

Agenda
Lane Cove Local Planning Panel Meeting
16 August 2022,



Lane Cove Council

Notice of Meeting

Dear Panel Members,

Notice is given of the Lane Cove Local Planning Panel Meeting, to be held in the Council Chambers on Tuesday 16 August 2022 commencing at 5pm. The business to be transacted at the meeting is included in this business paper.

Yours faithfully



Craig Wrightson
General Manager

Lane Cove Local Planning Panel Meeting Procedures

The Lane Cove Local Planning Panel (LCLPP) meeting is chaired by The Hon David Lloyd QC. The meetings and other procedures of the Panel will be undertaken in accordance with the Lane Cove Lane Cove Local Planning Panel Charter and any guidelines issued by the General Manager.

The order of business is listed in the Agenda on the next page. That order will be followed unless the Panel resolves to modify the order at the meeting. This may occur for example where the members of the public in attendance are interested in specific items on the agenda.

Members of the public may address the Panel for a maximum of 3 minutes during the public forum which is held at the beginning of the meeting. All persons wishing to address the Panel must register prior to the meeting by contacting Council's Office Manager – Environmental Services on 9911 3611. Speakers must address the Chair and speakers and Panel Members will not enter into general debate or ask questions during this forum. Where there are a large number of objectors with a common interest, the Panel may, in its absolute discretion, hear a representative of those persons.

Following the conclusion of the public forum the Panel will convene in closed session to conduct deliberations and make decisions. The Panel will announce each decision separately after deliberations on that item have concluded. Furthermore the Panel may close part of a meeting to the public in order to protect commercial information of a confidential nature.

Minutes of LCLPP meetings are published on Council's website www.lanecove.nsw.gov.au by 5pm on the Friday following the meeting. If you have any enquiries or wish to obtain information in relation to LCLPP, please contact Council's Office Manager – Environmental Services on 9911 3611.

Please note meetings held in the Council Chambers are Webcast. Webcasting allows the community to view proceedings from a computer without the need to attend the meeting. The webcast will include vision and audio of members of the public that speak during the Public Forum. Please ensure while speaking to the Panel that you are respectful to other people and use appropriate language. Lane Cove Council accepts no liability for any defamatory or offensive remarks made during the course of these meetings.

The audio from these meetings is also recorded for the purposes of verifying the accuracy of the minutes and the recordings are not disclosed to any third party under the Government Information (Public Access) Act 2009, except as allowed under section 18(1) or section 19(1) of the PPIP Act, or where Council is compelled to do so by court order, warrant or subpoena or by any other legislation.

DECLARATIONS OF INTEREST

APOLOGIES

NOTICE OF WEBCASTING OF MEETING

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138 RIVERVIEW STREET, RIVERVIEW.

Subject: 138 Riverview Street, Riverview.
Record No: DA22/5-01 - 41168/22
Division: Environmental Services Division
Author(s): Andrew Bland

DA Number	Council Reference: DA5/2022 Portal Reference: PAN-183496
Proposed Development	The part demolition of existing structures and the construction of an integrated garage, a third-floor addition, an inground swimming pool and front yard landscaping works.
Street Address	138 Riverview Street, Riverview.
Applicant/Owner	Applicant: Lisa Strudwick - Zugai Strudwick Architects Pty Ltd Owner: J Jools and E Jools
Date of DA Lodgment	11 January 2022
Development Cost	\$243,158.00
Public Notification Period	Notification Period: <ul style="list-style-type: none"> - 11 January 2022 to 01 February 2022 (original design) - 12 July 2022 to 28 July 2022 (amended design)
Submissions Received	Four (4) submissions have been received by way of objection against the original design.
Recommendation	Deferred Commencement
Local Planning Panel Referral Criteria (Schedule 1 of Planning Direction)	<ul style="list-style-type: none"> • Contentious Development: Due to the contentious nature of the Four (4) submissions received by way of objection.
Relevant environmental planning instruments	<ul style="list-style-type: none"> - SEPP (Resilience and Hazards) 2021. - SEPP (Building Sustainability Index) 2004. - Lane Cove Local Environmental Plan 2009.
Summary of key submissions	<ul style="list-style-type: none"> • Bulk and Scale • Privacy and amenity
Report prepared by	Andrew Bland
Report date	1 August 2022

1. EXECUTIVE SUMMARY

The Development Application is for the part demolition of existing structures and the construction of an integrated garage, a third-floor addition, an inground swimming pool and front yard landscaping works.

The proposed development is of similar scale to the adjoining properties and remains generally compliant with the controls set for this form of development under Lane Cove Local Environmental Plan 2009 and Lane Cove Development Control Plan 2010.

The Development Application is subject to other state environmental planning instruments including SEPP (Resilience and Hazards) 2021, SEPP (BASIX) 2004 and Lane Cove Local Environmental Plan. An assessment against the relevant objectives and provisions of each of these instruments is in the report.

Council issued a Request for Additional Information highlighting the concerns of both Council and the adjoining neighbours which were raised in the submissions. An amended proposal was received which sought to address these concerns.

The Development Application was notified in accordance with Council policy for both the original and amended proposal. A total of four (4) submissions were received with one (1) from the adjoining neighbour in relation to the amended proposal. The submission concerns include, but are not limited to, building height and impacts on neighbourhood amenity. The submissions are addressed in the report.

The Development Application includes the trimming of a large Brush Box tree located north of the northern boundary. This tree is not located on the survey and has been assumed as located on the neighbouring property.

The Development Application is reported to Panel with a recommendation for approval as a deferred commencement.

2. SUBJECT SITE

The site is known as No. 138 Riverview Street, Riverview (Lot 4 in DP 222270). The site contains an existing part 2 storey dwelling house. The site has a cross-fall of approximately 8.85 metres from the rear boundary to the front boundary. The land is zoned R2 Low Density Residential. The site is adjoined by C2 Environmental Conservation Area and 2 storey dwelling houses both with garage basements. An Aerial photograph of the site is shown in **Figure 1** below and an aerial perspective in **Figure 2**.

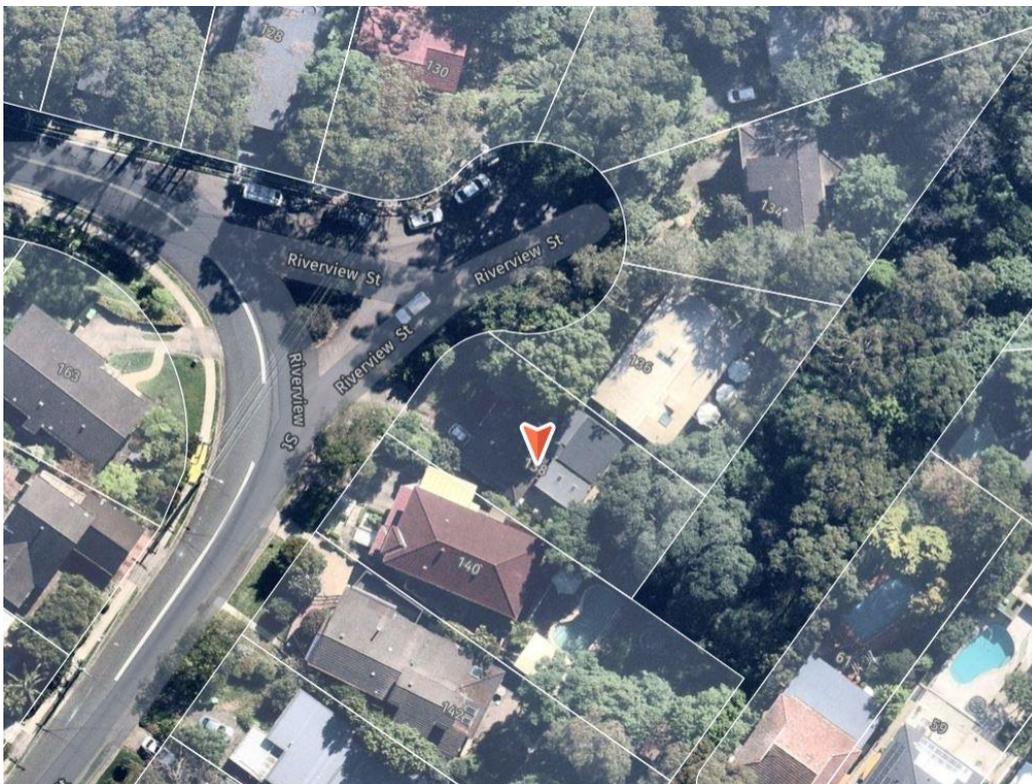


Figure 1: Aerial Photograph (Source: Nearmap)

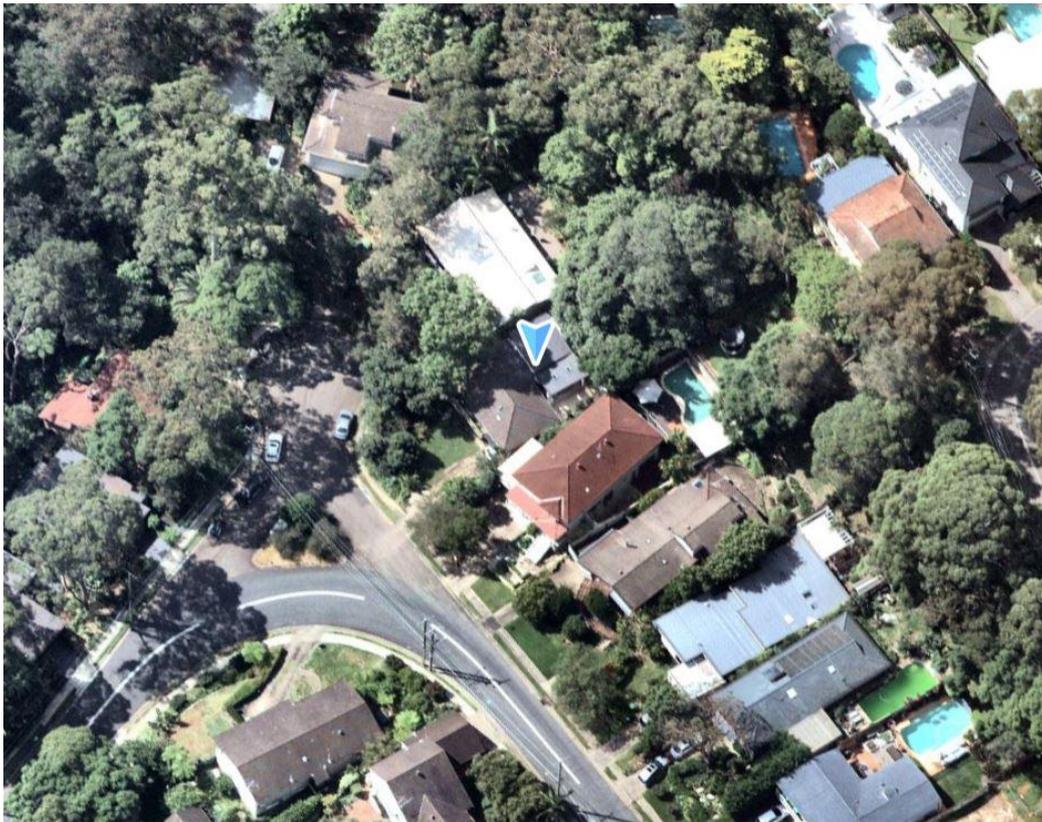


Figure 2: Aerial Perspective (Source: Nearmap)

3. DA ASSESSMENT HISTORY

Table 1 – DA Assessment History	
Date	Description
11 January 2022	Development Application lodged.
11 January 2022	Development Application notified in accordance with Council policy.
21 February 2022	Request for Additional Information ('RAI') issued raising concerns with
8 April 2022	Meeting held at Council chambers to discuss RAI. Attendees include: - Andrew Bland, Council Town Planner. - Lisa Strudwick, Applicant (Architect). - Mel Zugai, Applicant (Architect). - Jay Jools, Owner. - Elizabeth Jools, Owner.
23 May 2022	Onsite meeting conducted to further discuss RAI. Attendees include: - Mark Brisby, Executive Manager Environmental Services Division. - Rajiv Shankar, Manager Development Assessment. - Andrew Bland, Council Town Planner. - Lisa Strudwick, Applicant (Architect). - Jay Jools, Owner.
6 July 2022	Amended proposal received including a BASIX, Arborist Report, Architectural Plans and a Statement of Amendments. Amendments include the relocation of the pool from the front yard to the rear yard, conversion of the ground floor bedrooms into a garage and replacement of the front yard retaining wall.
12 July 2022	Amended proposal notified in accordance with Council policy.

4. PROPOSAL

The Development Application seeks consent for the part demolition of existing structures and the construction of an integrated garage, a third-floor addition, an inground swimming pool and front yard landscaping works. A perspective of the proposal prepared by the Applicant is provided in **Figure 3** and **Figure 4** below.

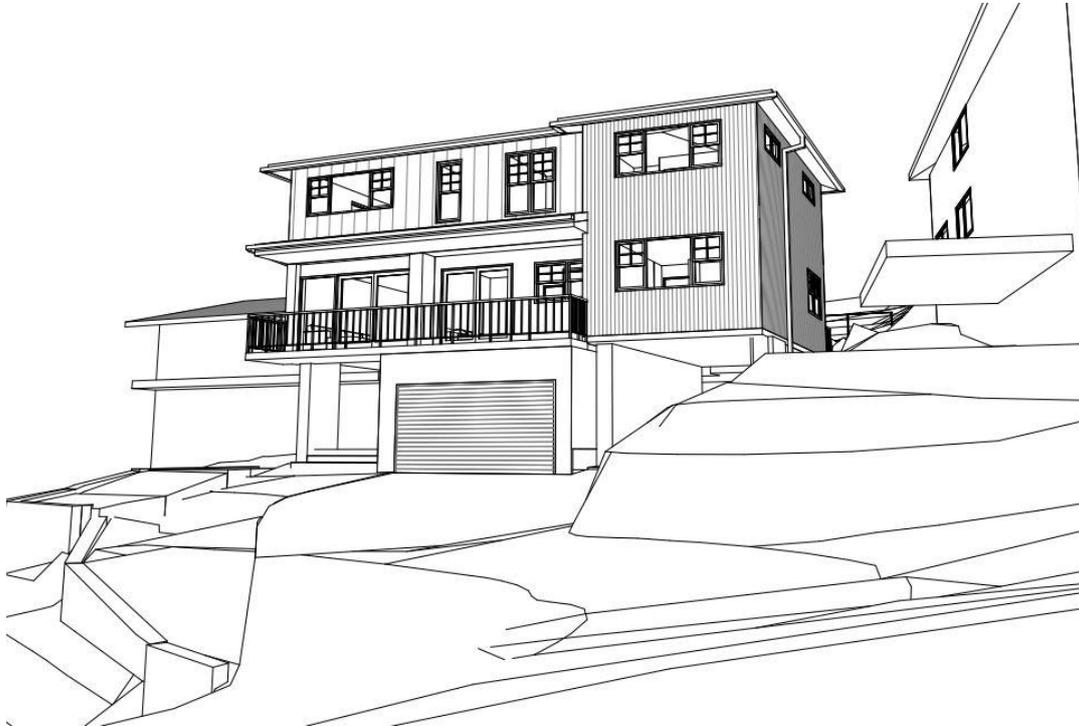


Figure 3: Proposed Perspective (Source: Zugai Strudwick Architects)



Figure 4: Proposed Perspective (Source: Zugai Strudwick Architects)

A description of the proposal is provided in **Table 2** as follows:

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Table 2 – Description of Proposal	
Part	Description
Part Demolition	<p>Part demolition of the ground floor bedrooms (replaced by proposed garage).</p> <p>Demolition of the existing roof.</p> <p>Demolition of the existing front yard retaining wall.</p>
Front Yard Landscaping and tree removal.	<p>The proposal includes the replacement of the existing front yard retaining wall and associated landscaping.</p> <p>These works require clearance of vegetation surrounding the existing front yard retaining wall.</p>
Garage, Vehicular Access and Parking	<p>Replacement of the ground floor bedrooms with an integrated garage to accommodate 1 x car space and 1 x motorcycle space.</p> <p>Expansion of the existing driveway onsite and reconstruction of the vehicular crossing.</p>
Dwelling House	<p><u>Ground floor</u></p> <p>Existing - Front entrance and patio, foyer, bathroom, laundry, internal access stairs, storage area and a carport.</p> <p>Proposed - Garage as previously described and an opening for a new door from the garage to the foyer.</p> <p><u>First floor</u></p> <p>Existing - Open-plan living/kitchen/dining area, 2 bedrooms, 2 bathrooms, study and internal access stairs.</p> <p>Proposed - Replacement of the tiles on the front balcony and replacement of windows / sliding doors : exD1, exD2, exW3, exW4, exW5</p> <p><u>Second floor</u></p> <p>Proposed – Master bedrooms with an ensuite and WIR, 2 bedrooms, 1 bedroom and internal access stairs. All with associated windows W01 – W13.</p> <p><u>Roof</u></p> <p>Pitched roof with a 15-degree pitch.</p>
Swimming Pool	<p>An inground swimming pool located in a retained section of the rear yard.</p>

5. SECTION 4.15 ASSESSMENT

The following assessment is provided against the relevant provisions of Section 4.15 of the NSW Environmental Planning and Assessment Act, 1979:

5.1 Any environmental planning instrument:

5.1.1 SEPP (Resilience and Hazards) 2021 – Chapter 2 Coastal Management

The land is subject to SEPP (Resilience and Hazards) 2021, *formerly SEPP (Coastal Management) 2018*. The land is mapped as **proximity to Coastal Wetlands and Littoral Rainforests Area**. The SEPP mapping is provided in **Figure 5** below. An assessment against the relevant provisions of the SEPP is provided in **Table 3** below.

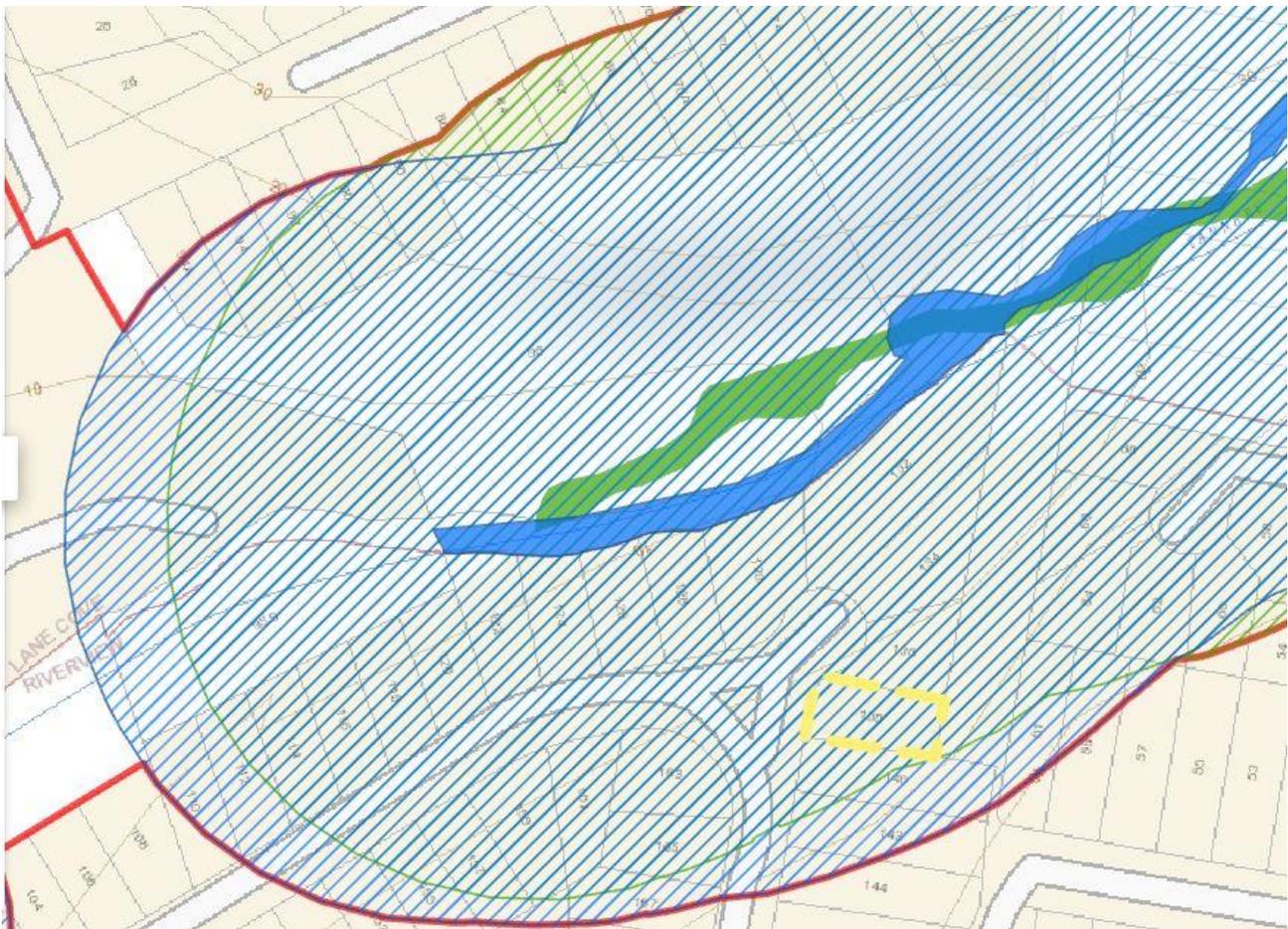


Figure 5: SEPP (Resilience and Hazards) 2021 and Site (Source: EPlanning Spatial Viewer)

Table 3 – SEPP (Resilience and Hazards) 2021 – Chapter 2			
Clause	Provision	Proposal	Compliance
Clause 2.8 – Development on land in proximity to coastal wetlands or	<i>Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral</i>	The Statement of Environmental Effects does not address Clause 2.8 despite the land being mapped as within proximity to a	Recommended conditions of consent would ensure compliance with the provisions of Clause 2.8.

