

Minutes  
Lane Cove Local Planning Panel Meeting  
5 July 2022



Lane Cove Council

**Lane Cove Local Planning Panel 5 July 2022  
MINUTES**

**PRESENT:** Ms Louise Byrne, Chairperson, Mr Eugene Sarich, Planning Expert, Mr Robert Montgomery, Planning Expert, Ms Maria Linders, Community Representative

**ALSO PRESENT:** Mr Mark Brisby, Executive Manager, Environmental Services, Mr Rajiv Shankar, Manager, Development Assessment, Mr Chris Shortt, Senior Town Planner, Mr Greg Samardzic, Senior Town Planner, Ms Angela Panich, Panel Secretary

**DECLARATIONS OF INTEREST:** Nil

**WEBCASTING OF COUNCIL MEETING**

The Chairperson advised those present that the Meeting was being webcast.

**LANE COVE LOCAL PLANNING PANEL REPORTS**

**30 LANDERS ROAD, LANE COVE NORTH**

**DETERMINATION**

That pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act, 1979, The Lane Cove Local Planning Panel at its meeting 5 July 2022, exercising the functions of Council as the consent authority, refuse the subject Development Application D148/2015 to 24/2022 to increase children places from 56 to 88 (increase of 32 spaces) of an existing childcare centre operation for the following reasons:

**Lane Cove Local Environmental Plan 2009 Aims and Zone Objectives**

1. The proposal does not meet the aims and R4 High Density Residential zoning objectives of Lane Cove Local Environmental Plan 2009.

Particulars

- (a) The proposed development as amended would not meet the 1.2(2)(b) of the aims of Lane Cove Local Environmental Plan 2009 which requires the following:

*‘to preserve and, where appropriate, improve the existing character, amenity and environmental quality of the land to which this Plan applies in accordance with the indicated expectations of the community.’*

- (b) The proposed development as amended would not meet the following zone objective:

*“To ensure that the existing amenity of residences in the neighbourhood is respected.”*

The proposed increase in children placement by 32 represents as an over development of the site. The existing child care centre has a child placement of 56 and currently provide adequate parking on-site. The increase in the capacity of children for the centre would involve adverse traffic issues on the site and in the immediate locality due to deficient parking provided on site. The subject application is an ad hoc response to fully utilise the indoor and outdoor play areas that are currently available. Approval of the proposed development is not supported having

regard to the amenity and safety of children attending the centre and due to the nature of the proposed modification proposed.

### **Car Parking and Traffic**

2. The proposal fails to provide sufficient on site car parking and is inappropriate to accommodate the proposed increase in children.

#### **Particulars**

- (a) The proposal requires a total of 26 parking spaces for 88 children and 16 staff in accordance with Part R of LCDCP 2010 – Table 1.
- (b) The proposal provides for 19 basement parking spaces. Insufficient parking has been provided on-site to accommodate 88 children and 16 staff for the childcare centre in accordance with Part R of LCDCP 2010.
- (c) The proposed development as amended would not meet Clause 2.1 Parking general of Part R of LCDCP objectives are:
  1. *Ensure that reasonable parking needs are met.*
  2. *Ensure that developments do not impose excessive demand for on-street parking on surrounding streets.*
  3. *Ensure that car parking spaces are convenient and accessible do that they are utilised for their intended purpose.*
  4. *Provide a lower level of car parking in areas with good access to public transport and services.*
- (d) The justifications for the parking shortfall of 7 spaces relates to the reasons stated in the submitted traffic report. The proposed justifications to the variation found within the traffic report is not supported and refusal is recommended.

### **Residential Amenity**

3. The proposal would not maintain and protect the current residential amenity of adjoining and surrounding residential properties.

#### **Particulars**

- (a) The proposed development would not meet Principle 1 - Context, Principle 2 – Built Form, Principle 6 – Amenity and Principle 7 – Safety Part 2 design quality principles of the Child Care Planning Guidelines.
- (b) The proposed development would not meet the following Part 3 Matters of Consideration objectives of the Child Care Planning Guidelines as follows:
  - 3.1 *Site selection and location*
    - *To ensure that appropriate zone considerations are assessed when selecting a site.*
    - *To ensure that the site selected for a proposed child care facility is suitable for the use.*
  - 3.2 *Local Character, streetscape and the public domain interface*
    - *To ensure that the child care facility is compatible with the local character and surrounding streetscape.*

*3.5 Visual and acoustic privacy*

- *To minimise the impact of child care facilities on the acoustic privacy of neighbouring residential developments.*

*3.8 Traffic, parking and pedestrian circulation*

- *To provide parking that satisfies the needs of users and demand generated by the centre.*
- *To provide vehicle access from the street in a safe environment that does not disrupt traffic-flows.*
- *To provide a safe and connected environment for pedestrians both on and around the site.*

- (c) It is not considered that the proposed development satisfy context, built form, amenity and safety design quality principle considerations. The centre is located within a predominant residential area. A child care centre at 56 children at the subject site is more compatible with the context of its surrounding locality. However, the proposed intensification of the existing centre is not considered to be appropriate having regard to non-compliances with car parking.
- (d) The subject application is an ad hoc response to increase children placement for the existing centre which would result in significant adverse impacts onto adjoining residences due to the location of the outdoor play areas provided within the front and side setback areas including above ground creating potential land use conflicts. The proposal is deficient in providing sufficient car parking spaces on site which presents amenity concerns due to the conflicts with the child care use and neighbours. The shortfall in car parking present potential safety concerns as pedestrian and adjoining neighbour's access can also be obtained easily due to the shared access arrangement within the public lane.
- (e) The proposed increase in children numbers would be an over-intensification of use and would not satisfy the above considerations or objectives.
- (f) The proposed development would not meet with Clauses I.4(b), (c) & (d), I.7(g) and I.10(b) of Part I of LCDCP as follows:

