



Agenda
Lane Cove Local Planning Panel Meeting
5 April 2022



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 5 April 2022 commencing at 5pm. The business to be transacted at the meeting is included in this business paper.

Yours faithfully

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke.

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

LANE COVE LOCAL PLANNING PANEL REPORTS

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Lane Cove Local Planning Panel Meeting 05 April 2022
28 - 34 MINDARIE STREET, LANE COVE NORTH

Subject: 28 - 34 Mindarie Street, Lane Cove North
Record No: DA21/117-01 - 69467/21
Division: Environmental Services Division
Author(s): Christopher Shortt

Property:	Lots 35 & 48-50 DP 35865, Nos. 28-34 Mindarie Street, Lane Cove North
DA No:	DA 117/2021
Date Lodged:	18 August 2021
Cost of Work:	\$15,355,000.00
Owner:	Mindarie 3 P/L
Applicant:	Adam Martinez C/- Mindarie 3 P/L

Description of the proposal to appear on determination	Demolition of existing structures and construction of a residential flat building development.
Zone	R4 High Density Residential
Is the proposal permissible within the zone	Yes
Is the property a heritage item	No
Is the property within a conservation area	No
Is the property adjacent to bushland	No
BCA Classification	Class 2 and 7a
Stop the Clock used	<p>On December 2021, additional information was submitted at Council's request including:</p> <ul style="list-style-type: none"> • Access consultant letter; • Waste details (garbage rooms and bulky waste); • Traffic consultant letter (width of driveway increased to 6m) • Removal of tree 45, tree feasibility study of trees 44 and 47 (root mapping investigation); • Amended landscaping plan; and • environment & health information. <p>Amended architectural plans demonstrating changes to improve overall amenity and building appearance:</p> <ul style="list-style-type: none"> • Changes to entrance lobbies, courtyards of GF apartments to provide individual street access, additional planter boxes screening on level 3, vertical shading devices to west facing windows, skylights to balconies of level 4 units, landscaping buffer along southern boundary, • Changes to building material appearance on southern elevations
Notification	The proposal was notified in accordance with Council's and Three (3) submissions received

REASON FOR REFERRAL

The proposal is referred to the Lane Cove Local Planning Panel as a 26.8% breach to the Building Height development standard under Lane Cove Local Environmental Plan (LCLEP) 2009 and the subject development is subject to State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Apartment Development are proposed.

EXECUTIVE SUMMARY

The Development Application is for the demolition of all existing structures and construction of a part 5 and part 6 storey residential flat building development comprising 58 apartments (15 x 1 bedroom, 37 x 2 bedroom and 6 x 3 bedroom) and two levels of basement parking for 97 vehicles, on the subject development site.

The Development Application is subject to the LCLEP 2009. The proposal includes a variation to the maximum Building Height development standard of 17.5m, where 22.2m is proposed being a variation of 4.7m or 26.8%. A Clause 4.6 written request accompanies the Development Application. The written request is considered to establish suitable environmental planning grounds to vary the development standard or demonstrate compliance with the height of building objectives. Majority of the proposed building is below the maximum height plane, however the proposed lift overruns, communal rooftop areas and portions of the building at the southwest sections of the upper-most-storey would exceed the development standard.

The proposed variations are supported as the proposed development would be compatible with the character of the high-density locality including the built form or massing of other adjoining or surrounding existing residential flat buildings. The breach in height is due to in part the slope of the land and given the context of the site including the nature of the proposed building, the proposed height variations would not have significant adverse impacts onto surrounding properties or the immediate locality.

The Development Application is subject to SEPP 65 – Design Quality of Residential Apartment Development. The proposed development is considered satisfactory with respect to all of the design quality principles of SEPP 65 and with the design criteria contained within the Apartment Design Guide (ADG).

The Development Application is subject to the Lane Cove Development Control Plan (LCDCP) 2010. The proposal includes variations to the rear/basement setbacks, building length and partial number of storeys controls. The merits of the variations are considered in detail in the assessment report and are supported primarily based on that approval of the subject proposal would not be inconsistent with other approved residential flat buildings developments within the Mowbray Road Precinct. This development would be one of the last remaining undeveloped allotments within the precinct and would not set an undesirable precedent.

The Development Application was notified to surrounding property owners and three (3) submissions were received by way of objection including one from the Stringy Bark Creek Residents Association. The primary issues raised in the objections relate to traffic and building height. The owner at No. 10 Willandra Street which contains 23 townhouses has requested that the proposal would add to traffic/parking congestion within an already highly developed locality and it was requested that any approval is to include a condition to widen Willandra Street. The Association raised concern with height stating that the proposed breach was unwarranted and would set a precedent. Issues with bulk, solar access to the apartments and increased traffic within the narrow width of Willandra Street were also raised. The owner of 29A Johnston Crescent was concerned with non-compliances with the 17.5m height control, building bulk and traffic impacts.

Approval of the proposed would not cumulatively adversely affect existing traffic impacts within the locality and therefore is not enough nexus for this development to require the developer to widen Willandra Street. As stated above, the proposed height/bulk of the development is reasonable and reasonable solar access outcomes are achieved. The submissions are summarised and addressed in the report.