Table 3 – SEPP (Resilience and Hazards) 2021 – Chapter 2			
Clause	Provision	Proposal	Compliance
littoral rainforest	<p><i>rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on—</i></p> <p><i>(a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or</i></p> <p><i>(b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.</i></p>	<p>coastal wetland and a littoral rainforest area.</p> <p>The proposed works would improve the stormwater runoff patterns and complies with the landscaping requirements.</p> <p>The proposal is accompanied by a stormwater management plan and sediment and control plan.</p> <p>Council’s Engineer has raised no concerns with the proposed development and has conditioned these documents accordingly.</p> <p>These conditions have been included in the subject recommendation.</p>	
Clause 2.9	Not Applicable.	Not Applicable.	Not Applicable.
Clause 2.10	Not Applicable.	Not Applicable.	Not Applicable.
Clause 2.11	Not Applicable.	Not Applicable.	Not Applicable.
Clause 2.12 – Development in coastal zone generally— development not to increase risk of coastal hazards.	<p><i>Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.</i></p>	<p>The proposed development is unlikely to increase the risk of coastal hazards.</p>	Yes.
Clause 2.13 – Development in coastal zone generally— coastal management programs to be considered	<p><i>Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.</i></p>	<p>There are no recorded coastal management programs.</p>	Not Applicable.

Table 3 – SEPP (Resilience and Hazards) 2021 – Chapter 2			
Clause	Provision	Proposal	Compliance
Clause 2.14 – Other development controls not affected	Noted.	Not Applicable.	Not Applicable.
Clause 2.15 – Hierarchy of development controls if overlapping	Noted.	Not Applicable	Not Applicable.

5.1.2 SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of land

The land is subject to SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of land. The proposal seeks to maintain the residential use of the site. There is no recorded contamination on the subject site and given its previous residential use, it is unlikely that the site would contain contamination. The proposed development includes minor excavation and therefore no further investigation is necessary.

5.1.3 SEPP (Building Sustainability Index: BASIX) 2004

A valid BASIX certificate has been submitted with the application and confirms that the proposal (once operational) would comply with the water, thermal comfort and energy efficiency requirements of the policy.

5.1.4 Lane Cove Local Environmental Plan 2009

5.1.4.1 Permissibility

The land is zoned R2 Low Density Residential under Lane Cove Local Environmental Plan 2009 as detailed in **Figure 6 below**. The Development Application seeks approval for additions and alterations to an existing dwelling house which is permissible with consent under the LEP.

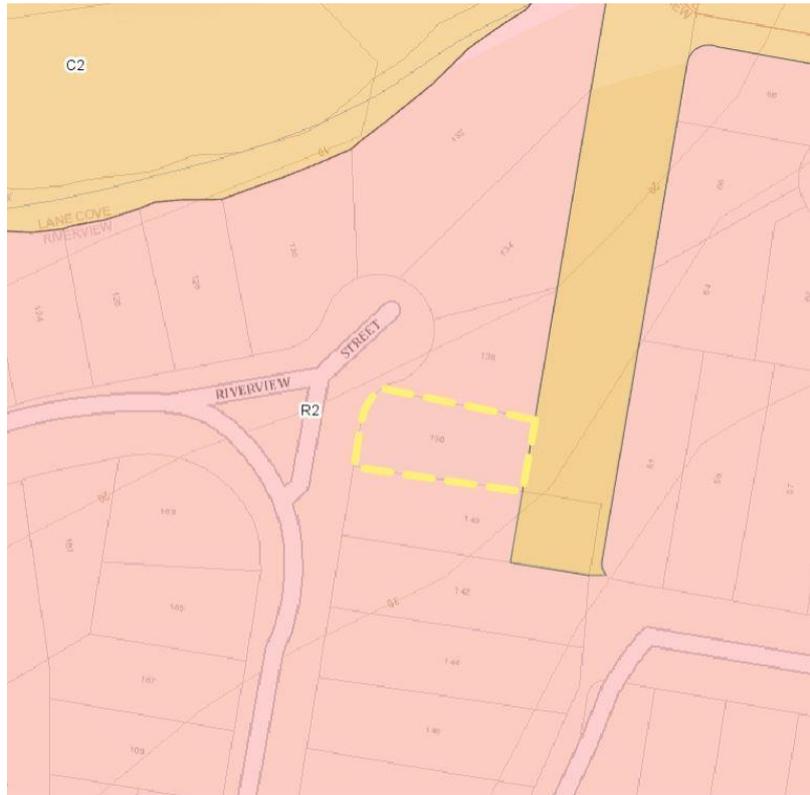


Figure 6: Zoning Map (Source: LCLEP 2009)

5.1.4.2 Development Standards

The land is mapped on the Height of Buildings Map and Floor Space Ratio Map under Lane Cove Local Environmental Plan 2009 as shown in **Figure 7** and **Figure 8** below.



Figure 7: Excerpt from Height of Building Map (Source: LCLEP 2009)

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Table 5 – LCDCP 2010 – Dwelling House – Table of Compliance			
Part	Control	Proposed	Complies
	area.	garage	
Side setback (min)	1200mm single storey 1500mm two storey	The prevailing setback of the floor below is maintained.	Yes
Rear setback (min)	<1000m ² : 8m or 25%	8.9m	Yes
Wall Height (max)	7.0m	7.81m	No, see assessment below.
Undercroft height (max)	1m	No subfloor is proposed.	Not Applicable
Number of Storeys (max)	2	Part 3 storeys.	No, see assessment below.
Maximum Number of Storeys in Elevation Profile	3	3	Yes
Landscaped area (min) (Minimum width of 1m required to be included in area)	35%	38.4%	Yes
Cut and Fill (max)	1m	No cut or fill proposed for the dwelling house.	Yes
Solar Access	3 hours as per DCP.	Solar access provision met. The proposed development would have negligible impacts on the adjoining property 140 Riverview Street as the subject site is significantly lower.	Yes
Provide for view sharing	See view assessment in view sharing section.	See view assessment in view sharing section.	Yes, see assessment below.
Heritage Conservation		The subject site is not a heritage site or in the vicinity of any heritage items.	Yes
Deck/Balcony depth (max)	3m	2m – Level 1	Yes
Private open space	24 m ² (min) 4m minimum depth	Provided.	Yes
Off-street spaces (min)	1	2	Yes
Driveway width	3m at the lot boundary	Conditioned by Council Engineer.	Conditioned by Council Engineer.
% of Allotment Width (garages & carports)	50% of lot width or 6m, whichever is the lesser	5.9m – proposed integrated garage	Yes
Pool location	Pools aren't to be located within the front setback.	The pool is proposed in the rear yard.	Yes
Pool Setback from a Neighbour's House (min)	3m to waterline	2m	No, condition to comply. Refer to

Table 5 – LCDCP 2010 – Dwelling House – Table of Compliance			
Part	Control	Proposed	Complies
			condition 2.
Pool setback from any tree over 5m (min)	3m	3m	Yes
Pool Height (max)	1m	The pool is an in-ground pool located in an existing retained section of the rear yard.	Yes
Pool Setback from boundary (min)	1m	1.2m	Yes
Front fence height (max)	Solid: 900mm Lightweight: 1.2m	No front fence proposed.	Not Applicable
Side and rear fences	1.8m	1.8m – lightweight side fences proposed. 1.8m – stone fence for portion of rear boundary	Yes

5.2.2 Variations

The following section of the report addresses the proposed variations to the prescriptive DCP measures sought to be varied having regard to the applicant's submitted justification and the objectives of the prescriptive measure sought to be varied:

i. Storeys – Part C1.7.1(e) stipulates a maximum of 2 storeys plus basement where the proposed development would be considered part 3 storey, albeit the ground floor would be predominately a garage and a bathroom / laundry. The applicant has sought to justify the variation based on the grounds that this floor is 'non-habitable,' due to the existing condition of the floor, and therefore should not be considered a floor. The amended proposal includes a conversion of the existing ground floor bedroom into garage. The applicant has sought to achieve a similar appearance to the adjoining properties which are considered 2 storeys with a basement as seen in **figure 9** and **figure 10**.



Figure 9: 140 Riverview Street (Source: realestate.com)



Figure 10: 136 Riverview Street (Source: Google Maps)

A variation is considered reasonable in this instance as the proposed development reinforces the typical bulk and scale of existing dwellings within the street and area, as shown in **figure 9** and **figure 10**. The building is setback generously from the front boundary. There would be negligible impacts in regard to overshadowing or light spillage to adjoining properties. Privacy has been addressed as described in the submission table later in this report. There would be no impacts on significant views as shown in the tenacity principle section of this report.

ii. Wall Height – Part C1.7.1(a) stipulates a maximum wall height of 7.0m where a wall height of 7.81m is proposed. The applicant has sought to justify the variation on the grounds that the site is irregular and the wall being articulated on the ground floor level. A variation is considered reasonable in this instance as the proposal is within the allowable 9.5m height control, there would be negligible impacts on solar access and light spillage, privacy has been addressed as discussed in the submission table and the proposed development reinforces the typical bulk and scale of existing dwelling within the street as shown in **figure 9** and **figure 10**.

iii. Pool Setback from Neighbours house – Part 1.10.1(d) stipulates a minimum setback of 3m for the waterline of the pool to any dwelling (neighbouring) where the waterline is setback 2m from 136 Riverview Street. The applicant provided no justification for this variation. A condition has been imposed to increase the setback of the waterline 2.1m from 136 Riverview Street boundary to comply with the 3m separation from the adjoining dwelling. Refer to condition 2.

5.2.3 Lane Cove Development Control Plan 2010 – Other Sections

The other relevant sections of Lane Cove Development Control Plan 2010 have been addressed through **referrals** as outlined in the following table:

Table 6 - Referrals		
Referral	DCP	Comment
Tree Preservation	Part J – Landscaping	Satisfactory – The proposal requests additions and alterations to the existing dwelling inclusive of an additional storey to the residence and a new pool at the rear of the property. The construction of the additional storey would necessitate a considerable amount of pruning to a neighbouring

Table 6 - Referrals		
Referral	DCP	Comment
		<p>Lophostemon confertus (Brushbox) tree. While this is acknowledged in the supplied Arborist report the total branch size and canopy percentage required to be removed was incorrect.</p> <p>Council's arborist revisited the site and measured the distances of where proposed branches for pruning intersect with the proposed building line. The proposed 2x 2nd order internal branches are not required to be removed to facilitate construction. A new pruning amount would be conditioned which reflects building location in conjunction with the location of branches.</p> <p>It was partially demonstrated that the construction of the pool at the rear of the property would have a minimal effect to the longevity of a large Ficus rubiginosa (Port Jackson Fig) at the rear. Council's arborist expressed concerns about the future pruning requests, as the pool is directly beneath a large portion of canopy. A pool cover has been conditioned to prevent debris falling into the pool when not in use. This will limit the future need for substantial trimming of the Pork Jackson Fig.</p>
Development Engineer	Part O – Stormwater Management	Satisfactory – The submitted stormwater plan is considered satisfactory and has been conditioned as recommended.

5.2.4 – View Sharing and the Tenacity Principle

The sharing of all views is part of the character of the Lane Cove area and should be maintained where possible subject to how the view is obtained and whether the maintenance of such a view creates an unreasonable impost on adjoining landowners. Views that are gained across other privately-owned land are not “as of right”, as some may depend on the property that is overviewed maintaining a lower scale that is achievable under the LEP.

The adjoining neighbours at 140 Riverview Street currently enjoy northern views from the living room over the top of the subject dwelling house.

The Tenacity principle is a 4-step view sharing test that is implemented by the Land and Environment Court for the purposes of view loss assessment. The objective of the B.4 View sharing section of the Lane Cove Council DCP 2010 outline the key components of this 4-step view sharing principle. An assessment is as follows.

For the purpose of this assessment the Council obtained a photo of the views.



Figure 11: View obtained from living room and bedroom (Source: Lane Cove Council Town Planner site inspection)

Step 1. *Assessing the types views to be affected. Water views are valued more highly than land views. Iconic views are valued more highly than views without icons. Whole views are valued more highly than partial views. The subject view contains **partial views of trees (not significant views)**.*

Step 2. *Assessing what part of the property the views are obtained. Side views are harder to protect than rear or front views and seated views are harder to protect than standing views. The subject view can be **obtained from both standing and sitting positions over the side boundary**.*

Step 3. *Assessing the extent of the impact. This should be done for the whole of the property, not just the view that is affected. The **impacts would be considered moderate for the subject view**.*

Step 4. *Assessing the reasonableness of the proposal. A proposal which is fully compliant is more reasonable than one which doesn't comply, and, proposals which have been skillfully designed are considered more reasonable. A proposal which was fully compliant with all DCP controls would decrease the impact on the views.*

The views are considered not significant as they are a partial view of trees which are obtained over the side boundary. It would be unreasonable to impose amendments in order to preserve these views. For these reasons the proposed development is considered to have **met the tenacity principle**.

5.3 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The impacts on both the natural and built environments of the locality have been considered and addressed in this report as being satisfactory.

5.4 The suitability of the site for the development

The proposed development responds to the site constraints and therefore the site is considered suitable for the development.

5.5 Any submissions made in accordance with this Act or the regulations

The proposed development was notified in accordance with Council policy. Four (4) submissions were received in response to the original design and one (1) submission was received in response to the amended design. The submissions main points are summarised and addressed **Table 7** and **Table 8** as follows:

Table 7 – Summary of Submissions – Original proposal.

Concern	Comment
<p>Privacy Impacts – Concern in relation to the following potential privacy impacts:</p> <ul style="list-style-type: none"> - Overlooking from W12 into the dining room of 140 Riverview Street. - Overlooking across the street and into 130 Riverview Street. - Overlooking from W6, W7, W8 and W9 into 136 Riverview Street. 	<ul style="list-style-type: none"> - W12 belongs to a bedroom which is considered a low use room. The angle creating potential overlooking is attributed to the unique location of the dwelling house at 140 Riverview Street. It is considered unreasonable to impose further privacy mitigation measures in this instance. - The property at 130 Riverview Street is located approximately 30m away. It is considered unreasonable to impose further privacy mitigation measures in this instance. - W06 is a small feature window in the corner of the room which is unlikely to facilitate direct overlooking. - W07 has been conditioned to be either a highlight window, or, have frosted / oblique glass up to 1.5m from the finished floor level. - W08 and W09 are highlight windows belonging to a bathroom.

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Table 7 – Summary of Submissions – Original proposal.	
Concern	Comment
	These factors and mitigation measures are considered reasonable.
Bulk and scale – Concerns in relation to the bulk and scale of the design being out of character for the area.	The proposed development complies with the overall height and FSR which are the two key measurements of bulk and scale. Therefore, the proposed development is considered within the bulk and scale of the area.
Setbacks (northern elevation) – Concerns in relation to the setbacks of the third floor and the potential privacy impacts of W6, W7, W8 and W9.	The proposed development utilises the setbacks and foundation of the existing first floor which is considered reasonable. The mitigation measures described earlier in this table outline how the potential privacy impacts have been adequately addressed.
Solar Access – Concerns over inadequate solar access being achieved and the development resulting in overshadowing.	Solar access provisions have been met as discussed in the DCP compliance table.
Location of pool – Concerns over the location of the pool in the front yard and its design. Likelihood of decreased amenity for the neighbouring properties and streetscape as a result.	The pool has been relocated to the rear yard.
Cut and Fill – Concerns over the cut and fill involved for the pool in the front yard which is also located on the boundary.	The pool has been relocated to the rear yard. The proposed development includes replacement of the existing front yard retaining wall with minor fill. These landscaping works are considered reasonable.
Tree removal – Concerns over the tree removal relating to the front yard landscaping works.	Council’s arborist has no concerns with the removal of these trees.
View Loss – Concerns over the loss of views obtained from 140 Riverview Street.	The proposal meets the view sharing principles.

Table 8 – Summary of Submissions – Amended proposal.	
Concern	Comment
Location of pool – Concerns over the waterline of the pool being located too close to the dwelling house at 136 Riverview Street.	A condition has been included to ensure the pool is located 3m away from the dwelling house at 136 Riverview Street.
Location of pool equipment – Concerns over the pool equipment being located on the boundary.	The pool equipment is located in an acoustic box which suppress the noise generated by the pool equipment. The location is therefore considered reasonable.
Construction of pool – Concerns over the construction of the pool adversely impacting the dwelling house at 136 Riverview Street.	A condition has been included requiring a geotechnical report to confirm that the pool can be constructed without adversely impacting the

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Table 8 – Summary of Submissions – Amended proposal.	
Concern	Comment
	dwelling house at 136 Riverview Street. A condition has been included requiring a pre-construction and post-construction dilapidation report to ensure any damage is recorded and subsequently fixed at a cost borne by the Applicant.
Arborist report – Concerns over inconsistency in the Arborist report.	The inconsistencies have been noted by Council Arborist and he has conditioned accordingly.

5.5 Public Interest

The proposal is in the public interest as it provides for development that is reasonable given the low-density residential character of the locality and surrounding sites. All concerns have been mitigated adequately and where reasonably possible.

CONCLUSION

The matters in relation to Section 4.15 of the Environmental Planning and Assessment Act 1979 have been satisfied.

The application meets with the Floor Space Ratio and Height controls as required in the Lane Cove Local Environmental Plan 2009 and generally meets with the Part C Residential Development Objectives in the Lane Cove Development Control Plan.

On balance the proposed development would be reasonable and therefore is recommended for approval.

RECOMMENDATION

That the Lane Cove Local Planning Panel at its meeting of 16 August 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 storeys and wall height controls under the Lane Cove Development Control Plan 2009, as it is satisfied that the proposed development 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 16 August 2022, exercising the functions of Council as the consent authority, grant consent to Development Application DA5/2022 for the part demolition of existing structures and the construction of an integrated garage, a third-floor addition, an inground swimming pool and front yard landscaping works, subject to attached draft conditions.