*Clause I.4*

*b) The design and layout of the child care centres must respond to the character of the existing neighbourhood and streetscape.*

*c) In low density residential areas, child care centres are encouraged to be single storey in height for reasons of safety and access. In the case of 2 storey buildings, the second storey should only be used for the purposes of storage and staff facilities.*

*d) All child care centres are preferred to be located at ground floor level where achievable and in areas where the opportunity for natural landscaping comprising deep planting is possible (i.e., not located entirely over a basement area).*

*Clause I.7*

*g) Fences should be designed to minimise noise transmission (on busy roads), improve privacy and must not dominate the streetscape. Materials and finishes for fences may be used that complement the surrounding streetscape.*

*Clause I.10*

*b) The development application should demonstrate that privacy and noise minimisation for neighbouring properties have been considered in designing*

*the centre.*

- (g) The proposed development would not meet with Clauses 1.4 & 1.10 and 1.6 objectives of Part I of LCDCP as follows:

*Clause 1.4*

- 1. To ensure child care centres are compatible with the scale of existing buildings in the vicinity.*
- 2. To ensure that the appearance of the development is of a high visual quality and enhances and compliments the streetscape of the area.*

*Clause 1.10*

- 1. To provide visual and acoustic privacy for children, staff and nearby residents.*

*Clause 1.6*

- 2. To ensure that sites containing child care centres are appropriate for that purpose and provide a functional and pleasant environment for their users.*
- 3. To ensure that sites containing child care centres are compatible with the environment in which they are situated, particularly in terms of visual character, landscaping etc.*
- 4. To ensure that potential adverse impacts from child care centres on surrounding residential areas, such as those created by noise, traffic generation and on-street parking, are minimised.*

- (h) The subject building and site are not suitable to accommodate such a large increase in children numbers. The subject site is located in a high density residential area however adjoins a low density residential area and any further intensification of use is not supported in this instance. The centre is located on three levels and any further increase in children numbers are not supported. Based on a merit assessment of the subject application, it is considered that a 56 place child care centre would be more of an appropriate scale compared to a 88 place facility.
- (i) The proposed development is not supported as approval of the subject application would exacerbate the current traffic and acoustics impacts onto the immediate locality.

**Intensification of Use**

4. The proposal would involve a significant intensification of the existing use adversely impacting on adjoining and surrounding residential allotments.

**Particulars:**

- (a) Pursuant to Section 4.15(b) of the *Environmental Planning and Assessment Act 1979*, the proposed development would contain adverse traffic, parking and acoustic impacts onto the immediate locality due to its increased amount of increased people and vehicles accessing the premises and its close proximity to adjoining and surrounding residential allotments.
- (b) The likely impacts of the proposal would not remain unchanged from the current operation due to the substantial increase in the amount of activities that would be conducted on the subject site which in turn would increase adverse impacts onto the surrounding residential properties.

**Site Suitability**

5. The site is not suitable for the proposed intensified development.

Particulars:

- (a) Pursuant to Section 4.15(c) of the *Environmental Planning and Assessment Act 1979*, the site is not considered suitable for the proposed intensified development with the increased child placements in its current form, having regard to the above matters.
- (b) The suitability of the site would not remain unchanged from the current operation where insufficient car parking on site has been provided to accommodate the proposed large increase in children numbers. The proposed increase in children placement represents as an overdevelopment of the site. The increase in the capacity of children for the centre by 32 placements would involve adverse traffic issues on the site and in the immediate locality due to the deficient parking provided on site.
- (c) The nature of the proposal is an ad hoc response to utilise the indoor and outdoor areas available at the existing facility without proper regard to any other relevant considerations or impacts resulting from the increased capacity of children.
- (d) The proposed acoustic fence in the front courtyard would split the front ground level outdoor play area and would render part of it potentially unusable.

**Public Interest**

6. Approval of the proposal would be contrary to the public interest.

Particulars:

- (a) Pursuant to Section 4.15(1)(d) and (e) of the *Environmental Planning and Assessment Act 1979*, the subject application should not be approved having regard to concerns raised in the submissions received by Council and the above matters.
- (b) The proposal would be contrary to the public interest as it would provide for further adverse impacts onto surrounding properties. The requirement to provide 26 on-site parking spaces is supported to ensure the proposal adequately provides for on-site parking for staff and customers in accordance with the DCP. Approval of the proposed development is not considered to have proper regard to the amenity and safety of children attending the centre due to the proposed intensification of use on the subject site.

**Panel Reasons**

The Panel concurs with the officer's assessment and recommendation.

The decision of the Panel was unanimous.

**6 MARY STREET LONGUEVILLE**

**DETERMINATION**

That the Lane Cove Local Planning Panel at its meeting of 5 July 2022, exercising the functions of the Council as the Consent Authority pursuant to Clause 4.16 of the Environmental Planning & Assessment Act 1979 approve a variation to the height prescribed by Clause 4.3 of the Lane Cove Local Environmental Plan 2009, as it is satisfied that the applicant's request has adequately addressed the matters required to be demonstrated by Clause 4.6 of that Plan, and the proposed development would be in the public interest as it is consistent with the objectives of that particular standard and the objectives for development within the zone.

That pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act, 1979 the Lane Cove Local Planning Panel at its meeting of 5 July 2022, exercising the functions of Council as the consent authority, grant consent to Development Application DA122/21 for alterations and additions to a dwelling house , subject to attached draft conditions.

You are advised that the abovementioned development application has been approved by Council subject to the following conditions:

1. (20) That the development be strictly in accordance with:

<b>Drawing</b>	<b>Prepared by:</b>	<b>Dated:</b>
DA 1.02 Proposed Site plan Rev D	Design Studio Group	30/03/22
DA 2.01 Proposed Garage floor plan Rev D	Design Studio Group	30/03/22
DA 2.02 Proposed Garage Rev D	Design Studio Group	30/03/22
DA 2.03 Proposed Level 2 floor plan Rev D	Design Studio Group	30/03/22
DA 2.04 Rev D	Design Studio Group	30/03/22
DA 2.05 Proposed Level 1 floor plan Rev D	Design Studio Group	30/03/22
DA 2.06 Proposed Level 3 floor plan Rev D	Design Studio Group	30/03/22
DA 2.07 Proposed Roof plan Rev D	Design Studio Group	30/03/22
DA 3.01 Proposed Mary St & East elevation Rev D	Design Studio Group	30/03/22
DA 3.03 Proposed South elevation - J Rev D	Design Studio Group	30/03/22
DA 3.04	Design Studio Group	30/03/22

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Proposed South elevation - K Rev D		
DA 3.06 Proposed West elevation Rev D	Design Studio Group	30/03/22
DA 3.09 Proposed North elevation - N Rev D	Design Studio Group	30/03/22
DA 3.10 Proposed North elevation - P Rev D	Design Studio Group	30/03/22
DA 4.01 Proposed Section AA Rev D	Design Studio Group	30/03/22
DA 4.03 Proposed Section BB - X Rev D	Design Studio Group	30/03/22
DA 4.04 Proposed Section BB Y Rev D	Design Studio Group	30/03/22
DA-10 (A1) Rev B Landscape Masterplan	Landart	16/03/22

except as amended by the following conditions.

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

2. **The following changes are to be shown on amended architectural plans for approval by the Principle Certifying Authority (PCA) prior to the issue of an amended construction certificate.**
- (i) **The proposed demolition of the existing walkway and construction of new walkway at the Mary Street frontage is not approved and is to be deleted from the plans. No works are permitted in the Council owned land within the front setback.**
  - (ii) **The proposed front fence is to be reduced to a maximum height of 1.2m above existing ground level.**
  - (iii) **Windows L1. W04, L2. WO2 and the two upper level windows on the southern elevation plan are required to be amended to 'high sill' windows with a minimum sill height of 1.5m above finished floor level (FFL).**

**Reason:** Design changes required for safety and amenity.

3. **The roof above the garage/carport and the roof adjacent to the upper level master bedroom are prohibited from being used as trafficable terraces. No balustrades are permitted to be erected on either of these roofs. The proposed green roof landscaping above the garage/carport is not supported and is to be deleted from the plan.**

A fixed glass barrier to a minimum height of 1.2m above finished floor level (FFL) is



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to be erected in front of and to the full width of the glass sliding doors, to prevent access from the level 3 master bedroom to the adjoining level 2 roof.

The roof of the carport and the level 2 roof are to be treated to prevent adverse visual impacts to the neighbouring properties with a loose pebbled layer finish in an earthy tone such as Nepean River pebble.

**Reason:** Privacy and amenity.

- 3A. A temporary construction fence is to be erected between the boundaries of the subject site and the neighbouring properties throughout the demolition and construction periods. The construction of a permanent boundary fence between the subject site and 4 Mary Street, is a private matter between landowners in accordance with the Dividing Fences Act.

**Reason:** For safety and security.

- 3B. A 1.5m high fence/screen is required to be erected along the eastern perimeter of the landscaped area adjacent to the pool and retaining wall. The fence/screen is recommended as a measure to prevent views from the 'outdoor contemplation area' to 4 Mary Street, in the event that the proposed landscaping does not provide adequate privacy.

**Reason: Privacy and amenity.**

4. (1) The submission of a Construction Certificate and its issue by Council or Principal Certifier PRIOR TO CONSTRUCTION WORK commencing.

**Reason:** Ensures the detailed construction plans and specifications comply with the requirements of the Building Code of Australia (BCA) and any relevant Australian Standard.

5. (2) All building works are required to be carried out in accordance with the provisions of the Building Code of Australia.

**Reason:** Statutory requirement.

6. (11) The approved plans must be submitted to Sydney Water online approval portal "Sydney Water Tap In", please refer to web site [www.sydneywater.com.au](http://www.sydneywater.com.au). This is to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. An approval receipt with conditions shall be issued by Sydney Water (if determined to be satisfactory) and is to be submitted to the accredited certifier prior to the issue of a Construction Certificate.

**Reason:** Statutory requirement.

7. (12) Approval is subject to the condition that the builder or person who does the residential building work complies with the applicable requirements of Part 6 of the Home Building Act 1989 whereby a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy Council or the Principal Certifier (PC) that they have complied with the applicable requirements of Part 6. **Council as the PC will not release the Construction Certificate until evidence of Home Owners Warranty Insurance or an owner builder permit is submitted.** THE ABOVE CONDITION

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DOES NOT APPLY TO COMMERCIAL/INDUSTRIAL CONSTRUCTION, OWNER BUILDER WORKS LESS THAN \$5000 OR CONSTRUCTION WORKS LESS THAN \$20,000.

**Reason:** Statutory requirement.

8. (17) An Occupation Certificate being obtained from the Principal Certifier before the occupation of the building.

