*

At our second meeting 1 June 2018 post DA lodgement Council's Independent Consultant Planner Kerry Gordon requested that the Applicant look at the provision of accessible paths of travel through the Gordon Town Centre to the site and in particular the access into the supermarket from these paths of travel. (Note an access report prepared by Assistive Technology Australia was submitted in support of the application).

The corner of the Pacific Highway and Dumaresq St falls at 1:10 and the section of the Pacific Highway footpath between the corner of Dumaresq St, the Park Ave crossing falls at 1:17 (as shown on DA310). Therefore, technically the gradient of the existing footpath cannot provide an accessible path of travel into the site from the south.

Anyone with additional access requirements who is able to make the transition across the top of Dumaresq Street from the Gordon Centre and up the kerb ramp and around the corner of Dumaresq Street and the Pacific Highway (which is falling at approx. 1:10) would be able to negotiate the transition into the store at this point as they have already negotiated the kerb ramp and Dumaresq Street corner.



**Figure 12** Ground Floor Plan with Access Grades for Paths of Travel

Although the crossfall prevents an accessible path of travel here, there is sufficient space (10m between the new boundary and the front door of the supermarket) to make this transition without steps and at a shallower grade than the existing footpath. Therefore if someone is able to negotiate this crossing, they could negotiate the store entry and would not need to continue up the Pacific Highway footpath at 1:17 in order to come back down a ramp at 1:14.

Furthermore, there should be no one with a trolley crossing the boundary as draft without prejudice condition 89 states:

**89. *Trolley management policy***

*Prior to the issue of an Occupation Certificate, a trolley management (POM) policy shall be prepared and approved by Council's Manager Regulation and Compliance requiring the implementation of either a coin operated trolley return system or a wheel-locking operated system.*

*The POM shall include:*

- *the location and design principles for trolley storage bays.*
- *a trolley containment system that encourages the confinement of trolleys to the retailer's premises.*

*The access ramp provided is intended to provide an accessible path of travel for people with mobility issues from Council chambers & the Park Avenue crossing (which are currently accessible) into the site.*

Therefore, while compromised noting the existing grades of paths of travel and the cross falls of the existing footpaths, the proposed access ramp was a balanced option.

However as outlined above and demonstrated in figure 1, an amended plan increasing the finished floor level for the ground floor to RL126.3 has been put forward. This allows the removal of the proposed ramp as the amended floor plan provides a similar path of travel to the existing office block.

The space previously occupied by the proposed ramp will become a landscape area, some of which will be deep soil planting. This also allows for increased space around the transplanted Canary Island Palm and increasing the landscape setback to the heritage listed Council Chambers.

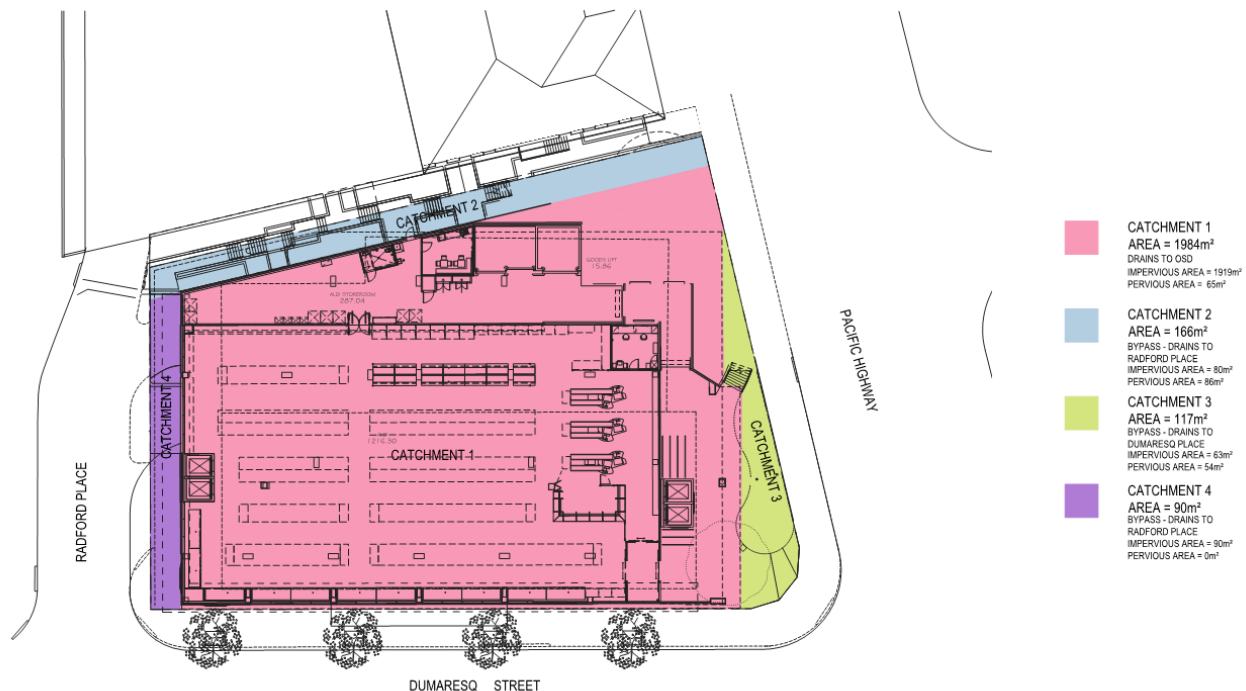
9. *The concept stormwater plan is not acceptable, due to the stormwater from the public pedestrian pathway bypassing the OSD system.*