PART A – GENERAL CONDITIONS

1. A.1 - Approved plans and supporting documentation

Development must be carried out in accordance with the following approved plans and

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supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No	Revision	Plan Title	Drawn By	Dated
DA01	C	Title Sheet	Zugai Strudwick Architects	05/07/22
DA02	C	General Notes	Zugai Strudwick Architects	05/07/22
DA03	C	General Specifications	Zugai Strudwick Architects	05/07/22
DA04	C	Existing Site Analysis & Demolition Plan	Zugai Strudwick Architects	05/07/22
DA05	C	Existing Ground Floor & Demolition Plan	Zugai Strudwick Architects	05/07/22
DA06	C	Existing First Floor & Demolition Plan	Zugai Strudwick Architects	05/07/22
DA07	C	Existing Elevations & Demolition 1	Zugai Strudwick Architects	05/07/22
DA08	C	Existing Elevations & Demolition 2	Zugai Strudwick Architects	05/07/22
DA09	C	Existing Sections & Demolition	Zugai Strudwick Architects	05/07/22
DA11	C	Proposed Site & Stormwater Concept Plan	Zugai Strudwick Architects	05/07/22
DA12	C	Proposed Ground Floor Plan	Zugai Strudwick Architects	05/07/22
DA13	C	Proposed First Floor Plan	Zugai Strudwick Architects	05/07/22
DA14	C	Proposed Second Floor Plan	Zugai Strudwick Architects	05/07/22
DA16	C	Proposed Elevations 1	Zugai Strudwick Architects	05/07/22
DA17	C	Proposed Elevations 2	Zugai Strudwick Architects	05/07/22
DA18	C	Proposed Sections 1	Zugai Strudwick Architects	05/07/22
DA19	C	Proposed Sections 2	Zugai Strudwick Architects	05/07/22
DA20	C	Proposed Sections 3	Zugai Strudwick Architects	05/07/22
DA26	C	Erosion & Sediment Control Plan	Zugai Strudwick Architects	05/07/22

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DA27	C	Retaining Wall Elevations 1	Zugai Strudwick Architects	05/07/22
DA29	C	Pool Details 1	Zugai Strudwick Architects	05/07/22
DA30	C	Pool Details 2	Zugai Strudwick Architects	05/07/22
DA31	C	Pool Details 3	Zugai Strudwick Architects	05/07/22

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

2. **A.2 - Design amendments**

Before the issue of a construction certificate, the certifier must ensure the approved construction certificate plans (and specifications) detail the following required amendments to the approved plans and supporting documentation stamped by Council:

- The waterline of the pool is to be setback 2.1m from the boundary to ensure that the waterline is located 3m from the adjoining dwelling.
- An operable pool cover is to be constructed. This pool cover is to ensure that debris from the Fig tree don't fall into the pool when not in use.
- W07 is to be either reconfigured to be a highlight window, or, is to have frosted / opaque glass up to 1.5m from the finished floor level. This is to prevent direct overlooking.

Reason: To require minor amendments to the approved plans and supporting documentation following assessment of the development.

3. **A.3 - Payment of security deposits**

Before the commencement of any works on the site or the issue of a construction certificate, the applicant must make all of the following payments to Council and provide written evidence of these payments to the Certifier:

Security deposit	Revision
Infrastructure damage bond	\$3,000

The payments will be used for the cost of:

- making good any damage caused to any council property (including street trees) as a consequence of carrying out the works to which the consent relates,
- completing any public work such as roadwork, kerbing and guttering, footway construction, stormwater drainage and environmental controls, required in connection with this consent, and

Reason: To ensure any damage to public infrastructure is rectified and public works can be completed.

4. A.4 - Payment of building and construction industry long service levy

Before the issue of a construction certificate, the applicant is to ensure that the person liable pays the long service levy of \$851 as calculated at the date of this consent to the Long Service Corporation or Council under section 34 of the *Building and Construction Industry Long Service Payments Act 1986* and provides proof of this payment to the certifier.

Reason: To ensure the long service levy is paid.

5. A.7.L Tree preservation and approved landscaping works

Lane Cove local government area in accordance with State Environmental Planning policy (Biodiversity and Conservation) 2021.

Chapter 2, Part 2.2, section 2.6 of this Sepp states:

“A person must not clear vegetation in a 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.

All landscape works shall be undertaken in accordance with the approved landscape plan(s), Arborist Report, tree management plan and transplant method statement as applicable, as modified by any conditions of consent.

The following trees shall be retained

Tree No.	Species	Location	Dimension (meters)
1	<i>Ficus rubiginosa</i>	Rear of property	16 x 20
2	<i>Lophostemon confertus</i>	Adjoining property	16 x 14

This consent gives approval to carry out the following works in Tree Protection Zones

Tree No.	Species	Location	Permitted works in TPZ
1	<i>Ficus rubiginosa</i>	Rear of property	Excavation and construction of pool
2	<i>Lophostemon confertus</i>	Adjoining property	Demolition of existing property Construction of additions and alterations

No trees are permitted for removal as part of this development.

Reason: To ensure the protection of trees to be retained and to confirm trees removed for pruning/removal.

6. **A.9.T Works on Council land**

Separate application shall be made to Council's Urban and Services Division for any associated works on Council property. Written approval is to be obtained prior to the start of any works on Council property.

Reason: To manage impacts to Council's assets.

7. **A.10.E Drainage plan amendments**

Before the issue of a construction certificate, the certifier must ensure the approved construction certificate plans (and specifications) detail the following required amendments to the approved stormwater drainage plans:

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. Sediment control fence shall be placed around the construction site and shown in plan
4. One silt arrester pit with mesh (RH3030) and sump(200mm) is required within the site, at start of the discharge pipe to Council kerb.
5. The stormwater runoff from driveway shall be collected by grated driveway pit and connected to new stormwater 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 if charged system is used. The details of design level difference shall be shown in plan.
7. The kerb connection pipe from fence line to kerb shall be designed for gravity discharge only and no charged pipeline allowed.
8. The kerb discharge shall be 300mm away from edge of driveway wing and complied with section 4.1 in Council DCP.
9. Bends on discharge pipe from site to Council kerb are not allowed.
10. Council does not support more than one kerb outlet pipe for single house.
11. Council does not support pipeline system underneath of any part of the buildings.
12. Construction of drainage system associated with pool satisfy relevant Australian standards.

Certification from a suitably qualified engineer as to the matters below is to be provided to the Principal Certifying Authority, prior to the issue of any CC:

- a) Compliance with the amendments detailed in this condition.
- b) Compliance with Part O: Stormwater Management of Council's DCP.

Where a variation is sought, written approval is to be obtained from Council's Urban Services Division.

Reason: To ensure adequate stormwater management in accordance with Council's DCP.

8. **A.12 – Geotechnical Report**

A Geotechnical report is to confirm that the pool can be constructed without damaging any property on 136 Riverview Street. This report is to be complete **prior the commencement of demolition** and **prior to the issue of the construction certificate**.

Reason: To ensure the protection of the adjoining property.

9. **A.13 – Swimming pool 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 Statewide Swimming Pool Register when completed.

The register can be found at www.swimmingpoolregister.nsw.gov.au.

Reason: Statutory requirement.

10. **A.14 – Pool filter and pump**

The filter and pump are to be located in a soundproof enclosure. 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.

11. **A.15 – Pool warning notice**

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.

12. **A.16 – Pool construction**

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.

PART B – PRIOR TO DEMOLITION WORKS

13. **B.2.E Asbestos removal, handling and disposal**

The removal, handling and disposal of asbestos from building sites shall be carried out in accordance with the requirements of the Occupational Health and Safety Act and the Regulations. Details of the method of removal in accordance with this condition is to be submitted to the Principal Certifying Authority and Council’s Environmental Health Section, prior to commencing any demolition works.

Reason: To ensure worker and public health and safety.

14. **B.3.EH Compliance with demolition standard**

Demolition of buildings and structures must comply with Australian Standard AS 2601—2001: The Demolition of Structures.

Reason: Prescribed condition under the EP&A Regulation 2000.

15. **B.13.L - Project arborist**

Prior to the commencement of any works including demolition, a project arborist of minimum Australian qualitative framework (AQF) Level 5 qualification is to be appointed to oversee/monitor trees/condition compliance during the construction process. Compliance certificates must be available upon request and submitted to the Principal Certifier prior to the issue of an occupation certificate. The project Arborist shall:

- Certify tree protection measures listed within Condition 16 (B.14), Condition 17 (B.15) and Condition 18 (B.16) prior to demolition works
- Clearly identify which trees are to be retained as part of this consent
- Oversee the excavation of the pool
- Oversee the pruning of the neighbouring Brushbox
- Provide quarterly health and condition assessments on protected trees
- Statement upon completion for the development that all retained trees have been maintained in a healthy, viable condition and replacement planting has been undertaken. The statement must also recommend remedial advice for trees post construction to mitigate and long-term construction impacts.

Reason: To ensure trees to be protected on the site.

16. **B.14.T – Tree Protection Fencing**

The following tree protection measures must be in place prior to demolition works and certified by the project arborist.

Tree Protection Fencing must be installed within the following locations:

1. Along a 3m radial distance in an arc protecting the structural root zone of the *Ficus rubiginosa* at the rear of the property
2. 2x panels along the boundary adjoining tree #2

The fencing must consist of a 1.8 m high chain mesh fence held in place with concrete block footings and fastened together. An example of fencing is shown under figure 3 on page 16 of the Australian Standard 4970-2009 *The Protection of Trees on Development sites* or appendix E of the Supplied Arborist Report. The fenced area shall not be used for the storage of building materials, machinery, site sheds, or for advertising and the soil levels within the fenced area shall remain undisturbed.

A waterproof sign must be placed on every second panel stating, 'NO ENTRY TREE PROTECTION AREA – this fence and sign are not to be removed or relocated for the work duration.' Minimum size of the sign is to be A3 portrait with NO ENTRY TREE PROTECTION ZONE in capital Arial Font size 100, and the rest of the text in Arial font size 65.

Such fencing and signage must be erected **Prior to Demolition** including site preparation and remain in place for the duration of the construction work

Movement of Tree Protection Fencing must be overseen and approved by the project Arborist with notification provided to Council's Tree Management Officer in writing.

Reason: To protect the natural environment.

17. **B.15.T – Tree Trunk Protection**

The following tree protection measures must be in place prior to demolition works and certified by the project arborist.

The trunks of the following trees must be protected during the construction period by a trunk guard.

1. *Lophostemon confertus*

Timber Planks (50mmx100mm or similar) shall be placed at 100mm intervals and must be fixed by wire ties or strapping to a height of 2m. Hessian cloth is to be placed between the trunk and the planks to minimise damage. The timber planks are not to be fixed directly to the tree in any way. An example of suitable trunk protection can be found on page 17 within the Australian Standard 4970-2009 *The Protection of Trees on Development Sites*. Trunk and branch protection is to be installed **Prior to the issue of the construction certificate**.

As the tree is on the neighbouring property, access to install the trunk protection is required by the tree owner. This consent does not authorise the applicant to enter the neighbouring property to install trunk protection.

Reason: To protect trees during construction.

18. **B.16.T – Tree Ground Protection**

Ground protection is required within the Tree protection Zone of Tree #1 at the rear of the property Ground protection is to consist of:

- A geotextile fabric laid on ground
- 100mm of a coarse woodchip >20mm laid on top of the fabric
- Rumble boards placed on top and strapped together.

A suitable example of ground protection can be found under section 4.5.3 of The Australian standard 4970-2009 *The Protection of Trees on Development Sites*. Ground protection must be in place Prior to the issue of a construction certificate.

Reason: To protect the root system of retained trees during the excavation phase.

19. **B.17 - Dilapidation report**

Before the issue of a construction certificate and before the commencement of any demolition works, a suitably qualified engineer must prepare a dilapidation report detailing the structural condition of adjoining buildings, structures or works, and public land, to the satisfaction of the certifier. If the engineer is denied access to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and demonstrate, in writing, to the certifier's satisfaction that all reasonable steps were taken to obtain access to the adjoining properties.

Reason: To establish and document the structural condition of adjoining properties and public land for comparison as building work progresses and is completed.

PART C - BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

20. **C.1 - Construction site management plan**

Prior to any demolition works and before the issue of a construction certificate, the applicant must ensure a construction site management plan is prepared before it is provided to and approved by the certifier. The plan must include the following matters:

- location and materials for protective fencing and hoardings to the perimeter on the site.
- provisions for public safety
- pedestrian and vehicular site access points and construction activity zones
- protective measures for on-site tree preservation (including in accordance with AS 4970-2009 Protection of trees on development sites and Council's DCP, if applicable) and trees in adjoining public domain (if applicable)
- Appointment of a project arborist of minimum AQF Level 5 qualification to oversee/monitor tree(s) condition during the construction process.
- details of any bulk earthworks to be carried out
- location of site storage areas and sheds
- equipment used to carry out all works
- a garbage container with a tight-fitting lid
- 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.

The applicant must ensure a copy of the approved construction site management plan is kept on-site at all times during construction.

Council Approvals

1. Where hoarding is required to be provided along the street frontage, a Hoarding Application is to be submitted to Council for approval.
2. Any construction plant on the public road reservation requires an approved "Application for standing plant *permit*".
3. 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 require details of measures that will protect the public, and the surrounding environment, during site works and construction.

21. **C.2 - Erosion and sediment control plan**

Prior to any demolition works or clearing of any vegetation and before the issue of a construction certificate, the applicant is to ensure that an erosion and sediment control plan is prepared in accordance with the following documents before it is provided to and approved by the certifier:

- Council's development control plan,
- the guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book), and
- the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust).

The applicant must ensure the erosion and sediment control plan is kept on-site at all times during site works and construction.

Reason: To ensure no substance other than rainwater enters the stormwater system and waterways

22. **C.23.B - Sydney Water requirements**

The approved plans must be submitted to Sydney Water online approval portal "Sydney Water Tap In" for approval. A section 73 certificate is to be obtained for development or subdivision requiring servicing of sewer and water.

Reason: To comply Sydney Water requirements.

23. **C.24.E - Structural engineer's details**

The Construction Certificate plans and specifications must include detailed professional structural engineering plans and/or specifications for the following:

- underpinning;
- retaining walls;
- footings;
- reinforced concrete work;
- structural steelwork;
- upper level floor framing;

and where relevant in accordance with any recommendations contained in an approved geotechnical report.

Reason: To ensure structural adequacy.

24. **C.25.E - Construction methodology report**

Where there are structures on neighbouring properties that are deemed to be in the zone of influence of the proposed excavations, a suitably qualified engineer must prepare a Construction Methodology Report demonstrating that the proposed excavation will have no adverse impact on any surrounding property and infrastructure.

The report must:

- be submitted to the Principal Certifying Authority prior to issue of any Construction Certificate;
- include a geotechnical report to determine the design parameters appropriate to the specific development and site;
- include recommendations on appropriate construction techniques to ameliorate any potential adverse impacts.

The development works are to be undertaken in accordance with the recommendations of the Construction Methodology report.

Reason: To protect neighbouring buildings.

25. **C.27.E - Proposed vehicular crossing**

The vehicular crossing servicing the property shall be reconstructed prior to the issue of the Occupation Certificate as it does not meet Council's current standards. The existing driveway shall be completely demolished and apart from the area of the new driveway shall be reinstated by standard kerb and gutter satisfying Council's standard.

- a) The proposed vehicular crossing shall be constructed to the specifications and levels issued by Council. The applicant has to lodge Vehicular Crossing Application form and pay application fee as shown in this form to get these levels. This shall be done prior to Construction Certificate.
- b) The driveway opening width along at the face of kerb is to be no wider than 4.5.
- c) The driveway shall be setback a minimum 300mm away from any existing power pole

and stormwater pit.

- d) Certification is to be provided by a suitably qualified engineer demonstrating compliance with AS 2890 Series including AS 2890.1.2004 "Off Street Car Parking", and Council's standards and specifications.
- e) The following plans shall be prepared and certified by a suitably qualified engineer:
- Longitudinal sections along the extreme wheel paths of the driveway/access ramp at a scale of 1:20 demonstrating compliance with the scraping provisions of AS2890.1. The sections shall include details of all levels and grades, including those levels stipulated at boundary levels, both existing and proposed from the centre line of the roadway through to the parking area clearly demonstrating that the driveway complies with Australian Standards 2890.1-2004 - Off Street Car Parking.
 - Transitional grades in accordance with AS2890. If a gradient in excess of 25% is proposed, the engineer must certify that this design is safe and environmentally sustainable.
 - Sections showing the clearance to the underside of any overhead structure complies with the clearance provisions of AS2890.1.

A 'Construction of Residential Vehicular Footpath Crossing' application, design and certification shall be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. All works associated with construction of the crossing shall be completed prior to the issue of any Occupation Certificate.

Reason: To ensure the proposed vehicular crossing complies with Australian Standards and Council's requirements.

26. **C.28.E – Overland flow and pool damage**

Council accepts no liability for any damage to the pool because 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.

27. **C.29.E – Pool construction water diversion**

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.

28. **C.30.E – Pool construction stormwater**

The stormwater runoff from the new impervious areas surrounding the pool shall be connected the proposed drainage system in accordance with the requirements of Lane Cove Council's DCP Stormwater Management.

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

PART D - BEFORE THE COMMENCEMENT OF BUILDING WORK

29. **D.1 - Erosion and sediment controls in place**

Before the commencement of any site or building work, the principal certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan, (as approved by the principal certifier) are in place until the site is rectified (at least 70% ground cover achieved over any bare ground on site).

Reason: To ensure runoff and site debris do not impact local stormwater systems and waterways.

30. **D.3 - Signs on site**

A sign must be erected in a prominent position on any site on which building work or demolition work is being carried out:

- a) showing the name, address and telephone number of the principal certifier for the work, and
 - b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c) stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work or demolition work is being carried out but must be removed when the work has been completed.

Note: This does not apply in relation to building work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

Reason: Prescribed condition EP&A Regulation, clauses 98A (2) and (3).

31. **D.4 - Compliance with Home Building Act**

In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

Reason: Prescribed condition EP&A Regulation, clause 98(1)(b).

32. **D.5 - Home Building Act requirements**

Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifier for the development to which the work relates (not being the council) has given the council written notice of the following information —

- a) In the case of work for which a principal contractor is required to be appointed -
 - i) the name and licence number of the principal contractor, and
 - ii) the name of the insurer by which the work is insured under Part 6 of that Act,
- b) In the case of work to be done by an owner-builder—
 - i) the name of the owner-builder, and
- c) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the principal certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

Reason: Prescribed condition EP&A Regulation, clause 98B(2) and (3).

33. **D.6 - Notice regarding dilapidation report**

Before the commencement of any site, building or demolition work, the principal certifier must ensure the adjoining building owner(s) is provided with a copy of the dilapidation report for their property(ies) no less than 7 days before the commencement of any site or building works and provide a copy of the report to Council at the same time.

Reason: To advise neighbours and Council of any dilapidation report.

PART E - WHILE BUILDING WORK IS BEING CARRIED OUT

34. **E.1 - Hours of work**

The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:

Monday to Friday (inclusive)	7.00am to 5.30pm
Saturday	7.00am to 4.00pm

Reason: To protect the amenity of the surrounding area.

35. **E.2 - Compliance with the Building Code of Australia**

Building work must be carried out in accordance with the requirements of the *Building Code of Australia*.

Reason: Prescribed condition - EP&A Regulation clause 98(1)(a)

36. **E.5 - Implementation of BASIX commitments**

While building work is being carried out, the applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent, for the development to which the consent applies.

Reason: To ensure BASIX commitments are fulfilled in accordance with the BASIX certificate (prescribed condition under clause 97A(2) EP&A Regulation).

37. **E.6 - Surveys by a registered surveyor**

While building work is being carried out, a registered surveyor is to measure and mark the positions of the following and provide them to the principal certifier —

- a) All footings/ foundations
- b) At other stages of construction – any marks that are required by the principal certifier.

Reason: To ensure buildings are sited and positioned in the approved location

38. **E.7 - Construction noise**

The applicant is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.

Reason: To protect the amenity of the neighbourhood.

39. **E.8 - Tree protection**

While site or building work is being carried out, the applicant must maintain all required tree protection measures in good condition in accordance with the construction site management plan required under this consent, the relevant requirements of AS 4970-2009 Protection of trees on development sites any arborist's report approved under this consent and **condition 16 (B.14)**. This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.

Reason: To protect trees during construction.

40. **E.9 - Responsibility for changes to public infrastructure**

While building work is being carried out, the applicant must pay any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area).

Reason: To ensure payment of approved changes to public infrastructure.

41. **E.10 - Shoring and adequacy of adjoining property**

If the development involves any excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land (including any structure or work within a road or rail corridor), the person having the benefit of the development consent must, at the person's own expense —

- a) Protect and support the building, structure or work from possible damage from the excavation, and
- b) Where necessary, underpin the building, structure or work to prevent any such damage.