**Reason:** To ensure all works have been completed in accordance with the development consent conditions, approved plans and the Building Code of Australia.

9. (35) All demolition, building construction work, including earthworks, deliveries of building materials to and from the site to be restricted to the following hours:-

Monday to Friday (inclusive)	7.00am to 5.30pm
Saturday	7.00am to 4.00pm
No work to be carried out on Sundays or any public holidays.	

A Notice/Sign showing permitted working hours and types of work permitted during those hours, including the applicant's phone number, project manager or site foreman, shall be displayed at the front of the site.

**Reason:** To ensure reasonable amenity is maintained to the neighbouring properties.

10. (36) Stockpiles of topsoil, sand, aggregate, spoil or other material capable of being moved by water to be stored clear of any drainage line, easement, battleaxe driveway; natural watercourse, footpath, kerb or roadside.

**Reason:** To protect the environment and public amenity.

11. (37) The development shall be conducted in such a manner so as not to interfere with the amenity of the neighbourhood in respect of noise, vibration, smell, dust, waste water, waste products or otherwise.

**Reason:** To protect the environment and public amenity.

12. (48) Depositing or storage of builder's materials on the footpath, battleaxe driveway or roadways within the Municipality without first obtaining approval of Council is PROHIBITED.

Separate approval must be obtained from Council's Works and Urban Services Department PRIOR TO THE PLACEMENT of any building waste container ("Skip") in a public place.

**Reason:** To protect the environment and public amenity.

13. (49) Prior to the commencement of any construction work associated with the development, the Applicant shall erect a sign(s) at the construction site and in a prominent position at the site boundary where the sign can be viewed from the nearest public place. The sign(s) shall indicate:

- a) the name, address and telephone number of the Principal Certifier;
- b) the name of the person in charge of the construction site and telephone

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- number at which that person may be contacted outside working hours; and  
c) a statement that unauthorised entry to the construction site is prohibited.

The signs shall be maintained for the duration of construction works.

**Reason:** To ensure public safety and public information.

14. (50) The cleaning out of ready-mix concrete trucks, wheelbarrows and the like into Council's gutter is PROHIBITED.

**Reason:** To protect the environment.

15. (52) The swimming pool being surrounded by a fence:-

a) That forms a barrier between the swimming pool; and

- i) any residential building or movable dwelling situated on the premises; and
- ii) any place (whether public or private) adjacent to or adjoining the premises;  
and

b) That is designed, constructed and installed in accordance with the standards as prescribed by the Regulations under the Swimming Pool Act, 1992, and the Australian Standard AS1926 – 2012, "Swimming Pool Safety".

SUCH FENCE IS TO BE COMPLETED BEFORE THE FILLING OF THE SWIMMING POOL.

ADVICE: In accordance with the Swimming Pools Amendment Act 2012, the swimming pool **or spa** is required to be registered on the NSW Government State wide Swimming Pool Register when completed.

The register can be found at [www.swimmingpoolregister.nsw.gov.au](http://www.swimmingpoolregister.nsw.gov.au).

**Reason:** Statutory requirement.

16. (53) The filter and pump being located in a position where it will create no noise nuisance at any time or, alternatively, being enclosed in an approved soundproof enclosure. The pool filter and pump is to be stored outside the tree protection zone of adjoining trees. If noise generated as a result of the development results in an offensive noise Council, may prohibit the use of the unit, under the provisions of the Protection of the Environment Operations Act 1997.

**Reason:** Statutory requirement.

17. (54) In accordance with the requirements of the Swimming Pools Act 1992 and Regulations thereunder a warning notice is to be displayed in a prominent position in the immediate vicinity of the swimming pool at all times.

The notice must be in accordance with the standards of the Australian Resuscitation Council for instructional posters and resuscitation techniques and must contain a warning "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL".

**Reason:** Statutory requirement.

18. (55) Fibrecrete Swimming Pool Shell being constructed in accordance with AS.2783-1985 "Concrete Swimming Pool Code, AS 3600-1988 - "Concrete

Structure" and "AW1 Fibresteel Technical Manual, November 1981".

**Reason:** To ensure compliance with the Australian Standards.

19. Standard Condition (56) Where Lane Cove Council is appointed as the Principal Certifier, it will be necessary to book an inspection for each of the following stages during the construction process. Forty eight (48) hours' notice must be given prior to the inspection being required:-

- a) The pier holes/pads before filling with concrete.
- b) All reinforcement prior to filling with concrete.
- c) The dampcourse level, ant capping, anchorage and floor framing before the floor material is laid.
- d) Framework including roof and floor members when completed and prior to covering.
- e) Installation of steel beams and columns prior to covering.
- f) Waterproofing of wet areas.
- g) Pool reinforcement prior to placement of concrete.
- h) The swimming pool safety fence and the provision of the resuscitation poster prior to filling of the pool with water.
- i) Stormwater drainage lines prior to backfilling.
- k) Completion.

**Reason:** Statutory requirement.

20. Standard Condition (57) Structural Engineer's details being submitted PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE for the following:-

- a) underpinning;
- b) retaining walls;
- c) footings;
- d) reinforced concrete work;
- e) structural steelwork;
- f) upper level floor framing;

**Reason:** Statutory requirement.

21. (58) Structural Engineer's Certificate being submitted certifying that existing building is capable of carrying the additional loads. Such Certificate being submitted PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE.

**Reason:** To ensure structural adequacy.

22. (63) All metal deck roofs being of a ribbed metal profile, in a mid-colour range with an anti-glare finish. The intent of the condition is to reduce sun reflection and glare to protect the amenity of the surrounding residents.