This reason for refusal was previously discussed with Council's Development Engineer, and his support was given to the Applicants engineer.

The existing Ku-ring-gai Council building, and a portion of the Ku-ring-gai Council pathway within the neighbouring Ku-Ring-gai Council site boundary, will overflow in an uncontrolled manner into the subject site. Connection of a stormwater system within the footpath/through link to the site OSD system would introduce external catchment runoff into the OSD system and is not in accordance with Ku-ring-gai Local Centres DCP requirements and standard OSD design practice.

Notwithstanding the above, we have modified the site catchment calculations and OSD Permissible Site Discharge (PSD) flow to account for the pedestrian footpath/through link. A Catchment Plan, Civil Drawing C5.01, has been prepared to demonstrate OSD and Bypass Catchments (see Figure 12 below).





**Figure 13 OSD Catchment Plan**

It is proposed that surface drainage structures within the pedestrian footpath/through link will collect stormwater runoff from paved and landscaped areas. The through link stormwater system will then discharge to a kerb outlet within Radford Place. The approximate 5% AEP discharge for this through link will be 17 litres per second, which is below the maximum 25 litres per second allowable under Ku-ring-gai Local Centres DCP requirements. The proposed stormwater system for the through link is documented on Civil Drawing C2.01.

The accompanying OSD Calculation Sheet on Civil Drawing C1.06, has been updated to include all bypass areas, as shown on the above Catchment Plan. We note that the ratio of Bypass Impervious Area to Total Impervious Area is 0.11, which is less than 0.25 as required by Ku-ring-gai Local Centres DCP. The orifice diameter to the OSD tank has been modified to the new PSD rate.

In this regard, we consider the site bypass areas and OSD design to comply with Ku-ring-gai Local Centres DCP requirements, therefore the above reason for refusal is able to be satisfied, with an amended orifice diameter to the proposed OSD tank.

Updated plans and documents from ACOR have been attached to this submission. Refer to attachments from ACOR.

10. *There are inconsistencies between the architectural and landscape plans and the BASIX Certificate.*

It is noted that the BASIX certificate mentions grass with regards to proposed landscaping. BASIX calculates grass as the 'worse-case scenario' with regards to water use and therefore maximising the required BASIX commitments with regards to landscaping. This is considered 'best practice' by our consultant as it assumes the worst-case scenario, however this could be otherwise rectified through conditions of consent.



11. *The submitted construction traffic management plan (CTMP) is inadequate and unacceptable, failing to provide information and diagrams to show truck turning path diagrams demonstrating how construction vehicles for all stages of development will turn into and out of the site and how the operation of surrounding and adjoining site will be maintained during all construction phases of the development.*

The submitted CTMP can be updated to reflect to demonstrate that construction vehicles are able to enter and exit safely and with minimal environmental impact during the construction phase. It is further noted that the CTMP will be required to be approved by the Local Traffic Committee.

## **Conclusion**

We believe that the additional information provided to the Sydney North addresses the issues raised by Council in the reasons for refusal and adequately addresses all concerns raised to date.

If you wish to discuss this matter further, please do not hesitate to contact me directly on 0403 754 736 or [Claire.Muir@rpsgroup.com.au](mailto:Claire.Muir@rpsgroup.com.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'C. Muir'.

**RPS**

Claire Muir

Principal Planner