This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

Reason: Prescribed condition - EP&A Regulation clause 98E

42. **E.12 - Cut and fill**

While building work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:

- a) All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the principal certifier.
- b) All fill material imported to the site must be Virgin Excavated Natural as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* or a material identified as being subject to a resource recovery exemption by the NSW EPA.

Reason: To ensure soil removed from the site is appropriately disposed of and soil imported to the site is safe for future occupants.

43. **E.15.B - Critical stage inspections**

Critical stage inspections are to be carried out in accordance with Section 6.5 of the EP&A Act 1979 and clauses 162A, 162B and 163 of the EP&A Regulation 2000. Where Lane Cove Council is appointed as the PCA, an inspection is to be booked for each of the following relevant stages during the construction process:

- a) underpinning;
- b) retaining walls;
- c) footings;
- d) reinforced concrete work;
- e) structural steelwork;
- f) upper level floor and roof framing; and
- g) as requested by the Council.

Reason: EP&A Act requirement.

44. **E.18.B - No obstruction of public way**

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by Council to stop all work on site.

Reason: To ensure public safety.

45. **E.19.B – Encroachments**

No portion of the proposed structure shall encroach onto the adjoining properties. The proposed construction shall not encroach onto any existing Council drainage pipe or easement unless approved by Council. If a Council stormwater pipe is located at site during construction, Council is to be immediately notified. Where necessary the drainage 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 drainage pipe 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 ensure works are contained wholly within the subject site

46. **E.26 – Excavation for the pool**

Excavation required for the installation of the pool must be overseen by the project arborist. Excavation along the proposed line of the pool within the Tree protection Zone of tree #1 must be undertaken by hand to a depth of 500mm. Excavation machinery must be kept to within the footprint of the proposed pool where possible. Roots discovered within the excavated area must be documented and cleanly pruned with a sharp implement

Exposed roots shall be protected in accordance with section 4.5.4 of AS4970-2009 The protection of trees on Development Sites

Reason: To protect trees during construction.

47. **E.27 – Tree Pruning**

Council grants consent for the pruning of tree #2 *Lophostemon confertus* (Brushbox) located on the adjoining property of 136 Riverview street. Pruning is limited to the following branches:

- 1x low 1st order south western branch to trunk. Final cut 170mm diameter at branch collar
- 3x 2nd/3rd order southern lateral branches over roofline. Final cuts <50mm diameter at branch junctions.
- Less than 10% live foliage is permitted to be removed from this tree.

All pruning works must be done in accordance with AS4373-2007 The Pruning of Amenity Trees. All branches must be pruned to branch collars to the specified branch diameters listed above.

All pruning works must be undertaken from within the subject site. This consent does not authorise the applicant or the contractors engaged to do the works to enter the neighbouring property. Written consent must be obtained from the tree owner to enter their property (136 Riverview Street, Riverview). Works may only be undertaken Upon issue of a

construction certificate. Pruning outside of the authorised works will result in regulatory action

Reason: To provide appropriate building clearances whilst maintain health and aesthetic of tree.

48. **E.28 – Stockpiling of Materials**

No stockpiling of materials, building equipment or additional activities listed in section 4.2 of AS4970-2009 The Protection of trees on Development Sites is to occur within the tree protection Zone of tree #1 and on the Council Owned Nature Strip. All building materials must be stored within the subject site in an appropriate location.

Reason: To mitigate damage to retained trees and Council land.

PART F - BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE

49. **F.1 - Works-as-executed plans and any other documentary evidence**

Before the issue of the relevant occupation certificate, the applicant must submit, to the satisfaction of the principal certifier, works-as-executed plans, any compliance certificates and any other evidence confirming the following completed works:

- (a) All stormwater drainage systems and storage systems
- (b) The following matters that Council requires to be documented:
 - Compliance with *Part O - Stormwater Management* of Lane Cove DCP 2010. Where a variation is sought, written approval shall be obtained from Council's Urban Services Division.
 - Compliance with AS-3500.
 - Certification from a suitably qualified engineer that the approved stormwater pipe system and on-site stormwater detention (OSD) system has been constructed in accordance with the approved plans.
 - Signed plans by a registered surveyor clearly showing the surveyor's details and date of signature.
 - Certification from suitable engineer that the swimming pool has been constructed satisfying relevant Australian standards.

The principal certifier must provide a copy of the plans to Council with the occupation certificate.

Reason: To confirm the location of works once constructed that will become Council assets.

50. **F.2 - Completion of public utility services**

Before the issue of the relevant occupation certificate, the principal certifier must ensure any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, is completed to the satisfaction of the relevant authority.

Before the issue of the occupation certificate, the certifier must request written confirmation from the relevant authority that the relevant services have been completed.

Reason: To ensure required changes to public utility services are completed, in accordance with the relevant agency requirements before occupation.

51. **F.3 - Post-construction dilapidation report**

Before the issue of an occupation certificate, a suitably qualified engineer must prepare a

post-construction dilapidation report, to the satisfaction of the principal certifier, detailing whether:

- a) after comparing the pre-construction dilapidation report to the post- construction dilapidation report required under this condition, there has been any structural damage to any adjoining buildings; and
- b) where there has been structural damage to any adjoining buildings, that it is a result of the building work approved under this development consent.

Before the issue of an occupation certificate, the principal certifier is to provide a copy of the post-construction dilapidation report to Council (where Council is not the principal certifier) and to the relevant adjoining property owner(s).

Any damage to the adjoining building or property is to be repaired. The cost of these works are to be borne by the Applicant.

Reason: To identify damage to adjoining properties resulting from building work on the development site.

52. **F.4 - Preservation of survey marks**

Before the issue of an occupation certificate, a registered surveyor must submit documentation to the principal certifier which demonstrates that:

- a) no existing survey mark(s) have been removed, damaged, destroyed, obliterated or defaced, or
- b) the applicant has re-established any survey mark(s) that were damaged, destroyed, obliterated or defaced in accordance with the Surveyor General's Direction No. 11 – Preservation of Survey Infrastructure.

Reason: To protect the State's survey infrastructure.

53. **F.5 - Repair of infrastructure**

Before the issue of an occupation certificate, the applicant must ensure any public infrastructure damaged as a result of the carrying out of building works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) is fully repaired to the written satisfaction of Council, and at no cost to Council.

Note: If the council is not satisfied, the whole or part of the bond submitted will be used to cover the rectification work.

Reason: To ensure any damage to public infrastructure is rectified.

54. **F.6 - Removal of waste upon completion**

Before the issue of an occupation certificate, the principal certifier must ensure all refuse, spoil and material unsuitable for use on-site is removed from the site and disposed of in accordance with the approved waste management plan. Written evidence of the removal must be supplied to the satisfaction of the principal certifier.

Before the issue of a partial occupation certificate, the applicant must ensure the temporary storage of any waste is carried out in accordance with the approved waste management plan to the principal certifier's satisfaction.

Reason: To ensure waste material is appropriately disposed or satisfactorily stored.

55. **F.7 - Completion of landscape and tree works**

Before the issue of an occupation certificate, the principal certifier must be satisfied that all landscape and tree-works, including pruning in accordance with *AS 4373-2007 Pruning of*

amenity trees and the removal of all noxious weed species, have been completed in accordance with the approved plans and any relevant conditions of this consent.

Additional Council requirements are outlined below:

- Certification of the above shall be provided by the project arborist (if applicable) or by a qualified practising landscape architect. Certification shall also be provided for the following:
 - subsoil drainage and any associated waterproofing membrane have been installed in accordance with the details shown on the approved landscape working drawings.
 - All landscaping areas have an automatic irrigation system on a timer that provides adequate water for the ongoing health and vitality of the plants.

Reason: To ensure the approved landscaping works have been completed before occupation, in accordance with the approved landscaping plan(s).

PART H - OCCUPATION AND ONGOING USE

56. H.1 - Release of securities / bonds

When Council receives an occupation certificate from the principal certifier, the applicant may lodge an application to release the securities held in accordance with **Condition 3**. Council may use part, or all of the securities held to complete the works to its satisfaction if the works do not meet Council's requirements.

Reason: To allow release of securities and authorise Council to use the security deposit to complete works to its satisfaction.

57. H.4 - Maintenance of wastewater and stormwater treatment device

During occupation and ongoing use of the building, the applicant must ensure all wastewater and stormwater treatment devices (including drainage systems, rainwater tank and swimming pool) are regularly maintained, to remain effective and in accordance with any positive covenant (if applicable).

Reason: To satisfy Council's Engineering requirements. To protect sewerage and stormwater systems.

58. H.10 – Metal roofing

All metal deck roofs being of a ribbed metal profile or corrugated galvanised or zincalume iron, in a mid-range colour and having an anti-glare finish.

Reason: Maintain amenity of neighbouring residents by reducing reflectivity and sun-glare from metal roof.

ATTACHMENTS:

There are no supporting documents for this report.

**Lane Cove Local Planning Panel Meeting 16 August 2022
39 VISTA STREET, GREENWICH.**

Subject: 39 Vista Street, Greenwich.
Record No: DA22/2-01 - 35454/22
Division: Environmental Services Division
Author(s): Andrew Bland

DA Number	Council Reference: DA2/2022 Portal Reference: PAN-181349
Proposed Development	Demolition of the existing structures and the construction of a two storey dwelling house, a double garage, a swimming pool and related landscaping.
Street Address	39 Vista Street, Greenwich.
Applicant/Owner	Applicant: Catherine Finlay Owner: H Reddy and C Reddy
Date of DA Lodgment	4 January 2022
• Development Cost	\$2,499,955.00
• Public Notification Period	Notification Period: <ul style="list-style-type: none"> - 5 January 2022 to 21 January 2022 (original design) - 27 January 2022 to 12 February 2022 (inclusion of affected neighbouring properties potentially outside of Council policy) - 6 April 2022 to 22 April 2022 (amended design 1) - 14 June 2022 to 30 June 2022 (amended design 2)
• Submissions Received	9 unique submissions have been received by way of objection.
Recommendation	Approval
Local Planning Panel Referral Criteria (Schedule 1 of Planning Direction)	• Contentious Development: Due to the contentious nature of the 9 unique submissions that have been received by way of objection.
Relevant environmental planning instruments	<ul style="list-style-type: none"> - SEPP (Biodiversity and Conservation) 2021; - SEPP(Resilience and hazards) 2021; - SEPP (Building Sustainability Index) 2004; - Lane Cove Local Environmental Plan 2009.
Summary of key submissions	<ul style="list-style-type: none"> • Excavation of rock • Bulk and Scale • View Sharing
Report prepared by	Andrew Bland
Report date	1 August 2022

1. EXECUTIVE SUMMARY

The Development Application is for the demolition of the existing structures and the construction of a two storey dwelling house, a double garage, a swimming pool and related landscaping.

The proposal is of similar scale to the adjoining properties and remains generally compliant with the controls set for this form of development under Lane Cove Local Environmental Plan 2009 and Lane Cove Development Control Plan 2010.

The Development Application is subject to other state environmental planning instruments including SEPP (Resilience and Hazards) 2021, SEPP (Biodiversity and Conservation) 2021, SEPP (BASIX) 2004 and Lane Cove Local Environmental Plan 2009. An assessment against the relevant objectives and provisions of each of these instruments is in the report.

Council issued a Request for Further Information indicating Council's concerns and the concerns of the neighbours raised in the submissions.

The Development Application was notified in accordance with Council policy for both the original proposal and the amended proposals. A total of nine (9) submissions were received. The key concerns included, but are not limited to, excavation, view loss, building height and impacts on neighborhood amenity. The submissions are addressed in the report.

Council's Traffic Engineer has outstanding concerns in relation to the garage and has requested further information to be provided insuring vehicles can reverse out of the driveway without entering a neighbouring property.

Therefore, the Development Application is reported to Panel with the recommendation for approval subject to **deferred commencement**.

2. SUBJECT SITE

The site is known as 39 Vista Street, Greenwich (Lot 24 in DP 3907). The site is 504.7sqm and is restricted to sole access via Vista Lane. The site contains a single storey dwelling house and a shed. The site is naturally divided into 2 tiers. The site has a cross-fall of approximately 5 metres from the front boundary to the top of the rock outcrop and then a severe 5 metre drop from the top of the rock outcrop to the rear boundary as shown in **Figure 1**. The land is zoned R2 Low Density Residential. The site is adjoined by two storey dwelling houses and a Council reserve at the rear boundary. An Aerial photograph of the site is shown in **Figure 2** and an aerial perspective in **Figure 3**.



Figure 1: Rock outcrop (Source: Town Planner)

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39 VISTA STREET, GREENWICH.



Figure 2: Aerial Photograph (Source: Nearthmap)



Figure 3: Aerial Perspective (Source: Nearthmap)

3. DA ASSESSMENT HISTORY

Table 1 – DA Assessment History	
Date	Description
04 January 2022	Development Application lodged.
05 January 2022	Development Application notified in accordance with Council policy.
20 January 2022	An Addendum to the Statement of Environmental Effects was received.
27 January 2022	Development Application notified further to residents potentially impacted.
17 February 2022	Request for Further Information issued. Concerns included, cut and fill, 3 storeys, works around rock outcrop, flood study, deck and location of garage.
06 April 2022	Amended proposal notified in accordance with council policy.
17 May 2022	Meeting held at Council with Applicant to discuss further concerns.
14 June 2022	The second amended proposal notified in accordance with Council policy.
07 July 2022	Request for swept path details issued.
01 August 2022	Insufficient swept path details received. See Table 8 further detail.

4. PROPOSAL

The Development Application is for the demolition of the existing structures and the construction of a two storey dwelling house, a double garage, a swimming pool and related landscaping. The northern side elevation can be seen in **Figure 4**, the western rear elevation in **Figure 5** and the eastern front elevation in **Figure 6**.

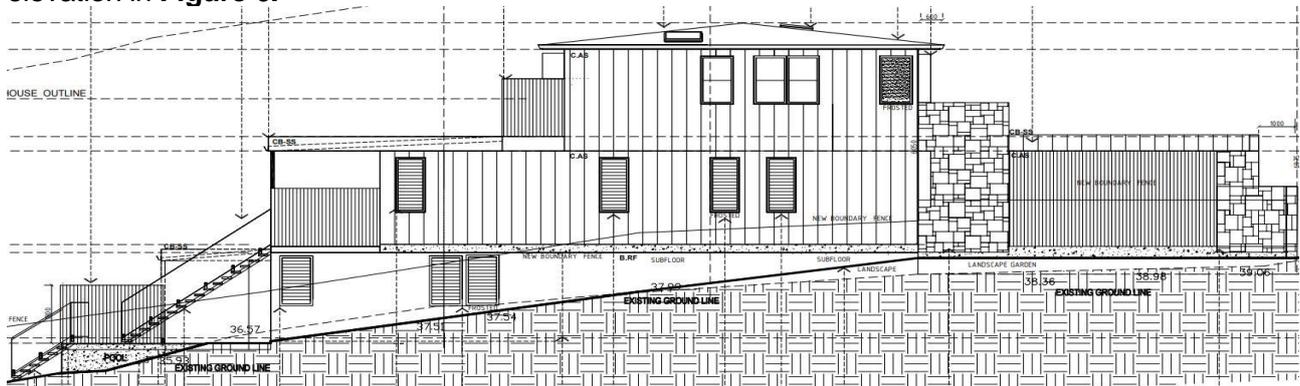


Figure 4: Northern elevation (Source: Architectural plans)

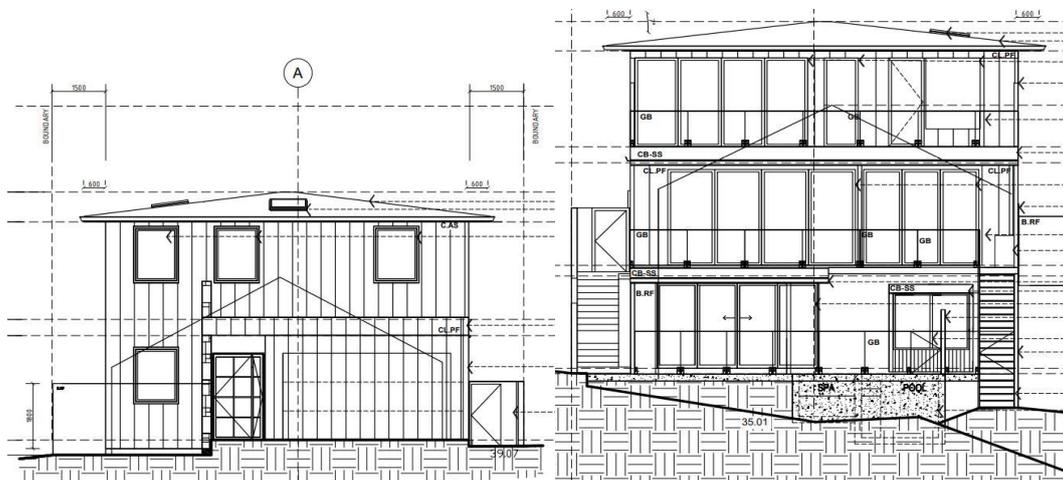


Figure 5: Western elevation & Figure 6: Eastern elevation (Source: Architectural plans)

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39 VISTA STREET, GREENWICH.**

A description of the proposal from Cliff Road to the rear of the site is provided in **Table 2** as follows:

Table 2 – Description of Proposal	
Part	Description
Demolition	Demolition of the existing dwelling house, concrete slabs and shed.
Drainage Works on Council Land.	The construction of an additional Council verge stormwater inlet to be connected to the existing system. (as required by Council's Engineer) The replacement of existing Council verge stormwater pit to a butterfly grate (as required by Council's Engineers).
Vehicular Access and Garage	Construction of a double garage in the rear yard (Vista Lane boundary).
Dwelling House	<u>Lower ground level</u> 2 Bedrooms (ensuite bathroom to 1 of the bedrooms), 1 bathroom, living space, stairs and a terrace area. <u>Ground floor level</u> Entry foyer, bedroom, open-plan living/kitchen/dining area with a butlers pantry, wine cellar, 2 bathrooms, laundry, gym room, stairs and an alfresco area with a BBQ. <u>First floor level</u> Master bedroom with a WIR and 2 ensuite bathrooms, meditation room, study, stairs and a balcony.
Pool and Spa	A swimming pool/spa is proposed and integrated into the lower ground floor terrace.
Landscaping	Associated landscaping, stairs and paths around the subject site.

5. SECTION 4.15 ASSESSMENT

The following assessment is provided against the relevant provisions of Section 4.15 of the NSW Environmental Planning and Assessment Act, 1979:

5.1 Any environmental planning instrument:

5.1.1 SEPP (Biodiversity and Conservation) 2021 – Chapter 10 Sydney Harbour Catchment

The land is subject to SEPP (Biodiversity and Conservation) 2021, *formerly SREP (Sydney Harbour Catchment) 2005*. The land is mapped as being within the Foreshores and Waterways Boundary Area as shown in **Figure 7** below. The submitted amended Statement of Environmental Effects addresses the broader provisions of the former SEPP. Notwithstanding, an assessment against the relevant provisions of relevant SEPP is provided in **Table 3** below.