**Reason:** To protect residential amenity.

23. Standard Condition (64) A check survey certificate is to be submitted at the completion of:-

- a) Dampcourse level;
- b) The establishment of the first-floor level;
- c) The roof framing; and
- d) The completion of works.

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Note: All levels are to relate to the reduced levels as noted on the approved architectural plans and should be cross-referenced to Australian Height Datum.

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

24. (66) The removal, handling and disposal of asbestos from building sites being carried out in accordance with the requirements of the Occupational Health and Safety Act and the Regulations. Details of the method of removal to be submitted PRIOR TO COMMENCING ANY DEMOLITION WORKS.

**Reason:** To ensure public safety.

25. (72) The demolition works being confined within the boundaries of the site.

**Reason:** To ensure compliance with the determination and public safety.

26. (77) All spillage deposited on the footpaths or roadways to be removed at the completion of each day's work.

**Reason:** To ensure public safety.

27. (78) The site being properly fenced to prevent access of unauthorised persons outside of working hours.

**Reason:** To comply with Work Health and Safety Regulations and ensure public safety.

28. (79) Compliance with Australian Standard 2601 - The Demolition of Structures.

**Reason:** To ensure compliance with the Australian Standards.

29. (130) Compliance with the Waste Management Plan submitted along with the application.

**Reason:** To protect the surrounding environment.

30. (132) It should be understood that this consent in no way relieves the owners or applicant from any obligation to obtain any other approval which may be required under any covenant affecting the land or otherwise nor relieve a person from the legal civil consequences of not complying with any such covenant.

**Reason:** To ensure all works are carried out lawfully.

31. (141) **Long Service Levy** Compliance with Section 6.8 of the *Environmental Planning and Assessment Act 1979*; payment of the Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 (or, where such a levy is payable by instalments, the first instalment of the levy) – All building works in excess of \$25,000 are subject to the payment of a Long Service Levy at the rate of 0.35%.

**COMPLIANCE WITH THE REQUIREMENTS OF THIS CONDITION MUST BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE.**

**Reason:** To ensure the levy is paid.

32. (142) **BASIX** - Compliance with all the conditions of the BASIX Certificate lodged with Council as part of this application.

**Reason:** Statutory requirement.

**ENGINEERING CONDITIONS:**

33. **(A1) Design and Construction Standards:** All engineering plans and work shall be carried out in accordance with Council's standards and relevant development control plans except as amended by other conditions.

**Reason:** To ensure all works are in accordance with Council's requirements

34. **(A2) Materials on Roads and Footpaths:** Where the applicant requires the use of Council land for placement of building waste, skips or storing materials a "*Building waste containers or materials in a public place*" application form is to be lodged. Council land is not to be occupied or used for storage until such application is approved.

**Reason:** To ensure public safety and amenity

35. **(A3) Works on Council Property:** Separate application shall be made to Council's Urban Services Division for approval to complete, any associated works on Council property. This shall include hoarding applications, vehicular crossings, footpaths, drainage works, kerb and guttering, brick paving, restorations and any miscellaneous works. Applications shall be submitted **prior to the start of any works on Council property.**

**Reason:** To ensure public works are carried out in accordance with Council's requirements

36. **(A4) Permit to Stand Plant:** Where the applicant requires the use of construction plant on the public road reservation, an "*Application for Standing Plant Permit*" shall be made to Council. Applications shall be submitted and approved **prior to the start of any related works.** Note: allow 4 working days for approval.

**Reason:** To ensure public safety

37. **(A5) Restoration:** Public areas must be maintained in a safe condition always. Restoration of disturbed Council land and assets is the responsibility of the applicant. All costs associated with restoration of public land will be borne by the applicant.

**Reason:** To maintain Council infrastructure

38. **(A6) Public Utility Relocation:** If any public services are to be adjusted, because of the development, the applicant is to arrange with the relevant public utility authority the alteration or removal of those affected services. All costs associated with the relocation or removal of services shall be borne by the applicant.

**Reason:** To protect, maintain and provide utility services

39. **(A7) Pedestrian Access Maintained:** Pedestrian access, including disabled and pram access, is to be maintained throughout the course of the construction as per AS-1742.3, '*Part 3 - Traffic control devices for works on roads*'.

**Reason:** To ensure pedestrian access is maintained

40. **(A8) Council Drainage Infrastructure:** The proposed construction shall not encroach onto any existing Council stormwater line or drainage easement unless approved by Council. If a Council stormwater line is located on the property during construction, Council is to be immediately notified. Where necessary the stormwater line is to be reconstructed or relocated to be clear of the proposed building works. Developer must lodge Stormwater Inspection Application form to Council. All costs associated with the reconstruction or relocation of the stormwater line are to be borne by the applicant. Applicant is not permitted to carry out any works on existing Council and private stormwater pipe lines without Council's approval.

**Reason:** To protect public infrastructure

41. **(A9) Services:** Prior to any excavation works, the location and depth of all services must be ascertained. All costs associated with adjustment of the public utility will be borne by the applicant.

**Reason:** To protect and maintain infrastructure assets

**Engineering conditions to be complied with prior to Construction Certificate**

42. **(B1) Council Infrastructure Damage Bond:** The applicant shall lodge with Council a \$3000 cash bond or bank guarantee. The bond is to cover the repair of damage to Council's roads, footpaths, kerb and gutter, drainage or other assets because of the development. The bond will be released upon issuing of the Occupation Certificate. If Council determines that damage has occurred because of the development, the applicant will be required to repair the damage. Repairs are to be carried out within 14 days from the notice. All repairs are to be carried in accordance with Council's requirements. The full bond will be retained if Council's requirements are not satisfied. Lodgement of this bond is required **prior to the issue of the Construction Certificate.**

**Reason:** To protect and maintain public infrastructure

43. **(D2) Drainage Plans Amendments:** The stormwater drainage plan prepared by itm design, reference No: 18/267, revision A and dated on 30/07/21 is to be amended as detailed below by a qualified practising hydraulic engineer and certified by him/her. This amended plan shall show full details of new pipe network amended as follows and satisfying part O of the Council's stormwater DCP;

1. Proposed drainage system should show pipe sizes and invert levels up to connection point; confirming pipe system satisfies Part O of Council' storm water DCP.
2. A rainwater tank shall be included into storm water management plan as per Basix certificate.
3. Clean out pits are required at all low points of charged drainage line if charged pipe system is proposed.
4. Sediment control fence shall be placed around the construction site and shown in plan
5. Seepage agg line drainage line is required in upstream of the dwelling and connected to proposed drainage system.
6. Minimum of 1.8m height difference is required between start and end of the charged pipe system as per section 5.1 in Council DCP. The details of design level difference shall be shown in plan.
7. Council does not support pipe lines underneath of any part of the buildings

including garage and carport except seepage agg-line system.

The amended design is to be certified that it fully complies with, AS-3500 and Part O of Council's DCP-Stormwater management; certification is to be by a suitably qualified engineer. The amended plan and certification shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**

The Principal Certifying Authority is to be satisfied that the amendments have been made in accordance with the conditional requirements and the amended plans are adequate for the purposes of construction. They are to determine what details, if any, are to be added to the construction certificate plans, for the issue of the Construction Certificate.

**Reason:** To ensure the proposed stormwater designs meet and satisfy Part O of Council's DCP

44. **(D3) Geotechnical Report:** A geotechnical report is to be completed for the excavation of proposed development. The Geotechnical Report and supporting information are to be prepared by a suitably qualified geotechnical engineer and be submitted to Principle Certifying Authority **prior to issue of a Construction Certificate.**

**Reason:** To protect the environment and required for any excavation greater than 2m

45. **(R1) Rainwater Reuse Tanks:** The proposed rainwater tank is required as per BASIX certificate and to be installed in accordance with Council's rainwater tank policy and relevant Australian standards.

Note:

- Rainwater draining to the reuse tank is to drain from the roof surfaces only. No "on - ground" surfaces are to drain to the reuse tank. "On - ground" surfaces are to drain via a separate system.
- Mosquito protection & first flush device shall be fitted to the reuse tank.
- The overflow from the rainwater reuse tank is to drain to the receiving system.
- Hydraulic calculation prepared by qualified engineer for charged pipe system draining to rainwater tank and submitted to Council
- Installation of rainwater tank shall be accordance with section O6 of part O of Council DCP.

**Reason:** To comply with Basix/Council's requirements and satisfy hydraulically

46. **(T1) Design of Retaining Structures:** All retaining structures greater than 1m in height are to be designed and certified for construction by a suitably qualified engineer. The structural design is to comply with, all relevant design codes and Australian Standards. The design and certification shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**

**Reason:** To ensure the safety and viability of the retaining structures onsite

47. **(T2) Design of Pool Structure:** The proposed concrete pool is to be designed and certified for construction by a suitably qualified engineer. The structural design is to comply with, all relevant design codes and Australian Standards. The design and certification shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**



**Reason:** To ensure structural stability and the proposed design is in accordance and comply with Australian Standard

48. **(F4) Overland Flow, Pool Damage:** Council accepts no liability for any damage to the pool as a result of overland flows or high tide inundation. The property owner shall submit written acceptance of liability of any damages **prior to the issue of the Construction Certificate.**

**Reason:** To ensure Council accepted stormwater management around the pool

49. **(W1) Pool Construction:** The pool design shall ensure that either during construction or upon completion, surface water is not be directed or diverted so as to have an adverse impact upon adjoining properties.

Council accepts no liability for any damage to the pool as a result of overland flows or high tide inundation. The property owner shall submit written acceptance of liability of any damages **prior to the issue of the Construction Certificate.**

**Reason:** To ensure Council accepted stormwater management around the pool

50. **(W2) Pool Construction Stormwater:** The stormwater runoff from the new impervious areas surrounding the pool shall be connected to the existing drainage system [OR] the proposed drainage system in accordance with the requirements of Lane Cove Council's DCP Stormwater Management.

The existing stormwater system is to be certified that it is in good working order and meets the requirements set out in Council's DCP-Stormwater Management. The certification is to be carried out by a fully licensed and insured plumber or a suitably qualified engineer **prior to the issue of the Construction Certificate.** Where an existing element does not comply with current standards the subject element is to be replaced.

Where the existing system does not comply with Council's DCP-Stormwater management a drainage design is required. The stormwater drainage plan is to be prepared and certified by a suitably qualified engineer and submitted to the Principal Certifying Authority prior to the issue of the construction certificate. The design is to be certified that it fully complies with, AS-3500 and Council's DCP-Stormwater Management.

**Reason:** To ensure Council accepted stormwater management around the pool

**Engineering condition to be complied with prior to commencement of construction**

51. **(C2) Erosion and Sediment Control:** The applicant shall install appropriate sediment control devices **prior to the start of any works on the site.** The devices shall be maintained during the construction period and replaced when necessary.

**Reason:** To ensure worksite pollutions are controlled accordingly to protect the environment

52. **(D7) Safety fence along the boundary of the property:** Before commencement of any works, barrier or temporary fencing is to be provided along the full frontage of the property. This fence is for the safety of pedestrians on the public footpath.