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39 VISTA STREET, GREENWICH.**



Figure 7: Foreshores and Waterways Area (Source: EPlanning Spatial Viewer)

Table 3 – SEPP (Biodiversity and Conservation) 2021 – Chapter 10 Sydney Harbour Catchment

Section	Provision	Proposal	Compliance
Part 10.3 – Foreshore and Waterways Area – Division 2 – Matters for Consideration			
10.19 – Biodiversity, ecology and environment protection	The matters to be taken into consideration in relation to biodiversity, ecology and environment protection are as follows—		
	(a) development should have a neutral or beneficial effect on the quality of water entering the waterways,	A flood study and stormwater plans accompanied the development application. Council's Engineer has assessed this report and conditioned the stormwater plan accordingly.	Yes
	(b) development should protect and enhance terrestrial and aquatic species, populations and ecological communities and, in particular, should avoid physical damage and shading of aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove communities),	The proposed development would not threaten, physical damage or overshadow aquatic vegetation.	Yes
(c) development should	The proposal does not	Yes	

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Table 3 – SEPP (Biodiversity and Conservation) 2021 – Chapter 10 Sydney Harbour Catchment			
Section	Provision	Proposal	Compliance
	<p>promote ecological connectivity between neighbouring areas of aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove communities),</p> <p>(d) development should avoid indirect impacts on aquatic vegetation (such as changes to flow, current and wave action and changes to water quality) as a result of increased access,</p> <p>(e) development should protect and reinstate natural intertidal foreshore areas, natural landforms and native vegetation,</p> <p>(f) development should retain, rehabilitate and restore riparian land,</p> <p>(g) development on land adjoining wetlands should maintain and enhance the ecological integrity of the wetlands and, where possible, should provide a vegetative buffer to protect the wetlands,</p> <p>(h) the cumulative environmental impact of development,</p> <p>(i) whether sediments in the waterway adjacent to the development are contaminated, and what means will minimise their disturbance.</p>	<p>include works impacting connectivity of aquatic vegetation.</p> <p>The proposal does not modify existing foreshore access.</p> <p>The proposal does not modify natural intertidal foreshore area, natural landforms or native vegetation.</p> <p>The proposal does not modify area mapped as riparian land.</p> <p>The proposal maintains the natural buffer of the rock outcrop and existing vegetation in the front yard area beneath the rock outcrop.</p> <p>As above.</p> <p>No known contamination.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
10.20 – Public access to, and use of, foreshores and waterways	The matters to be taken into consideration in relation to public access to, and use of, the foreshores and waterways are as follows—	The proposal would not impact foreshore use or access.	Yes

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Table 3 – SEPP (Biodiversity and Conservation) 2021 – Chapter 10 Sydney Harbour Catchment			
Section	Provision	Proposal	Compliance
	<p>(a) development should maintain and improve public access to and along the foreshore, without adversely impacting on watercourses, wetlands, riparian lands or remnant vegetation,</p> <p>(b) development should maintain and improve public access to and from the waterways for recreational purposes (such as swimming, fishing and boating), without adversely impacting on watercourses, wetlands, riparian lands or remnant vegetation,</p> <p>(c) if foreshore land made available for public access is not in public ownership, development should provide appropriate tenure and management mechanisms to safeguard public access to, and public use of, that land,</p> <p>(d) the undesirability of boardwalks as a means of access across or along land below the mean high water mark if adequate alternative public access can otherwise be provided,</p> <p>(e) the need to minimise disturbance of contaminated sediments.</p>		
10.21 – Maintenance of a working harbour	<p>The matters to be taken into consideration in relation to the maintenance of a working harbour are as follows—</p> <p>(a) foreshore sites should be retained so as to preserve the character and functions of a working harbour, in relation to both current and future</p>	The proposal would not impact maintenance of a working harbour.	Yes

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Table 3 – SEPP (Biodiversity and Conservation) 2021 – Chapter 10 Sydney Harbour Catchment			
Section	Provision	Proposal	Compliance
	<p>demand,</p> <p>(b) consideration should be given to integrating facilities for maritime activities in any development,</p> <p>(c) in the case of development on land that adjoins land used for industrial and commercial maritime purposes, development should be compatible with the use of the adjoining land for those purposes,</p> <p>(d) in the case of development for industrial and commercial maritime purposes, development should provide and maintain public access to and along the foreshore where such access does not interfere with the use of the land for those purposes.</p>		
10.22 – Interrelationship of waterway and foreshore uses	<p>The matters to be taken into consideration in relation to the interrelationship of waterway and foreshore uses are as follows—</p> <p>(a) development should promote equitable use of the waterway, including use by passive recreation craft,</p> <p>(b) development on foreshore land should minimise any adverse impact on the use of the waterway, including the use of the waterway for commercial and recreational uses,</p> <p>(c) development on foreshore land should minimise excessive congestion of traffic in the waterways or along the foreshore,</p>	The proposal does not adversely impact the intended interrelationship of waterway and foreshore uses as intended by this clause.	Yes

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Table 3 – SEPP (Biodiversity and Conservation) 2021 – Chapter 10 Sydney Harbour Catchment			
Section	Provision	Proposal	Compliance
	<p>(d) water-dependent land uses should have priority over other uses,</p> <p>(e) development should avoid conflict between the various uses in the waterways and along the foreshores.</p>		
10.23 – Foreshore and waterways scenic quality	<p>The matters to be taken into consideration in relation to the maintenance, protection and enhancement of the scenic quality of foreshores and waterways are as follows—</p> <p>(a) the scale, form, design and siting of any building should be based on an analysis of—</p> <p>(i) the land on which it is to be erected, and</p> <p>(ii) the adjoining land, and</p> <p>(iii) the likely future character of the locality,</p>	<p>The scale of the building is in keeping with the LEP controls and surrounding development.</p>	Yes
	<p>(b) development should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands, foreshores and tributaries,</p>	<p>The amended proposal seeks to maintain the natural sandstone rock outcrop and foliage below. This maintains the unique visual qualities of Sydney Harbour.</p>	Yes
	<p>(c) the cumulative impact of water-based development should not detract from the character of the waterways and adjoining foreshores.</p>	Not Applicable	Not Applicable
10.24 – Maintenance, protection and enhancement of views	<p>The matters to be taken into consideration in relation to the maintenance, protection and enhancement of views are as follows—</p> <p>(a) development should maintain, protect and enhance</p>	<p>The proposed development does not</p>	Yes

**Lane Cove Local Planning Panel Meeting 16 August 2022
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Table 3 – SEPP (Biodiversity and Conservation) 2021 – Chapter 10 Sydney Harbour Catchment			
Section	Provision	Proposal	Compliance
	views (including night views) to and from Sydney Harbour, (b) development should minimise any adverse impacts on views and vistas to and from public places, landmarks and heritage items, (c) the cumulative impact of development on views should be minimised.	impact views from the Harbour. Consideration on views to Sydney Harbour provided later in the report Consideration on views to and from heritage items provided later in this report. See Table 6. Noted.	Yes
10.25 – Boat storage facilities	Not Applicable	Not Applicable	Not Applicable
10.26 – Floating boat platforms	Not Applicable	Not Applicable	Not Applicable
10.27 – Mooring pens	Not Applicable	Not Applicable	Not Applicable

Sydney Harbour Foreshores and Waterways Area DCP 2005 (the DCP 2005)

The DCP 2005 accompanies the Deemed SEPP for Sydney Harbour. It applies to all development proposals within the *Foreshores and Waterways Area Map* identified within that Plan, and principally relates to the waterway and adjoining land. The subject site is located within the boundaries of this map. It includes a *landscape assessment* and *planning guidelines*, and a discussion of both follows.

Part 3: Landscape Assessment

The site is within an area defined as *Landscape Character Type 9* that are areas containing natural foreshores interspersed with more developed areas. Development within this area should retain its natural features, and only development that is consistent with the scale, design and siting of that which exists is to be encouraged.

The sites natural rock outcrop would be retained and there would not be removal of any significant trees. The proposed development is considered to be consistent with the typical neighbourhood scale as it complies with the height and FSR controls.

Part 5: Design Guidelines for Land - Based Developments

A review of the proposal in relation to its relevant clauses follows.

(i) Clause 5.3: Siting of Buildings and Structures

The site does not provide a public vista from the southern end of Vista Lane (i.e. to Gore Cove). Views have been assessed in the Tenacity Principle section later in this report.

(ii) Clause 5.4: Built Form

The proposed dwelling house would be similar to the scale of some neighbouring dwelling houses. A pitched roof has been utilised which is located generously under the maximum 9.5m height control.

Vegetation has been provided around the site to break up the cumulative visual impact of the development.

(iii) Clause 5.6: Planting

The proposed development is accompanied by a landscape package. The proposal does not include the removal of significant trees on site. The existing vegetation within the foreshore would be protected through the following:

The sediment and erosion fencing would be located between the construction area and the edge of the natural rock outcrop. This would prevent from debris washing through the remaining portion of the site and into the Council reserve and foreshore area.

A charge system would pump the water back up the site to the stormwater pipe. This would ensure that water is no disposed into the Council reserve and foreshore area.

5.1.2 SEPP (Resilience and Hazards) 2021 – Chapter 2 Coastal Management

The land is subject to SEPP (Resilience and Hazards) 2021, *formerly SEPP (Coastal Management) 2018*. The land is mapped as **Coastal Environment Area** and **Coastal Use Area**. The SEPP mapping is provided in **Figure 8** and **Figure 9** below. The submitted amended Statement of Environmental Effects addresses the broader provisions of the former SEPP. Notwithstanding, an assessment against the relevant provisions of relevant SEPP is provided in **Table 4** below.

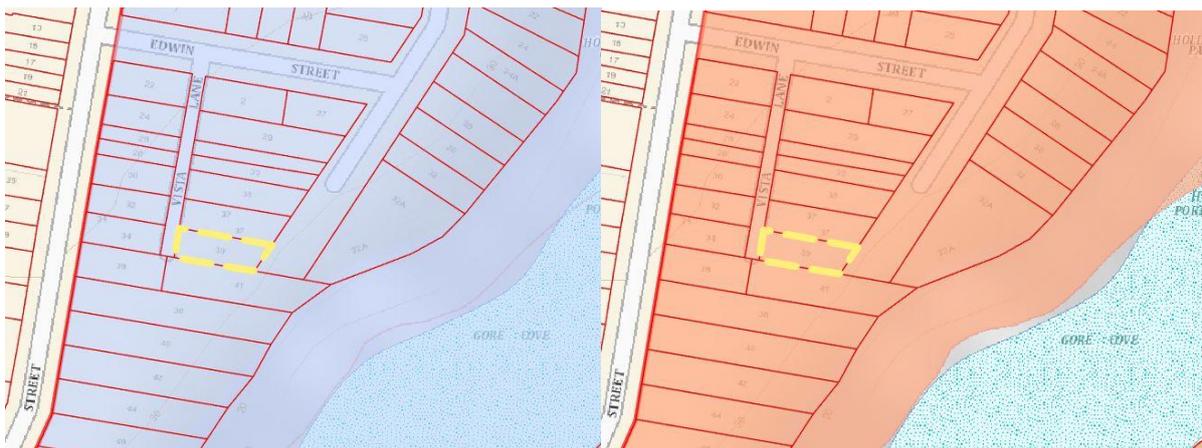


Figure 8: Coastal Environment Area and Figure 9: Coastal Use Area (Source: EPlanning Spatial Viewer)

Table 4 – SEPP (Resilience and Hazards) 2021 – Chapter 2			
Clause	Provision	Proposal	Compliance
Clause 2.10 – Development on land within the coastal	The land is mapped within a Coastal Environment Area however 2.10(3) states that Clause 2.10 does not apply	Not Applicable.	Not Applicable.

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Table 4 – SEPP (Resilience and Hazards) 2021 – Chapter 2			
Clause	Provision	Proposal	Compliance
environment area.	to land within the Foreshores and Waterways Area within the meaning of <i>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</i> .		
Clause 2.11 – Development on land within the coastal use area.	The land is mapped within a Coastal Use Area however clause 2.11(2) states that land Clause 2.11 does not apply to land within the Foreshores and Waterways Area within the meaning of <i>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</i> .	Not Applicable.	Not Applicable.
Clause 2.12 – Development in coastal zone generally— development not to increase risk of coastal hazards.	<i>Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.</i>	The proposed development is not likely to cause increased risk of coastal hazards on the subject site or any other land. Council’s Engineer has assessed the provided material, including a flood study and has no concerns with the proposed development. The proposed stormwater system has been conditioned accordingly.	Yes.
Clause 2.13 – Development in coastal zone generally— coastal management programs to be considered	<i>Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.</i>	There are no certified coastal management programs that apply to the subject site.	Not Applicable>
Clause 2.14 – Other development	Noted.	Not Applicable.	Not Applicable.

Table 4 – SEPP (Resilience and Hazards) 2021 – Chapter 2			
Clause	Provision	Proposal	Compliance
controls not affected			
Clause 2.15 – Hierarchy of development controls if overlapping	Noted.	Not Applicable	Not Applicable.

5.1.3 SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of land

The land is subject to SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of land. The proposal seeks to maintain the residential use of the site. There is no recorded contamination on the subject site and given its previous residential use it is unlikely that the site would contain contaminants. The proposal includes minor excavation and therefore no further investigation is necessary for the proposed development.

5.1.4 SEPP (Building Sustainability Index: BASIX) 2004

A valid BASIX certificate has been submitted with the application and confirms that the proposal (once operational) will comply with the water, thermal comfort and energy efficiency requirements of the policy.

5.1.5 Lane Cove Local Environmental Plan 2009

5.1.5.1 Permissibility

The land is zoned R2 Low Density Residential under Lane Cove Local Environmental Plan 2009 as detailed in **Figure 10 below**. The Development Application seeks approval for a dwelling house which is permissible with consent under the LEP.

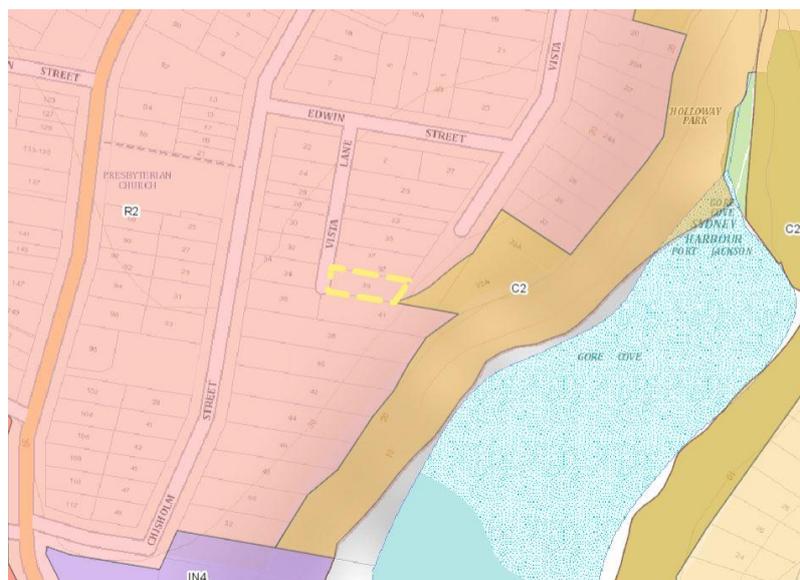


Figure 10: Zoning Map (Source: LCLEP 2009)

5.1.5.1 Development Standards

The land is mapped on the Height of Buildings Map and Floor Space Ratio Map under Lane Cove Local Environmental Plan 2009 as shown in **Figure 10** and **Figure 11** below.

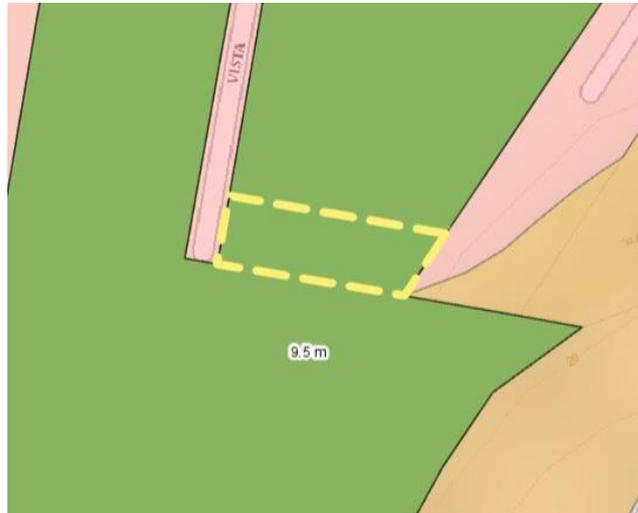


Figure 11: Excerpt from Height of Building Map (Source: LCLEP 2009)



Figure 12: Excerpt from Floor Space Ratio Map (Source: LCLEP 2009)

An assessment of the proposal against the building height and floor space development standard is provided in **Table 5** below.

Table 5 – Lane Cove Local Environmental Plan 2009 – Development Standard Compliance			
Standard	Mapped Maximum	Proposed Maximum	Compliance
Floor Space Ratio	0.6:1	Council Assessment: 0.55:1	Yes
Building Height	9.5m	Council Assessment: 8.7m	Yes

5.1.5.2 Other Considerations

Table 6 – Lane Cove Local Environmental Plan 2009 – Other Relevant Provisions	
Provision	Assessment
<p>Clause 5.10 - Heritage Conservation and Part B.9 of the LCDCP.</p>	<p>The proposal is subject to Clause 5.10 of LCLEP 2009 due to the land being within the vicinity of a number of local heritage items as seen in Figure 12 below.</p> <div style="text-align: center;">  <p>Figure 13: Heritage Map (Source: LCLEP 2009)</p> </div> <p>A local heritage item is located on the upper (adjacent the subject site) side of Vista Lane and is addressed 34 Edwin Street. Having reviewed the heritage significance of the property it is unlikely the proposed works would have a detrimental impact on its heritage value. The views of the property from public domain would not be impacted.</p> <p>The views from the property have been assessed in the B.4 View sharing section and there would be minimal impacts.</p>
<p>Clause 5.10– Aboriginal Heritage.</p>	<p>Council’s Aboriginal Heritage Advisor confirmed that there are no sites recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites. It is therefore unlikely the proposed development would have any impacts on Aboriginal Heritage. A condition has been included ensuring the correct procedure if any Aboriginal relics are located during construction.</p>

5.2 Any development control plan

5.2.1 Lane Cove Development Control Plan 2010 – Dwelling House

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Table 7 – LCDCP 2010 – Dwelling House – Table of Compliance			
Part	Control	Proposed	Complies
Front setback (min) The nominated frontage is the Vista Street boundary (in keeping with a majority of the properties on the western side of Vista Street).	7.5m or consistent with area.	7.5m to 11.5m for the lower ground level (closest level to frontage)	Yes
Side setback (min)	1200mm single storey 1500mm two storey	1.5m side setbacks for all storeys on both sides of the dwelling house.	Yes
Rear setback (min) Taken from the Vista Lane rear boundary.	<1000m ² : 8m or 25%	8.9m	Yes
Wall Height (max) (max parapet of 600mm)	7.0m	8.2m	No, see assessment below.
Undercroft height (max)	1m	Up to 1.7m of subfloor proposed beneath the ground floor.	No, see assessment below.
Number of Storeys (max)	2	2	Yes
Maximum Number of Storeys in Elevation Profile	3	3	Yes
Landscaped area (min) (Minimum width of 1m required to be included in area)	35%	35% including the impervious pathing and natural rock outcrop.	Yes
Cut and Fill (max)	1m	0.95m	Yes
Solar Access	3 hrs as per DCP.	3 hours (12pm – 3pm) of direct sun for the north facing windows of 41 Vista Lane - Solar access provisions met.	Yes
Provide for view sharing			Yes, Refer to B.4 View Sharing section in the report
Heritage Conservation	See heritage referral assessment.	See heritage referral assessment.	Yes
Deck/Balcony depth (max)	3m	3m - Lower ground floor 3m - Ground floor 3m - Level 1	Yes
Private open space	24 m ² (min) 4m minimum depth	Provided.	Yes
Off-street spaces (min)	1	2	Yes
Driveway width	3m at the lot boundary	Conditioned by Council Engineer.	Conditioned by Council Engineer.

Table 7 – LCDCP 2010 – Dwelling House – Table of Compliance			
Part	Control	Proposed	Complies
% of Allotment Width (garages & carports)	50% of lot width or 6m, whichever is the lesser	5.7m	Yes
Location of pool	Pools aren't to be located within the front setback.	The pool is proposed within the front setback.	No, see assessment below.
Pool Setback to Neighbour's House (min)	3m to waterline	5m	Yes
Pool Height (max)	1.8m – for steeply slopping sites	1.5m – site is considered steeply slopping.	Yes
Pool Setback from boundary if coping is above ground level (existing) (min)	Coping to be set back at a ratio of 1:1	1.5m setback required – 4.8m provided.	Yes
Front fence height (max)	Solid: 900mm Lightweight: 1.2m	No front fence proposed.	Not Applicable
Side and rear fences	1.8m	1.8m – lightweight side fences proposed. 1.8m – stone fence for portion of rear boundary	Yes

5.2.2 Variations

The following section of the report addresses the proposed variations to the prescriptive DCP measures sought to be varied having regard to the applicant's submitted justification and the objectives of the prescriptive measure sought to be varied:

i. Wall height – Part C1.7.1(a) stipulates a maximum wall height of 7.0m where a wall height of 8.2m is proposed. The applicant has sought to justify the variation on the grounds that the site is steeply sloping and that the overall height of the building is well within the height controls. A variation is considered reasonable in this instance as the proposal is well within the allowable 9.5m height control, the solar access provisions have been achieved and the wall height non-compliance is accentuated by the required subfloor (see next section).