**Reason:** To ensure safety of road and footpath users

**Engineering condition to be complied with prior to Occupation Certificate**

53. **(D6) Certification of Retaining Structures and Excavations:** A suitably qualified engineer shall provide certification to the principal certifying authority that all retaining structures and excavations have been carried out in accordance with the relevant Australian Standards and Codes of Practise. The certification and a complete record of inspections, testing and monitoring (with certifications) must be submitted to the principal certifying authority **prior to the issue of the Occupation Certificate.**

**Reason:** To ensure retaining walls are constructed according to approved plan

54. **(M2) Certificate of Satisfactory Completion:** Certificates from a registered and licensed Plumber must be obtained for the following matters. The plumber is to provide a copy of their registration papers with the certificate. The relevant Certificates are to be submitted to the Principal Certifying Authority **prior to issue of any Occupation Certificate.**

- Confirming that the site drainage system has been constructed in accordance with the relevant Australian Standards and Council's DCP-Stormwater Management.

**Reason:** To ensure stormwater infrastructure is in accordance with Australian Standards and Council's requirements

55. **(M3) Engineering Certification:** A suitably qualified engineer shall certify that following has been constructed in accordance with the approved plans and is within acceptable construction tolerances.
- Swimming Pool
- Certification is to be submitted to the Principle Certifying Authority **prior to the issue of the Occupation Certificate.**

**Reason:** Statutory requirement

**LANDSCAPING CONDITIONS**

56. **Tree Replacement Ratio**  
Any tree that is removed by the applicant must be replaced at a 1:1 ratio and clearly depicted on the landscape plans. The replacement trees must be a species that is able to reach the mature height and spread of the removed trees.

Five trees are proposed to be removed as part of the development onsite. Two of the proposed trees are excluded from Lane Cove Council's Tree Preservation Order. Therefore at least 3 trees are needed to be nominated on the landscape plans for replacement of trees 2, 3 and 7.

The Landscape Plans will need to be amended to show the Arboricultural report information (assigned tree numbers, species etc.) and to nominate proposed replacement trees that are able to reach the mature height and spread of the approved removed trees.

The Landscape plans must be amended to show this information and sent to Council's Landscape Architect Prior to issue of Construction Certificate.

**Reason:** Landscaping requirements.

57. **Pool Area**

The *Cyathea australis* proposed to be planted on the Southern edge of the 'Poolside Area' should be moved to a different location as to not be within the 900mm climbable area of the pool fence in order to comply with AS1926.1-2012.

The 'Poolside Area' also needs further clarification as to whether it is a tiled area or lawn area as currently the drawings are depicting it as both options.

The Landscape plans must be amended to show this information and sent to Council's Landscape Architect Prior to issue of Construction Certificate.

**Reason:** Landscaping requirements.

**TREE CONDITIONS**

58. Lane Cove Council regulates the Preservation of Trees and Vegetation in the Lane Cove local government area in accordance with State Environmental Planning Policy (Vegetation in non-rural areas) 2017. Part 2 Section 7(1) of the SEPP states "A person must not clear vegetation in any non-rural area of the State to which Part 3 applies without the authority conferred by a permit granted by the council under that Part." Clearing of vegetation includes "a) cut down, fell, uproot, kill, poison, ringbark, burn or otherwise destroy the vegetation, or b) lop or otherwise remove a substantial part of the vegetation." Removal of trees or vegetation protected by the regulation is an offence against the Environmental Planning and Assessment Act 1979 (NSW). The maximum penalty that may be imposed in respect to any such offence is \$1,100,000.

**Reason:** To protect the natural environment.

59. A Project Arborist of minimal AQF Level 5 qualification is to be appointed **prior to the issue of the Construction Certificate** to oversee/monitor trees condition during construction and sign off on tree protection measures. Trees are to be monitored throughout construction and a certificate produced upon completion demonstrating the trees have been maintained in a viable condition. All certificates are to be available to the Principal Certifier within five days of site attendance and must be available to council immediately upon request; failure to produce the latest certificate will be considered a breach of conditions. Final certification is to be submitted to the Principal Certifier **prior to the issue of Occupation Certificate**. The reason is to provide professional and independent management advice on retained trees during the development phases.

**Reason:** To provide an independent professional to manage retained trees on site.

60. All landscape documentation and civil drawings are to be updated to reflect the proposed removals and retentions identified in the Arborist Report prepared by Naturally Trees dated 7/07/2021 **prior to the issue of the Construction Certificate**.

**Reason:** To maintain consistency between documents.

61. All stormwater and drainage plans are to be assessed and approved by the project Arborist confirming no additional trees are to be removed as a result of the installation of storm water infrastructure. Written approval of drainage plans is to be submitted to the Principal Certifier **Prior to the issue of the Construction Certificate**.

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**Reason:** To minimize the development impact on trees.

62. Lane Cove Council regulates the Preservation of Trees and Vegetation in the Lane Cove local government area in accordance with State Environmental Planning Policy (Vegetation in non-rural areas) 2017. Part 2 Section 7(1) of the SEPP states *"A person must not clear vegetation in any non-rural area of the State to which Part 3 applies without the authority conferred by a permit granted by the council under that Part."* Clearing of vegetation includes *"a) cut down, fell, uproot, kill, poison, ringbark, burn or otherwise destroy the vegetation, or b) lop or otherwise remove a substantial part of the vegetation."* Removal of trees or vegetation protected by the regulation is an offence against the Environmental Planning and Assessment Act 1979 (NSW). The maximum penalty that may be imposed in respect to any such offence is \$1,100,000.

**Reason:** To protect the natural environment.

63. Approval is granted for the removal of trees located on and adjoining the site strictly in accordance with the Arborist report prepared by Naturally Trees dated 7/07/2021, page 15 (Appendix 2). All other trees are to be retained and protected for the life of the development.

**Reason:** Trees will be subject to intolerable levels of development impact.

64. Replacement trees are to be installed strictly in accordance with the Landscape Development Application Report prepared by Land Art, Dated 15/05/21.

**Reason:** To provide replenishment planting for trees removed through the development process.

65. Retained trees are to be protected in accordance with the Tree Protection Specifications contained within the Arborist report prepared by Naturally Trees dated 07/07/2021, Appendix 2. All tree protection measures are to be included in the construction management plans and be available to all contractors on site. Tree protection is to be installed **prior to the issue of the Construction Certificate**.

**Reason:** To protect the natural environment.

66. A Project Arborist of minimal AQF Level 5 qualification is to be appointed **prior to the issue of the Construction Certificate** to oversee/monitor trees condition during construction and sign off on tree protection measures. Trees are to be monitored throughout construction and a certificate produced upon completion demonstrating the trees have been maintained in good condition. All certificates are to be available to the Principal Certifier within five days of site attendance and must be available to council immediately upon request; failure to produce the latest certificate will be considered a breach of conditions. Final certification is to be submitted to the Principal Certifier **prior to the issue of Occupation Certificate**.

**Reason:** To provide monitoring to retained trees to minimise development impact.

67. The Project Arborist is to attend the site **prior to the removal of any trees** and mark each tree approved for removal with coloured spray paint.

**Reason:** To ensure no trees to be retained are damaged or removed.

68. The project Arborist is to attend site to inspect trees and at the following intervals. Each attendance is to be followed with written certification submitted to the

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Principal Certifier within five days of attendance.

- a. Prior to the commencement of any works to mark approved trees for removal.
- b. Prior to the commencement of works to approve tree protective measures have been installed.
- c. During the demolition of any structures within the TPZ area of retained trees.
- d. During the installation of structures approved within the TPZ area of any retained tree.
- e. Prior to and during the installation of services where required within the TPZ area of retained trees.
- f. Monthly intervals during the development works.
- g. Upon the completion of the development prior to the Occupation Certificate.

**Reason:** To provide monitoring to retained trees to minimise development impact.

69. No services or structures are to be located within the Structural Root Zones of any retained trees.

**Reason:** To minimise the development impact on retained trees.

70. No level changes greater than 150 millimetres are to occur within the Tree protection Zones of any retained trees unless approved in writing by the project Arborist.

**Reason:** To minimise development impacts on retained trees.

71. Footing, trench or excavation that is within the Tree protection Zone of any retained trees must be carried out under the guidance of the Project Arborist and using non-destructive techniques. No tree roots greater than 40mm diameter to be pruned unless approved by the Project Arborist. All roots are to be pruned and documented by the Project Arborist then submitted with the final certificate of compliance upon completion of the project. **Prior to the issue of Occupation Certificate.** Once Complete and roots have been pruned clear of the area, civil machinery may resume excavation from outside of the tree protection zone.

**Reason:** To minimise the development impact on retained trees.

72. The Project Arborist is to submit a statement upon completion of the development that all retained trees have been maintained in a healthy, viable condition. The statement is also to recommend remedial advice for trees post construction to mitigate construction impacts long term. The statement is to be submitted to and approved by the Principal Certifier **Prior to the issue of the Occupation Certificate.**

**Reason:** To provide monitoring to retained trees to minimise development impact.

73. All proposed footpaths are to be installed under the guidance of the project Arborist where located within the Tree Protection Zones of retained trees. No tree roots equal to or greater than 40 millimetres in diameter are to be damaged or severed unless approved by the Arborist it will be of no detriment to the tree.

**Reason:** To minimise development impact on retained trees.

74. Pursuant to Section 80A(6)(a) and (7) of the Environmental Planning and Assessment Act 1979, the applicant must, prior to the issue of the construction certificate, provide security in the amount of \$50,000 (by way of cash deposit with

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the Council, or a guarantee satisfactory to the Council) for the payment of the cost of making good any damage caused, as a consequence of the doing of anything to which this development consent relates, to all trees that are standing in the public reserves immediately adjoining the land subject of this development consent. This bond may be forfeited in the event of damages to any of these trees because of the development works as determined by Council's Tree Management Officer, at a minimum the cost of replacing the tree including labour will be deducted from the bond. The applicant shall contact Council to have the street tree inspected following issue of the Occupation Certificate.

**Reason:** To protect the natural environment.

**Panel Reasons**

The Panel acknowledges that a number of adjoining residents are concerned about view loss as a consequence of the proposal. The Panel notes that any view impact is across side boundaries only and the proposal satisfies the view sharing principles established by the Court.

It is considered appropriate to prevent any access to the concrete roof from the master bedroom. Also, this surface should be treated to prevent adverse visual impact to the neighbouring properties. Additional conditions have been added.

A condition should also be added requiring highlight windows only on the southern elevation.

The Panel notes that the owner of the property to the east is concerned that no boundary fence is proposed. This is a private matter between landowners in accordance with the Dividing Fences Act. However a condition requiring a construction fence is added.

The decision of the Panel was unanimous.

The meeting closed at 6.20pm

**CHAIRPERSON**

\*\*\*\*\* END OF MINUTES \*\*\*\*\*