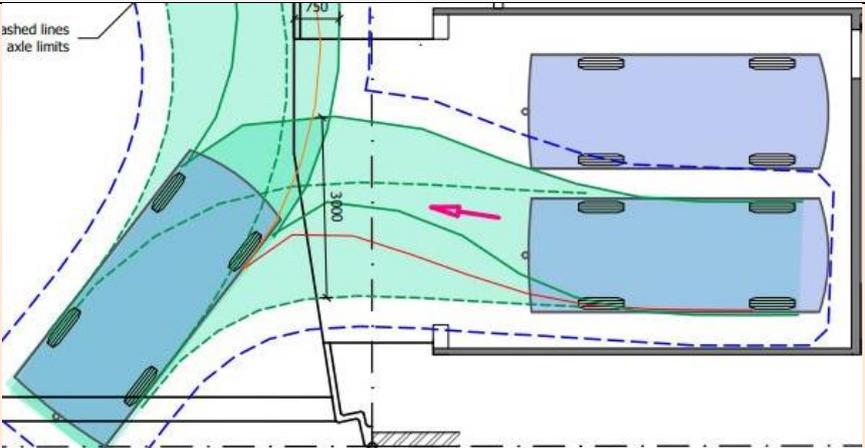
ii. Subfloor height – Part C1.7.1(b) stipulates a maximum subfloor height of 1m where a subfloor of up to 1.7m is proposed. The applicant has sought to justify the variation on the grounds that Council requested a reduction in the proposed excavation within the request for further information amendments. A variation is considered reasonable in this instance as the proposal is well within the allowable 9.5m height control, the limited excavation (through the utilisation of a subfloor) addresses Council's concerns and there would be minimal impacts on the amenity of adjoining properties.

iii. Location of pool – Part C1.10.1(a) stipulates that pools are to be located behind the front building line and not on elevated decks. The applicant has sought to justify the variation on the grounds that the pool would not be visible from the Council reserve and that to limit rock excavation the pool has been raised. A variation in this instance is considered reasonable because the privacy screening and location of the pool ensure that the amenity of the neighbours aren't unreasonably impacted. The proposed pool structure would not be visible from the public space and the screen planting, materials and colours will ensure the pool is compatible with its surroundings.

5.3 Lane Cove Development Control Plan 2010 – Other Sections

The other relevant sections of Lane Cove Development Control Plan 2010 have been addressed through **referrals** as outlined in the following table:

Table 8 - Referrals		
Referral	DCP	Comment
Tree Preservation	Part J – Landscaping	<p>Satisfactory – An arborist report accompanied the development application. This was reviewed by Council’s Tree assessment officer who provided the following comments:</p> <p>The proposal requests the installation of a new side fence and boundary wall within the Tree Protection Zone (“TPZ”) and Structural Root Zone (“SRZ”) of a neighbouring jacaranda. No concerns with this on the provisions that root sensitive construction methods are used.</p> <p>The installation of a new 150mm diameter stormwater line and 300mm diameter pit is proposed within the protection zone of neighbouring Bangalow Palms. This has not been addressed in the supplied Arborists report.</p> <p>The Stormwater Management Plan has been conditioned accordingly to impose the required amendments.</p>
Development Engineer	Part O – Stormwater Management	<p>Satisfactory – Council’s Engineer identified the site as being flood affected and requested a flood study be provided.</p> <p>This flood study was provided and recommended the finished floor level of the garage. This recommendation was adopted and the proposed development has been conditioned accordingly.</p> <p>Council’s Engineer has conditioned a charged system to ensure stormwater run-off is disposed of adequately in regard to the Foreshore area.</p>
Traffic Engineer	Part R – Traffic Transport and Parking.	<p>Unsatisfactory – Council’s Traffic Engineer is not satisfied with the provided information.</p> <p>Council requested that swept paths be provided to illustrate how 2 vehicles would enter and exit the property without entering adjoining properties. The provided swept path diagram is inconclusive and lacks key information. The swept paths illustrate the vehicles colliding at a point, see Figure 14.</p>

Table 8 - Referrals		
Referral	DCP	Comment
		 <p>Figure 14: Swept paths (Source: Applicant)</p> <p>Further information is required including the use of AutoTURN program which can be used to adequately demonstrate the swept paths.</p> <p>As a result the application has been recommend as a deferred commencement.</p>
NSW Rural Fire Service	Part H – Bushland Protection.	<p>Satisfactory - The proposal was referred to the NSW Rural Fire Service as it is a bushfire affected site. The following comment was provided along with conditions of consent.</p> <p><i>“The NSW RFS recognises that the site is constrained and that the proposed development falls within the Flame Zone. Flame Zone development is high risk development; consequently, in situations such as this, the NSW RFS seeks to improve the overall fire safety of the existing development. This requires greater emphasis on construction standards, landscaping, siting, and vegetation management practices to ensure improved levels of protection are afforded to the development, its occupants and fire fighters. The NSW RFS has undertaken a merit based assessment of the proposal and provides the above advice in accordance with Planning for Bush Fire Protection 2019.”</i></p>

5.2.4 – B.4 View Sharing

The sharing of all views is part of the character of the Lane Cove area and should be maintained where possible subject to how the view is obtained and whether the maintenance of such a view creates an unreasonable impost on adjoining landowners. Views that are gained across other privately-owned land are not “as of right”, as some may depend on the property that is overviewed maintaining a lower scale that is achievable under the LEP.

The Tenacity principle is a 4-step view sharing test that is implemented by the Land and Environment Court for the purposes of view loss assessment. The objectives of the B.4 View sharing section of the Lane Cove Council DCP 2010 outline the key components of this 4-step view sharing principle.

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The proposed development impacts the views of multiple properties as shown in **Figure 15** below. A tenacity principle assessment for the individual properties follows. **All images were sourced by the Lane Cove Town Planner**

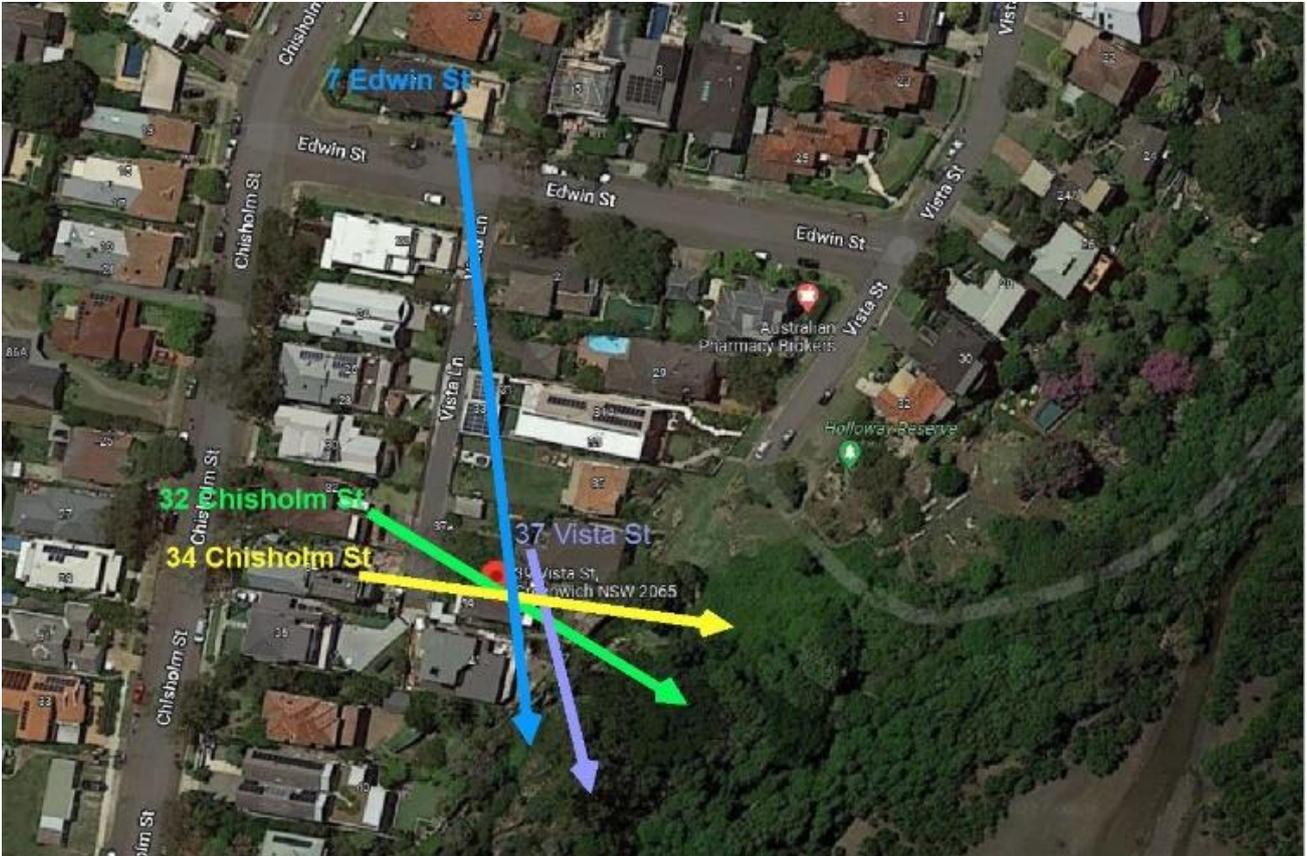


Figure 15: View loss corridors (Source: Google maps)

5.2.4.1 37 Vista Street, Greenwich.



Figure 16: View from top floor living room



Figure 17: View from top floor dining room



Figure 18: View from ground floor living room



Figure 19: Wooden structure representing the proposed ground floor alfresco privacy screen.

Step 1. *Assessing the types views to be affected.* Water views are valued more highly than land views. Iconic views are valued more highly than views without icons. Whole views are valued more highly than partial views. From the top floor of the dwelling full views of the City skyline, Sydney Harbour and Sydney Harbour Bridge are obtained. From the ground floor full views of the Harbour Bridge, partial views of the City skyline and full views to the ANZAC Bridge are obtained. Refer to Figures 16 – 19 above.

Step 2. *Assessing what part of the property the views are obtained.* Side views are harder to protect than rear or front views and seated views are harder to protect than standing views and living rooms and kitchens are more valuable than bedrooms. The upper floor views are obtained from both standing and sitting positions over the rear and side boundary from the living room and kitchen. The ground floor views to the Harbour Bridge, City skyline and ANZAC Bridge are obtained over the side boundary from the living room and some bedrooms.

Step 3. *Assessing the extent of the impact.* This should be done for the whole of the property, not just the view that is affected. The impact on views are considered minor across the whole property with minor impacts of the Harbour bridge from the ground floor as shown in Figure 18. There would be moderate view loss of partial views of the City skyline and Harbour on the ground floor.

Step 4. *Assessing the reasonableness of the proposal.* A proposal which is fully compliant is more reasonable than one which doesn't comply, and, proposals which have been skillfully designed are considered more reasonable. The proposed development complies with the setback controls. It would be unreasonable to impose further setback requirements to increase the view that would be obtained at 39 Vista Street.

Whilst the views are considered significant the impacts across the whole property would be considered minor. The iconic Harbour bridge views on the ground floor would be maintained with all views obtained on the top floor being maintained. For these reasons the proposed development is considered to have met the tenacity principle in this instance.

5.2.4.2 34 Chisholm Street, Greenwich.



Figure 20: View from living room



Figure 21: View from living room

Step 1. *Assessing the types views to be affected. Water views are valued more highly than land views. Iconic views are valued more highly than views without icons. Whole views are valued more highly than partial views. From the top floor of the dwelling **views of the City skyline, Sydney Harbour and partial views of the Harbour bridge are obtained.** From the ground floor **partial views to the Harbour Bridge and City skyline.***

Step 2. *Assessing what part of the property the views are obtained. Side views are harder to protect than rear or front views and seated views are harder to protect than standing views and living rooms and kitchens are more valuable than bedrooms. The subject view can be **obtained from both standing and sitting positions over the rear boundary from the living room on the on the top floor.***

Step 3. *Assessing the extent of the impact. This should be done for the whole of the property, not just the view that is affected. The impact on views are considered **negligible across the whole property.***

Step 4. *Assessing the reasonableness of the proposal. A proposal which is fully compliant is more reasonable than one which doesn't comply, and, proposals which have been skillfully designed are considered more reasonable. The proposed development is 8.7m which is **well within the allowable LEP height control.** The proposal is generally consistent with the provisions and objectives of the LCDCP.*

Whilst the views are considered significant the impacts across the whole property would be considered negligible. Further amendments to the design are unlikely to have a material benefit in regards of the views lost. For these reasons the proposed development is considered to have met the tenacity principle in this instance.

5.2.4.3 32 Chisholm Street, Greenwich.



Figure 22: View from ground floor



Figure 23: View from top floor

Step 1. *Assessing the types views to be affected. Water views are valued more highly than land views. Iconic views are valued more highly than views without icons. Whole views are valued more highly than partial views.* From the top floor of the dwelling **full views of the City skyline, Sydney Harbour and partial views of the Harbour bridge are obtained.** From the ground floor **partial views to the Harbour Bridge and City skyline** are obtained.

Step 2. *Assessing what part of the property the views are obtained. Side views are harder to protect than rear or front views and seated views are harder to protect than standing views and living rooms and kitchens are more valuable than bedrooms.* The subject view can be **obtained from both standing and sitting positions over the rear boundary and from the living room on the ground floor and bedrooms on the top floor.**

Step 3. *Assessing the extent of the impact. This should be done for the whole of the property, not just the view that is affected.* The impact on views are considered **minor across the whole property** with predominately moderate impacts on the partial views of the Harbour bridge (obtained through trees).

Step 4. *Assessing the reasonableness of the proposal. A proposal which is fully compliant is more reasonable than one which doesn't comply, and, proposals which have been skillfully designed are considered more reasonable.* The proposed dwelling house would have a maximum ridge line of 8.7m which is well within the permissible 9.5m height control under the Lane Cove LEP 2009. The proposal is generally consistent with the provisions and objectives of the Lane Cove DCP 2009.

Whilst the views are considered significant the impacts across the whole property would be considered minor. Further amendments to the design are unlikely to have a material benefit in regards of the views lost. For these reasons the proposed development is considered to have met the tenacity principle in this instance.

5.2.4.5 7 Edwin Street, Greenwich.



Figure 24: Full view from living room



Figure 25: Subject view loss

Step 1. Assessing the types views to be affected. Water views are valued more highly than land views. Iconic views are valued more highly than views without icons. Whole views are valued more highly than partial views. The site enjoys **full views of the City skyline, Sydney Harbour and the ANZAC Bridge.**

Step 2. Assessing what part of the property the views are obtained. Side views are harder to protect than rear or front views and seated views are harder to protect than standing views and living rooms and kitchens are more valuable than bedrooms. The subject views can be **obtained from both standing and sitting positions over the front boundary from the living room on the ground floor and bedrooms on the top floor.**

Step 3. Assessing the extent of the impact. This should be done for the whole of the property, not just the view that is affected. The **impacts would be considered minor** across the whole of the property.

Step 4. Assessing the reasonableness of the proposal. A proposal which is fully compliant is more reasonable than one which doesn't comply, and, proposals which have been skillfully designed are considered more reasonable. The proposed dwelling house would have a maximum ridge line of 8.7m which is well within the permissible 9.5m height control under the Lane Cove LEP 2009. The proposal is generally consistent with the provisions and objectives of the Lane Cove DCP 2009.

Whilst the views are considered significant there would only be a minor impact and the views are obtained over multiple property boundaries making them hard to protect. As such, it would be unreasonable to impose further amendments in order to preserve these views. For these reasons the proposed development is considered to have met the tenacity principle in this instance.

5.4 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

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The impacts on both the natural and built environments of the locality have been considered and addressed in the report as being satisfactory.

5.5 The suitability of the site for the development

The proposed development responds to the site constraints (minimising rock excavation) and therefore is considered suitable for the development.

5.6 Any submissions made in accordance with this Act or the regulations

The proposed development was notified in accordance with Council policy and a total of nine (9) submissions were received. The submissions main points are summarised and addressed **Table 9, 10 and 11** as follows:

Table 9 – Summary of Submissions – Original proposal.	
Concern	Comment
External staircase – Concerns in relation to the proposed external staircase from Vista Street which would involve cutting into the rock outcrop.	This component was deleted from the proposed development.
Filling of the natural cliff – Concerns in regards to disruption of the natural rock outcrop and the filling of these areas as described in the geotechnical report.	The proposed works requiring structural shoring of the rock outcrop have been deleted. The geotechnical report has recommended that irrespective of the proposed development. The existing single stone column should be replaced. Council supports this recommendation.
Cut (excavation) – Concerns relating to the proposed excavation. In particular concerns of rock excavation which may have detrimental impacts on the rock shelf and subsequently the neighbouring properties as identified in the geotechnical report.	The levels of cut have been drastically reduced and comply with Council controls. Conditions have been included requiring the shoring of adjoining properties where necessary and dilapidation reports to record any damage done to other properties as a result of the works. Any damage done to adjoining properties as a result of the works would be rectified and replaced at the cost of the Applicant.
Fill (raising of the site) – Concerns in relation to the raising of the dwelling house ground floor level, front yard and garage.	The proposed development complies with the cut and fill controls of the Lane Cove Development Control Plan 2009.
3 storey dwelling – Concerns in relation to the dwelling house being 3 storeys.	The proposed development has been amended to be 2 storeys (three storeys at vertical articulation is acceptable) as depicted in the Lane Cove Development Control Plan 2009.
Overdevelopment – Concerns with the	The proposed development complies with the

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Table 9 – Summary of Submissions – Original proposal.	
Concern	Comment
proposal resulting in an overdevelopment of the site.	Floor Space Ratio and maximum height controls of the Lane Cove LEP 2009. Therefore, the works aren't considered to be an overdevelopment of the site.
Swimming pool – Concerns over the swimming pool overhanging the natural rock outcrop and being visible from the Holloway reserve.	The pool has been setback from the edge of the rock outcrop so that it would not be visible from Holloway reserve. Screen planting has also been included between the pool and edge of the rock outcrop to soften the design.
Solar Access – Concerns over inadequate solar access being achieved and the development resulting in overshadowing.	Solar access provisions have been met as discussed in Table 7 .
Alfresco balcony area – Concerns over the balcony areas being 5m deep which would result in amenity issues (direct overlooking) for adjoining neighbours.	The balconies have all been reduced to 3m in depth and have included adequate privacy screens. This complies with the Lane Cove Development Control Plan 2009.
Landscaping- The proposed development appears to provide limited landscaping.	The proposed development complies with the landscape requirements. Permeable surfaces have been utilised in areas which would receive little to no sun. A majority of landscaping is provided by natural rock and the separated portion of the property below the rock outcrop. This leads to a perceived lack of green landscaping.
Stormwater run-off , drainage and driveway – Concerns in relation to potential stormwater run-off and drainage impacts. Concerns on the impacts of the new driveway and the existing Council stormwater pit.	Council's Engineer has reviewed the flood study and stormwater plans. The flood study recommended the finished floor level for the garage. This has been supported by Council's Engineer. An additional stormwater pit has been included north (upstream) of the driveway to capture stormwater runoff before the vehicle crossover. This would be connected to the existing stormwater system and the existing pit would be replaced with a V grate drain to continue to collect the stormwater runoff whilst allowing the driveway to be constructed. Conditions have been included to address stormwater run-off both during the construction process and during the life of the development.
Privacy screening around pool – concern over the size of the privacy screening surrounding the pool.	The privacy screening around the pool has been significantly reduced.
Privacy Impacts – Concerns over the first floor	These windows are located approximately 20m

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Table 9 – Summary of Submissions – Original proposal.	
Concern	Comment
windows looking directly into bedrooms and living areas.	away and belong to bathrooms. Bathrooms are considered low use and privacy is considered mutual when in use. Further treatment is considered unreasonable.
Height of the development and roof pitch- Concern in regards to the height of the proposed development and the pitch of the roof.	The proposed development would have a maximum ridge line of 8.7m which is well within the permissible 9.5m height control under the Lane Cove LEP 2009
View Loss – Concerns regarding the loss of significant views.	Refer to B.4 View Sharing section of the report.
Car parking - A request in regards to Council requiring adequate offsite car parking for multiple vehicles.	The proposed development has provided the provisions for 2 vehicles.
Geotechnical report and rock excavation – Concerns over the geotechnical report not taking into consideration adjoining properties and the proposed levels of rock cutting.	The proposed development has been amended to drastically reduce excavation into the rock shelf. The protection of adjoining sites has been conditioned as previously mentioned in the “ <i>Cut(excavation)</i> ” section of this table.
Setbacks – Concerns over the property not complying with the setback controls and seemingly taking up the whole site.	The proposed development complies with all setback requirements. The perception of taking up a large portion of the site is a result of the natural leveling of the site.
Exceedance of the FSR – Concerns that the proposed development varies a 0.5:1 FSR control.	The allowable FSR is 0.6:1 where the proposed FSR would be 0.55. This complies with the Lane Cove LEP 2009.

Table 10 – Summary of Submissions – First amended proposal.	
Concern	Comment
View Loss – Concerns regarding the loss of significant views.	Refer to B.4 View Sharing section of the report.
Cut and fill – Concerns with the depths of cut and fill.	The amended proposal would have significantly less cut and fill and complies with the Lane Cove Development Control Plan 2009.
3 Storey Portion – Concerns regarding the dwelling being 3 storeys in a zone which allows for 2 storey dwellings.	The proposed development has been amended to be 2 storeys (three storeys at vertical articulation is acceptable) as depicted in the Lane Cove Development Control Plan 2009.
Overdevelopment – Concerns regarding the proposal being an overdevelopment of the site.	The proposed development complies with the Floor Space Ratio and maximum height controls of the Lane Cove LEP 2009. Therefore, the works aren’t considered to be an overdevelopment of the site.

Table 11 – Summary of Submissions – Second amended proposal.	
Concern	Comment
Vehicle turning room – Concerns regarding an adequate distance to facilitate using the garage in its current location.	Swept paths have been provided to Council’s traffic Engineer. Refer to Table 8 .

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Table 11 – Summary of Submissions – Second amended proposal.	
Concern	Comment
Concerns regarding the use of neighbouring properties to facilitate backing out of the garage.	
Traffic management – Concerns regarding the traffic impacts during construction. A request to consult with the residents at the end of the Laneway regarding the management of traffic.	A condition has been included requiring a traffic management plan and a construction management plan.
Privacy – Concerns in regards to overlooking and the treatment of south facing windows which look into bedrooms and property at 41 Vista Street.	
Solar Access – Concerns regarding solar access impacts.	Solar access provisions have been met as discussed in Table 7.
Garage finish level – Concerns regarding the garage finish level being incontinently higher than the neighbouring properties.	The garage level is recommended by the independent flood study and has been assessed and supported by Council's Engineer.
Privacy – concerns in regards to the lack of treatment for the first floor western aspect windows facing 34 Chisholm Street.	These windows are located approximately 20m away and belong to bathrooms. Bathrooms are considered low use and privacy is considered mutual when in use. Further treatment is considered unreasonable.
Boundary fencing – Concerns regarding the construction of the boundary retaining wall and the potential impacts on the new boundary fence and screen planting along the boundary of 41 Vista Street.	Council's Arborist has reviewed the documents and has raised no concerns. All works are confined to the boundaries of the subject site.
Water management – Request that a hydraulic engineer reviews the supporting documentation and imposes adequate protection of 41 Vista Street.	Council's Hydraulic Engineer has reviewed and assessed the documents. Conditions have been provided to manage the construction process and stormwater run-off.
Details of stormwater system – Concerns on the lack of detail shown on the plans regarding the works to the Council stormwater system. Concerns regarding vehicles driving over the existing Council stormwater pit and verge.	Council's Hydraulic, Civil and traffic engineer have all looked at and discussed the Council stormwater pit and driveway works in conjunction. They have provided conditions accordingly.
No parking zone – Request to create a no parking zone in anticipation of obstructing the vehicular access of the cars from the properties at the end of the laneway.	The request has been passed on to Council's Traffic team for review.

5.5 Public Interest

The proposal is in the public interest as it provides for development that is reasonable given the low-density residential character of the locality and surrounding sites. All concerns have been mitigated adequately and where reasonably possible.

CONCLUSION

The matters in relation to Section 4.15 of the Environmental Planning and Assessment Act 1979 have been satisfied.

The application meets with the Floor Space Ratio and Height controls as required in the Lane Cove Local Environmental Plan 2009 and generally meets with the Part C Residential Development Objectives in the Lane Cove Development Control Plan.

On balance the proposed development would be reasonable and therefore is recommended for approval. However, approval should be deferred pending Part 1 of the Recommendation of this report being satisfied.

Subject to Matter 1 being deemed satisfied by the Council's Manager of Development Assessment, approval of the proposal can be granted subject to the conditions set out under Part 2 of the Recommendation. *The conditions under Part 2 are subject to amendment which would be finalised at the issue of operable consent.*

RECOMMENDATION

That the Lane Cove Local Planning Panel at its meeting of 16 August 2022, exercising the functions of the Council as the Consent Authority pursuant to Clause 4.16(3) of the Environmental Planning & Assessment Act 1979 approve a variation to the wall height, subfloor and pool location controls under the Lane Cove Development Control Plan 2009, as it is satisfied that the proposed development is consistent with the objectives of that particular standard and the objectives for development within the zone.

That pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act, 1979 the Lane Cove Local Planning Panel at its meeting of 16 August 2022, exercising the functions of Council as the consent authority, grant a deferred commencement consent to Development Application DA2/2022 for the demolition of the existing structures and the construction of a two storey dwelling house, a double garage, a swimming pool and related landscaping, subject to the matters under the deferred commencement being satisfied.

Part 1 – Deferred Commencement Consent

That pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, the Council grants a deferred development consent to Development Application 2/2022 for the demolition of the existing structures and the construction of a two storey dwelling house, a double garage, a swimming pool and related landscaping, at 39 Vista Street, Greenwich.

The consent will not operate and it may not be acted upon until the Council or its delegate is satisfied as to the following matter:

M1. Garage and swept paths. The Applicant is to demonstrate to Council that both vehicles can enter and exit the garage without entering a neighbouring property. Swept paths are to be generated on the AutoTurn program and provided to Council.

This information is to be submitted to the Council's Manager Development Assessment within 12 months of the granting of this deferred commencement consent. Commencement of the approval cannot commence until Council has confirmed in writing that all matters under Part 1 above have been provided and are satisfactory.

Pursuant to Clause 95(5) of the Regulations under the Act, Council will notify you in writing if Part 1 of this consent has been satisfied and the date from which this consent operates.

Part 2 – Conditions Pending Approval of Deferred Commencement (subject to amendment and to be finalised at the issue of operable consent)

PART A – GENERAL CONDITIONS

1. **A.1 - Approved plans and supporting documentation**

2. **A.3 - Payment of security deposits**

Before the commencement of any works on the site or the issue of a construction certificate, the applicant must make all of the following payments to Council and provide written evidence of these payments to the Certifier:

Security deposit	Revision
Inspection Fee	\$1025 (total for the five inspections required)
Infrastructure damage bond	\$3000

The payments will be used for the cost of:

- making good any damage caused to any council property (including street trees) as a consequence of carrying out the works to which the consent relates,
- completing any public work such as roadwork, kerbing and guttering, footway construction, stormwater drainage and environmental controls, required in connection with this consent, and
- any inspection carried out by Council in connection with the completion of public work or the making good any damage to council property.

The following items are to be inspected:

- proposed stormwater connection to existing Council pit in street;
- any adjustment works to Council's assets around the site.

Reason: To ensure any damage to public infrastructure is rectified and public works can be completed.

3. **A.4 - Payment of building and construction industry long service levy**

Before the issue of a construction certificate, the applicant is to ensure that the person liable pays the long service levy of \$8,750 as calculated at the date of this consent to the Long Service Corporation or Council under section 34 of the *Building and Construction Industry Long Service Payments Act 1986* and provides proof of this payment to the certifier.

Reason: To ensure the long service levy is paid.

4. **A.7.L - Tree preservation and approved landscaping works**

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 a non-rural area of the State to which Part 3 applies

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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.

All landscape works shall be undertaken in accordance with the approved landscape plan(s), Arborist Report, tree management plan and transplant method statement as applicable, as modified by any conditions of consent.

The following trees shall be retained:

Tree No.	Species	Location	Dimension (meters)
1	<i>Jacaranda mimosifolia</i>	Adjoining property 37 Vista Street.	11 x 6
2	<i>Archontophoenix cunninghamiana</i>	Adjoining Property 41 Vista Street.	9 x 1.5
3	<i>Archontophoenix cunninghamiana</i>	Adjoining Property 41 Vista Street.	7 x 1.5

This consent gives approval to prune the following trees:

Tree No.	Species	Location	Permitted pruning
1	Jacaranda	37 Vista Street.	Installation of new boundary fences Installation of concrete slab
2	Archontophoenix	41 Vista Street.	Gravel Area Stormwater line to be placed above ground level
3	Archontophoenix	41 Vista Street.	Gravel Area Stormwater line to be placed above ground level

No trees are permitted to be removed as part of this Consent.

Reason: To ensure the protection of trees to be retained and to confirm trees removed for pruning/removal.

5. A.9.T Works on Council land

Separate application shall be made to Council’s Urban and Services Division for any associated works on Council property. Written approval is to be obtained prior to the start of any works on Council property.

Reason: To manage impacts to Council’s assets.

6. A.10.E Drainage plan amendments

Before the issue of a construction certificate, the certifier must ensure the approved construction certificate plans (and specifications) detail the following required amendments to the approved stormwater drainage plans:

1. This DA requires OSD or 10000 litre of rainwater tank. The applicant has proposed a

- 10000 litre of rainwater tank. The detailed design for this proposed system is required.
2. The plan shows the installation of a 150mm diameter stormwater pipe and 300mm x 300mm silt trap pit on the southern boundary within the Tree Protection Zone of Trees 2 and 3 on the neighbouring property of 41 Vista Street. The Silt Trap pit is to be moved towards the east by approximately 2.5m to ensure the pit is outside of the Tree Protection Zone of both palms.
 3. The 150mm diameter stormwater line must be placed above grade for the length of the TPZ of the two palms trees and incorporated into the proposed gravel landscaping between the boundary fence and the house. No excavation is to occur within the 2.5m radial Tree Protection Zone of the palms
 4. Proposed drainage system should show pipe sizes and invert levels up to connection point; confirming pipe system satisfies Part O of the Lane Cove DCP 2009.
 5. Sediment control fence shall be placed around the construction site and shown in plan
 6. Seepage agg line drainage line is required in upstream of the dwelling and retaining walls and connected to proposed drainage system
 7. At the start of the discharge pipe to Council system one silt arrester pit mesh (RH3030) and sump(200mm) is required within the site
 8. Minimum of 1.8m height difference is required between start and end of the charged pipe system as per section 5.1 in Part O of the Lane Cove DCP 2009. if charged system is used. The details of design level difference shall be shown in plan.
 9. Existing Council pipe system within the site must be accurately located and marked on stormwater management plan with pipe size and invert level at connection point to confirm this connection satisfy Council requirements. As per Council mapping, there is a pipe (300mm) system at site. Council requires 900mm setback on both sides of existing stormwater pipe.
 10. This proposed connection shall satisfy section 4.3 in Part O of the Lane Cove DCP 2009.
 11. The proposed rainwater reuse system with a minimum effective capacity of 10,000 Litres and to be installed in accordance with Section 7.3 in Council's rainwater tank policy and relevant Australian standards. This tank shall have 100mm air gap on top and 100mm sludge zone at the bottom.
 12. The entire roof area is to be connected to Rainwater tank as per section 7.3 in Council DCP.
 13. Council does not support pipe system lines underneath of any part of the buildings.
 14. The proposed basement shall be constructed with water-proof walls around the basement since it is within flood zone
 15. The recommendation given by Flood Analysis Report must be satisfied.
 16. As per submitted stormwater plan, the applicant is planning to install a dispersal trench which is not allowed. The proposed pit A is to be modified into a silt arrester pit. This pit is to be connected to Council pit in Vista St.
 17. The condition of the existing pipe system at site is unknown. The applicant must investigate into this pipe system and carry out a CCTV survey. The full reports of the existing pipe system with CCTV report are to be submitted to Council. The CCTV shall be done prior to the work commence and before occupation certificate.
 18. The proposed construction shall not encroach onto any existing Council stormwater line or drainage easement unless approved by Council.
 19. The existing inlet pit at the end of the Vista Lane shall be replaced by a butterfly grated pit(V grate). This is to provide room for the driveway.
 20. The applicant must install a kerb inlet pit(2.4m) located north of the proposed driveway. This pit shall be connected by a 375mm RCP pipe to the proposed butterfly grate pit(V Grate)

21. The detailed design of this pipe system as described in point 19 and 20 shall be designed in compliance with Part O Stormwater of the Lane Cove DCP 2009 and shall be submitted to Council for approval. This design must be approved before Construction Certificate.

Certification from a suitably qualified engineer as to the matters below is to be provided to the Principal Certifying Authority, prior to the issue of any CC:

- a) Compliance with the amendments detailed in this condition.
- b) Compliance with Part O: Stormwater Management of Council's DCP.

Where a variation is sought, written approval is to be obtained from Council's Urban Services Division.

Reason: To ensure adequate stormwater management in accordance with Council's DCP.

7. A.12 – Bushfire Landscaping Protection

Landscaping within the inner protection area (IPA) must comply with Appendix 4 of Planning for Bush Fire Protection 2019. In this regard, the following principles are to be incorporated:

- A minimum 1 metre wide area (or to the property boundary where the setbacks are less than 1 metre), suitable for pedestrian traffic, must be provided around the immediate curtilage of the building;
- Planting is limited in the immediate vicinity of the building;
- Planting does not provide a continuous canopy to the building (i.e. trees or shrubs are isolated or located in small clusters);
- Landscape species are chosen to ensure tree canopy cover is less than 15% (IPA) at maturity and trees do not touch or overhang buildings;
- Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;
- Use smooth bark species of trees species which generally do not spread fire up the bark into the crown;
- Avoid planting of deciduous species that may increase fuel at surface/ ground level (i.e. leaf litter);
- Avoid climbing species to walls and pergolas;
- Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;
- Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and
- Low flammability vegetation species are used.

Reason: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

8. A.13 – Bush Fire Attack (BAL) requirements

New construction must comply with Section 3 (excluding section 3.5) and Section 9 (BAL FZ) of the Australian Standard AS3959-2018 Construction of buildings in bushfire-prone areas or the relevant BAL-FZ requirements of the NASH Standard - Steel Framed Construction in Bushfire Areas (incorporating amendment A - 2015). New construction must also comply with the construction requirements in Section 7.5 of Planning for Bush Fire Protection 2019.

Reason: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

9. **A.14 – Protection of the class 10b structures**

The proposed Class 10b structures as defined per the National Construction Code must be non-combustible. Class 10b structures include the pool and spa, and, the all 3 of the alfresco and balcony areas.

Reason: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

10. **A.15 – Protection of water and utility services**

The provision of water, electricity and gas must comply with Table 7.4a of Planning for Bush Fire Protection 2019.

Reason: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

11. **A.16 - Swimming pool 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 Statewide Swimming Pool Register when completed.

The register can be found at www.swimmingpoolregister.nsw.gov.au.

Reason: Statutory requirement.

12. **A.17 – Pool filter and pump**

The filter and pump are to be located in a soundproof enclosure. 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.

13. **A.18 – Pool warning notice**

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.

14. **A.19 – Pool construction**

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.

15. **A.20 – Window treatment.**

Window W26 is to be treated to prevent direct overlooking. The window is to be treated either of the following ways:

1. External louvres fixed at an angle to prevent direct overlooking.
2. The sill of the window is to be raised 1.5m from the finished floor level, or, the window is to be frosted up to 1.5m from the finished floor level.

Reason: To prevent direct overlooking.

PART B – PRIOR TO DEMOLITION WORKS

16. **B.1.T Demolition Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a demolition traffic management plan (DTMP) and report shall be prepared by a Transport for NSW accredited person and submitted to and approved by Council prior to commencing any demolition work.

The DTMP must:-

- a) Make provision for all construction materials to be stored on site, at all times.
- b) Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- c) Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site is not permitted unless a Works Zone is approved by Council.
- d) Include a Traffic Control Plan prepared by an RMS accredited ticket holder for any activities involving the management of vehicle and pedestrian traffic.
- e) Specify that a minimum seven (7) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measures.
- f) Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath areas (hoardings, scaffolding or temporary shoring) and extent of tree protection zones around Council Street trees.
- g) Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the DTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities. These communications must be documented and submitted to Council prior to work commencing on site.
- h) Be prepared in accordance with relevant sections of Australian Standard 1742 – "Manual of Uniform Traffic Control Devices", RMS's Manual – "Traffic Control at Work Sites".

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

17. **B.2.E Asbestos removal, handling and disposal**

The removal, handling and disposal of asbestos from building sites shall be carried out in accordance with the requirements of the Occupational Health and Safety Act and the

Regulations. Details of the method of removal in accordance with this condition is to be submitted to the Principal Certifying Authority and Council's Environmental Health Section, prior to commencing any demolition works.

Reason: To ensure worker and public health and safety.

18. **B.3.EH Compliance with demolition standard**

Demolition of buildings and structures must comply with Australian Standard AS 2601—2001: The Demolition of Structures.

Reason: Prescribed condition under the EP&A Regulation 2021.

19. **B.13.L - Project arborist**

Prior to the commencement of any works including demolition, a project arborist of minimum Australian qualitative framework (AQF) Level 5 qualification is to be appointed to oversee/monitor trees/condition compliance during the construction process. Compliance certificates must be available upon request and submitted to the Principal Certifier prior to the issue of an occupation certificate. The project Arborist shall:

- Certify tree protection measures listed within **Condition 20 and 21** (B. 14 and B. 15) prior to demolition works
- Oversee the excavation of pier footings for the installation of the new boundary and front fence within the protection zone of tree #1
- Ensure the stormwater line through the TPZ of palms #2 and #3 is installed above ground level
- Oversee the construction of the front pathway within the TPZ of Tree #1
- Provide quarterly health and condition assessments on protected trees
- Statement upon completion for the development that all retained trees have been maintained in a healthy, viable condition. The statement must also recommend remedial advice for trees post construction to mitigate and long-term construction impacts.

Reason: To ensure trees to be protected on the site.

20. **B.14 – Tree Protection Fencing**

The following tree protection measures must be in place prior to demolition works and certified by the project arborist.

Tree Protection Fencing must be installed within the following locations:

1. Along the lines of the area marked within the Plan Marked Appendix 1b – proposed Site Plan by Urban Arbor Pty Ltd dated 12/6/21

The fencing must consist of a 1.8 m high chain mesh fence held in place with concrete block footings and fastened together. An example of fencing is shown under figure 3 on page 16 of the Australian Standard 4970-2009 *The Protection of Trees on Development Sites* or diagram 1 on page 13 of the supplied Arborists Report. The fenced area shall not be used for the storage of building materials, machinery, site sheds, or for advertising and the soil levels within the fenced area shall remain undisturbed.

A waterproof sign must be placed on every second panel stating, 'NO ENTRY TREE PROTECTION AREA – this fence and sign are not to be removed or relocated for the work duration.' Minimum size of the sign is to be A3 portrait with NO ENTRY TREE PROTECTION ZONE in capital Arial Font size 100, and the rest of the text in Arial font size

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Such fencing and signage must be erected **Prior to Demolition** including site preparation and remain in place for the duration of the construction work

Movement of Tree Protection Fencing must be overseen and approved by the project Arborist with notification provided to Council's Tree Management Officer in writing.

Reason: To protect the natural environment

21. **B.15 – Ground Protection**

Ground protection is required within the area on the Plan Marked Appendix 1b – proposed Site Plan by Urban Arbor Pty Ltd dated 12/6/21

The ground protection is to consist of:

- Good quality woodchip / leaf mulch laid to a depth of between 150-300mm
- A layer of Geotextile fabric to be overlaid onto the Mulch
- Timber / Plywood boards (minimum 20mm thickness) to be laid on top of geotextile fabric

Reason: To protect the root system of protected trees.

22. **B.16 – Dilapidation report**

Before the issue of a construction certificate and before the commencement of any demolition works, a suitably qualified engineer must prepare a dilapidation report detailing the structural condition of adjoining buildings, structures or works, and public land, to the satisfaction of the certifier. If the engineer is denied access to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and demonstrate, in writing, to the certifier's satisfaction that all reasonable steps were taken to obtain access to the adjoining properties.

Reason: To establish and document the structural condition of adjoining properties and public land for comparison as building work progresses and is completed.

PART C - BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

23. **C.1 - Construction site management plan**

Prior to any demolition works and before the issue of a construction certificate, the applicant must ensure a construction site management plan is prepared before it is provided to and approved by the certifier. The plan must include the following matters:

- location and materials for protective fencing and hoardings to the perimeter on the site.
- 1m high sediment fencing is required to ensure that no foreign materials enter the bushland. The fencing must be placed along the top of the rock outcrop and the northern and southern boundaries.
- provisions for public safety
- pedestrian and vehicular site access points and construction activity zones
- details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site. The construction traffic management plan shall comply with the requirements of Part R of Lane Cove DCP

2010 and shall be submitted to Council's Traffic Section for written approval. Consultation with NSW Police, TfNSW, and Sydney Buses may be required. Note: Heavy vehicles are not permitted to travel on local roads without Council approval.

- protective measures for on-site tree preservation (including in accordance with AS 4970-2009 Protection of trees on development sites and Council's DCP, if applicable) and trees in adjoining public domain (if applicable)
- details of any bulk earthworks to be carried out
- location of site storage areas and sheds
- equipment used to carry out all works
- a garbage container with a tight-fitting lid
- dust, noise and vibration control measures including a construction noise management plan prepared in accordance with the NSW EPA's Interim *Construction Noise Management Guidelines* by an appropriately qualified acoustic consultant.

The applicant must ensure a copy of the approved construction site management plan is kept on-site at all times during construction.

Council Approvals

1. Where hoarding is required to be provided along the street frontage, a Hoarding Application is to be submitted to Council for approval.
2. Any construction plant on the public road reservation requires an approved "Application for standing plant *permit*".
3. 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.

Additional Council Requirements

1. Stockpiles or soil shall not be located on / near any drainage lines or easements, natural watercourses or water bodies, footpath or roadway without first providing suitable protective measures adequate to protect these water bodies.
2. All stockpiles of contaminated materials must be stored in an environmentally sensitive manner in a secure area on the site and shall be suitably covered to prevent dust and odour nuisance.

Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.

24. **C.2 - Erosion and sediment control plan**

Prior to any demolition works or clearing of any vegetation and before the issue of a construction certificate, the applicant is to ensure that an erosion and sediment control plan is prepared in accordance with the following documents before it is provided to and approved by the certifier:

- Council's development control plan,
- the guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book), and
- the 'Do it Right On-Site, Soil and Water Management for the Construction Industry'

(Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust).

The applicant must ensure the erosion and sediment control plan is kept on- site at all times during site works and construction.

Reason: To ensure no substance other than rainwater enters the stormwater system and waterways

25. **C.23.B - Sydney Water requirements**

The approved plans must be submitted to Sydney Water online approval portal "Sydney Water Tap In" for approval. A section 73 certificate is to be obtained for development or subdivision requiring servicing of sewer and water.

Reason: To comply Sydney Water requirements.

26. **C.24.E - Structural engineer's details**

The Construction Certificate plans and specifications must include detailed professional structural engineering plans and/or specifications for the following:

- underpinning;
- retaining walls;
- footings;
- reinforced concrete work;
- structural steelwork;
- upper level floor framing;

and where relevant in accordance with any recommendations contained in an approved geotechnical report.

Reason: To ensure structural adequacy.

27. **C.25.E - Construction methodology report**

Where there are structures on neighbouring properties that are deemed to be in the zone of influence of the proposed excavations, a suitably qualified engineer must prepare a Construction Methodology Report demonstrating that the proposed excavation will have no adverse impact on any surrounding property and infrastructure.

The report must:

- Be submitted to the Principal Certifying Authority prior to issue of any Construction Certificate;
- Include a geotechnical report to determine the design parameters appropriate to the specific development and site;
- Include recommendations on appropriate construction techniques to ameliorate any potential adverse impacts.
- 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.
- 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.
- The proposed 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.

The development works are to be undertaken in accordance with the recommendations of the Construction Methodology report.

Reason: To protect neighbouring buildings.

28. **C.27.E - Proposed vehicular crossing**

- a) The proposed vehicular crossing shall be constructed to the specifications and levels issued by Council.
- b) The driveway shall be setback a minimum 300mm away from any existing power pole and stormwater pit.
- c) Certification is to be provided by a suitably qualified engineer demonstrating compliance with AS 2890 Series including AS 2890.1.2004 "Off Street Car Parking", and Council's standards and specifications.
- d) The following plans shall be prepared and certified by a suitably qualified engineer:
 - Longitudinal sections along the extreme wheel paths of the driveway/access ramp at a scale of 1:20 demonstrating compliance with the scraping provisions of AS2890.1. The sections shall include details of all levels and grades, including those levels stipulated at boundary levels, both existing and proposed from the centre line of the roadway through to the parking area clearly demonstrating that the driveway complies with Australian Standards 2890.1-2004 - Off Street Car Parking.
 - Transitional grades in accordance with AS2890. If a gradient in excess of 25% is proposed, the engineer must certify that this design is safe and environmentally sustainable.
 - Sections showing the clearance to the underside of any overhead structure complies with the clearance provisions of AS2890.1.

A 'Construction of Residential Vehicular Footpath Crossing' application, design and certification shall be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. All works associated with construction of the crossing shall be completed prior to the issue of any Occupation Certificate.

Reason: To ensure the proposed vehicular crossing complies with Australian Standards and Council's requirements.

29. **C.28.E – Overland flow and pool damage**

Council accepts no liability for any damage to the pool because 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.

30. **C.29.E – Pool construction water diversion**

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.

31. **C.30.E – Pool construction stormwater**

The stormwater runoff from the new impervious areas surrounding the pool shall be connected to the proposed drainage system in accordance with the requirements of the Stormwater Management part of the Lane Cove DCP 2009.

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

PART D - BEFORE THE COMMENCEMENT OF BUILDING WORK

32. **D.1 - Erosion and sediment controls in place**

Before the commencement of any site or building work, the principal certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan, (as approved by the principal certifier) are in place until the site is rectified (at least 70% ground cover achieved over any bare ground on site).

Reason: To ensure runoff and site debris do not impact local stormwater systems and waterways.

33. **D.3 - Signs on site**

A sign must be erected in a prominent position on any site on which building work or demolition work is being carried out:

- a) showing the name, address and telephone number of the principal certifier for the work, and
 - b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c) stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work or demolition work is being carried out but must be removed when the work has been completed.

Note: This does not apply in relation to building work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

Reason: Prescribed condition EP&A Regulation, clauses 98A (2) and (3).

34. **D.4 - Compliance with Home Building Act**

In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

Reason: Prescribed condition EP&A Regulation, clause 98(1)(b).

35. **D.5 - Home Building Act requirements**

Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifier for the development to which the work relates (not being the council) has given the council written notice of the following information —

- a) In the case of work for which a principal contractor is required to be appointed -
 - i) the name and licence number of the principal contractor, and
 - ii) the name of the insurer by which the work is insured under Part 6 of that Act,
- b) In the case of work to be done by an owner-builder—

- i) the name of the owner-builder, and
- c) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the principal certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

Reason: Prescribed condition EP&A Regulation, clause 98B(2) and (3).

36. D.7 - Bushfire asset protection zones

From the start of building works and in perpetuity, the entire property (except for the rock outcrop area) must be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019. When establishing and maintaining an IPA, the following requirements apply:

- Tree canopy cover be less than 15% at maturity;
- Trees at maturity are not touching or overhang the building;
- Lower limbs are removed up to a height of 2m above the ground;
- Tree canopies are separated by 2 to 5m;
- Preference is given to smooth-barked and evergreen trees;
- Large discontinuities or gaps in vegetation are provided to slow down or break the progress of fire towards buildings;
- Shrubs are not located under trees;
- Shrubs do not form more than 10% of ground cover;
- Clumps of shrubs are separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
- Grass to be kept mown (as a guide grass should be kept to no more than 100mm in height);
- Leaves and vegetation debris are removed; and
NSW Rural Fire Service's document Standards for asset protection zones.

Reason: To minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

PART E - WHILE BUILDING WORK IS BEING CARRIED OUT

37. E.1 - Hours of work

The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:

Monday to Friday (inclusive)	7.00am to 5.30pm
Saturday	7.00am to 4.00pm

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 protect the amenity of the surrounding area.

38. E.2 - Compliance with the Building Code of Australia

Building work must be carried out in accordance with the requirements of the *Building Code of Australia*.

Reason: Prescribed condition - EP&A Regulation clause 98(1)(a)

39. **E.3 - Procedure for critical stage inspections**

While building work is being carried out, any such work must not continue after each critical stage inspection unless the principal certifier is satisfied the work may proceed in accordance with this consent and the relevant construction certificate.

Reason: To require approval to proceed with building work following each critical stage inspection.

40. **E.4 - Implementation of the site management plans**

While vegetation removal, demolition and/or building work is being carried out, the applicant must ensure the measures required by the approved construction site management plan and the erosion and sediment control plan are implemented at all times.

The applicant must ensure a copy of these approved plans is kept on site at all times and made available to Council officers upon request.

Reason: To ensure the required site management measures are implemented during construction.

41. **E.5 - Implementation of BASIX commitments**

While building work is being carried out, the applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent, for the development to which the consent applies.

Reason: To ensure BASIX commitments are fulfilled in accordance with the BASIX certificate (prescribed condition under clause 97A(2) EP&A Regulation).

42. **E.6 - Surveys by a registered surveyor**

While building work is being carried out, a registered surveyor is to measure and mark the positions of the following and provide them to the principal certifier —

- a) All footings/ foundations
- b) At other stages of construction – any marks that are required by the principal certifier.

Reason: To ensure buildings are sited and positioned in the approved location

43. **E.7 - Construction noise**

While building work is being carried out and where no noise and vibration management plan is approved under this consent, the applicant is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.

Reason: To protect the amenity of the neighbourhood.

44. **E.8 - Tree protection**

While site or building work is being carried out, the applicant must maintain all required tree protection measures in good condition in accordance with the construction site management plan required under this consent, the relevant requirements of AS 4970-2009 Protection of trees on development sites any arborist's report approved under this consent and **Condition 20 and 21** (B. 14 and B. 15). This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree

protection zones.

Reason: To protect trees during construction.

45. **E.9 - Responsibility for changes to public infrastructure**

While building work is being carried out, the applicant must pay any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area).

Reason: To ensure payment of approved changes to public infrastructure.

46. **E.10 - Shoring and adequacy of adjoining property**

If the development involves any excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land (including any structure or work within a road or rail corridor), the person having the benefit of the development consent must, at the person's own expense —

- a) Protect and support the building, structure or work from possible damage from the excavation, and
- b) Where necessary, underpin the building, structure or work to prevent any such damage.

This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

Reason: Prescribed condition - EP&A Regulation clause 98E

47. **E.11 - Uncovering relics or Aboriginal objects**

While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

- "relic" means any deposit, artefact, object or material evidence that:
 - a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
 - b) is of State or local heritage significance; and"Aboriginal object" means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

Reason: To ensure the protection of objects of potential significance during works.

48. **E.12 - Cut and fill**

While building work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following

requirements:

- a) All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the principal certifier.
- b) All fill material imported to the site must be Virgin Excavated Natural as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* or a material identified as being subject to a resource recovery exemption by the NSW EPA.

Reason: To ensure soil removed from the site is appropriately disposed of and soil imported to the site is safe for future occupants.

49. **E.15.B - Critical stage inspections**

Critical stage inspections are to be carried out in accordance with Section 6.5 of the EP&A Act 1979 and clauses 162A, 162B and 163 of the EP&A Regulation 2000. Where Lane Cove Council is appointed as the PCA, an inspection is to be booked for each of the following relevant stages during the construction process:

- a) underpinning;
- b) retaining walls;
- c) footings;
- d) reinforced concrete work;
- e) structural steelwork;
- f) upper level floor and roof framing; and
- g) as requested by the Council.

Reason: EP&A Act requirement.

50. **E.18.B - No obstruction of public way**

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by Council to stop all work on site.

Reason: To ensure public safety.

51. **E.19.B – Encroachments**

1. No portion of the proposed structure shall encroach onto the adjoining properties.
2. The proposed construction shall not encroach onto any existing Council stormwater line or drainage easement unless approved by Council.
3. No encroachment is to occur into public open space.

Reason: To ensure works are contained wholly within the subject site

52. **E.24 – Excavation for pier holes**

The new stone feature wall (rear boundary fence) must be constructed using the pier and beam method. Pier locations must be flexible to allow for a minimum 150mm clearance from roots greater than 40mm diameter.

The side boundary fence must use the pier holes from the existing boundary fence. If those holes are no longer suitable, excavation for new holes must allow a minimum 150mm to tree roots greater than 40mm diameter.

The proposed stone feature wall (rearboundary fence) and new side boundary fence must be excavated and installed under the supervision of the project arborist. Excavation for pier

holes through the Protection Zone of retained trees must be undertaken by via the use of hand tools only under the supervision of the project arborist. Roots greater than 40mm diameter must be retained, with roots <40mm diameter that conflict with pier locations to be documented by the project arborist and pruned with a sharp implement (i.e Handsaw or loppers)

Reason: To protect retained trees during construction.

53. **E.25 – Construction of front pathway**

The front pathway is required to be constructed above grade using techniques advised under section 9.2.2 of the supplied Arboricultural Impact Assessment Report by Urban Arbor dated 7/12/21. The construction of the footpath must be overseen by the Project arborist.

Reason: To protect the root system of retained trees.

54. **E.26 – Restricted works within a Tree Protection Zone**

No activities listed within section 4.2 of Australian Standard 4970-2009 The Protection of Trees on Development Sites are to occur within Tree Protection Zone of retained trees on or adjoining the property

Reason: to prevent damage to protected trees.

PART F - BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE

55. **F.1 - Works-as-executed plans and any other documentary evidence**

Before the issue of the relevant occupation certificate, the applicant must submit, to the satisfaction of the principal certifier, works-as-executed plans, any compliance certificates and any other evidence confirming the following completed works:

- (a) All stormwater drainage systems and storage systems
- (b) The following matters that Council requires to be documented:
 - Compliance with *Part O - Stormwater Management* of Lane Cove DCP 2010. Where a variation is sought, written approval shall be obtained from Council's Urban Services Division.
 - Compliance with AS-3500.
 - Certification from a suitably qualified engineer that the approved stormwater pipe system and on-site stormwater detention (OSD) system has been constructed in accordance with the approved plans.
 - Signed plans by a registered surveyor clearly showing the surveyor's details and date of signature.
 - Evidence of removal of all redundant gutter and footpath crossings and reinstatement of all kerb, gutter and footpaths to the satisfaction of Council's Urban Services Division.
 - Certification from a qualified hydraulic engineer for proposed drainage work on Vista Lane.

The principal certifier must provide a copy of the plans to Council with the occupation certificate.

Reason: To confirm the location of works once constructed that will become Council assets.

56. **F.2 - Completion of public utility services**

Before the issue of the relevant occupation certificate, the principal certifier must ensure any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, is completed to the satisfaction of the relevant authority.

Before the issue of the occupation certificate, the certifier must request written confirmation from the relevant authority that the relevant services have been completed.

Reason: To ensure required changes to public utility services are completed, in accordance with the relevant agency requirements before occupation.

57. **F.3 - Post-construction dilapidation report** Before the issue of an occupation certificate, a suitably qualified engineer must prepare a post-construction dilapidation report, to the satisfaction of the principal certifier, detailing whether:

- a) after comparing the pre-construction dilapidation report to the post- construction dilapidation report required under this condition, there has been any structural damage to any adjoining buildings; and
- b) where there has been structural damage to any adjoining buildings, that it is a result of the building work approved under this development consent.

Before the issue of an occupation certificate, the principal certifier is to provide a copy of the post-construction dilapidation report to Council (where Council is not the principal certifier) and to the relevant adjoining property owner(s).

Reason: To identify damage to adjoining properties resulting from building work on the development site.

58. **F.4 - Preservation of survey marks**

Before the issue of an occupation certificate, a registered surveyor must submit documentation to the principal certifier which demonstrates that:

- a) no existing survey mark(s) have been removed, damaged, destroyed, obliterated or defaced, or
- b) the applicant has re-established any survey mark(s) that were damaged, destroyed, obliterated or defaced in accordance with the Surveyor General's Direction No. 11 – Preservation of Survey Infrastructure.

Reason: To protect the State's survey infrastructure.

59. **F.5 - Repair of infrastructure**

Before the issue of an occupation certificate, the applicant must ensure any public infrastructure damaged as a result of the carrying out of building works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) is fully repaired to the written satisfaction of Council, and at no cost to Council.

The applicant shall construct / reconstruct the following to Council's satisfaction;

- 1. Reinststate all damages identified in dilapidation report
- 2. Reinststate all damages identified in CCTV report.

Note: If the council is not satisfied, the whole or part of the bond submitted will be used to cover the rectification work.

Reason: To ensure any damage to public infrastructure is rectified.

60. F.6 - Removal of waste upon completion

Before the issue of an occupation certificate, the principal certifier must ensure all refuse, spoil and material unsuitable for use on-site is removed from the site and disposed of in accordance with the approved waste management plan. Written evidence of the removal must be supplied to the satisfaction of the principal certifier.

Before the issue of a partial occupation certificate, the applicant must ensure the temporary storage of any waste is carried out in accordance with the approved waste management plan to the principal certifier's satisfaction.

Reason: To ensure waste material is appropriately disposed or satisfactorily stored.

61. F.7 - Completion of landscape and tree works

Before the issue of an occupation certificate, the principal certifier must be satisfied that all landscape and tree-works, including pruning in accordance with AS 4373-2007 Pruning of amenity trees and the removal of all noxious weed species, have been completed in accordance with the approved plans and any relevant conditions of this consent.

Additional Council requirements are outlined below:

- Certification of the above shall be provided by the project arborist (if applicable) or by a qualified practicing landscape architect. Certification shall also be provided for the following:
 - subsoil drainage and any associated waterproofing membrane have been installed in accordance with the details shown on the approved landscape working drawings.
 - All landscaping areas have an automatic irrigation system on a timer that provides adequate water for the ongoing health and vitality of the plants.

Reason: To ensure the approved landscaping works have been completed before occupation, in accordance with the approved landscaping plan(s).

PART H - OCCUPATION AND ONGOING USE

62. H.1 - Release of securities / bonds

When Council receives an occupation certificate from the principal certifier, the applicant may lodge an application to release the securities held in accordance with Condition 2. Council may use part, or all of the securities held to complete the works to its satisfaction if the works do not meet Council's requirements.

Reason: To allow release of securities and authorise Council to use the security deposit to complete works to its satisfaction.

63. H.4 - Maintenance of wastewater and stormwater treatment device

During occupation and ongoing use of the building, the applicant must ensure all wastewater and stormwater treatment devices (including drainage systems, sumps and traps, and rainwater tank) are regularly maintained, to remain effective and in accordance with any positive covenant.

Reason: To satisfy Council's Engineering requirements. To protect sewerage and stormwater systems.

64. H.10 – Metal roofing

All metal deck roofs being of a ribbed metal profile or corrugated galvanised or zincalume iron, in a mid-range colour and having an anti-glare finish.

**Lane Cove Local Planning Panel Meeting 16 August 2022
39 VISTA STREET, GREENWICH.**

Reason: Maintain amenity of neighbouring residents by reducing reflectivity and sun-glare from metal roof.

Mark Brisby
Executive Manager
Environmental Services Division

ATTACHMENTS:

There are no supporting documents for this report .