The subject Development Application has been assessed in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979. It is considered that the proposal as submitted involves for a reasonable built outcome which is consistent with the existing built form in the locality. The proposed development would maintain relevant amenity objectives to surrounding developments and the Development Application is recommended for approval subject to draft conditions.

SITE

The subject development site is located within the Mowbray precinct within Part C Residential Localities of LCDCP which is predominantly zoned as R4 High Density Residential. The locality is bounded by Mindarie Street to the north, Merinda Street to the east, a currently under construction 6-7 storey RFB to the south, and Willandra Street to the west.

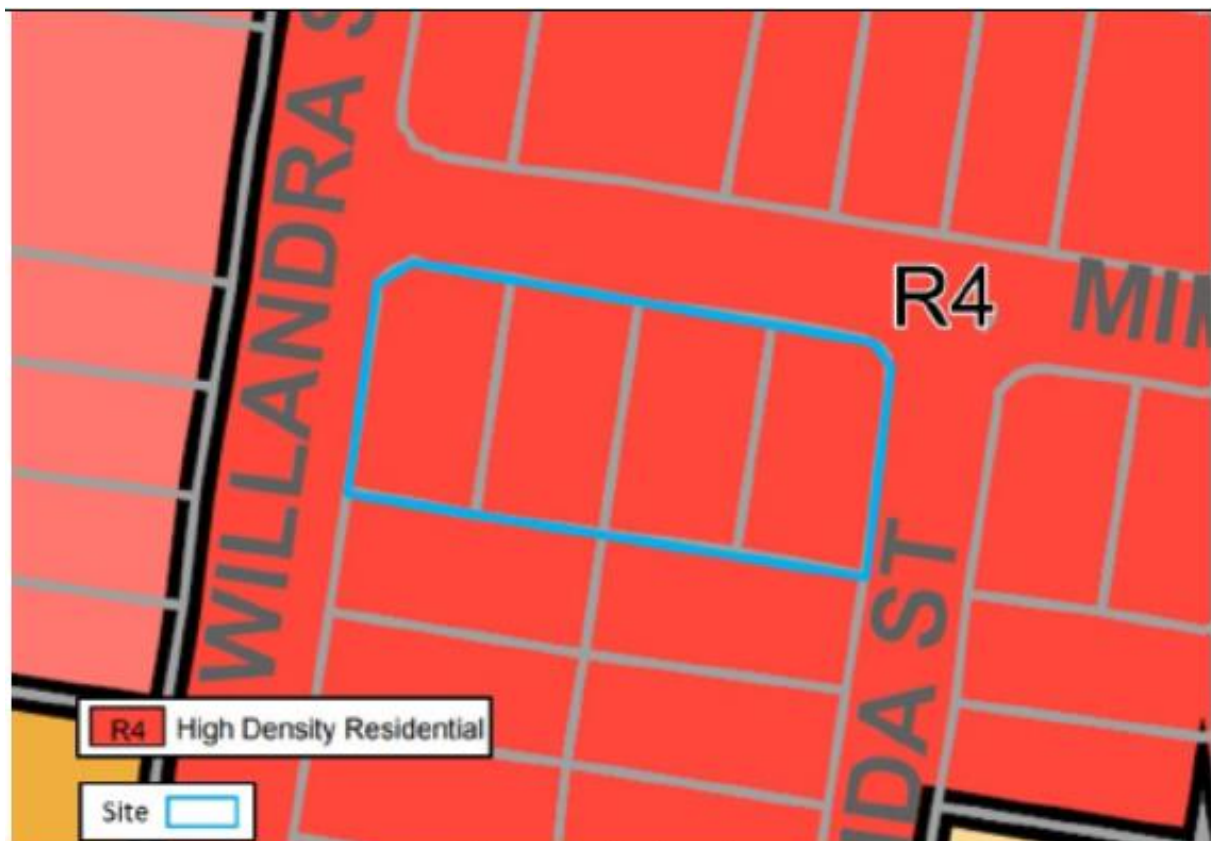


Figure 1: Zoning plan

The site contains four allotments and has an area approximately 2,429sqm. The site is rectangular having a 60.965m frontage to Mindarie Street, a 26.94m secondary frontage to Merinda Street and a 27.71m secondary frontage to Willandra Street. The site contains four detached dwellings and contains approximately 39 trees. The highest point of the site is at the northeast corner and has a significant cross fall of approximately 5.75m to the southwestern corner.

The surrounding area is currently varied and characterised by a mix of development types including residential flat buildings, multi-unit developments and detached dwelling houses. The area is undergoing a transition with high density developments recently constructed or under construction. Immediately to the south is an approved part 6 and part 7-storey residential flat building development currently under construction. Opposite the site to the west across Willandra Street has a variety of residential developments comprising detached dwellings and a multi-unit development.

Opposite the site to the north across Mindarie Street is a variety of residential developments comprising detached dwellings and residential flat buildings including new approved boarding house developments which are yet to be constructed. Opposite the site to the east across Merinda Street are existing detached dwellings however these will be replaced by residential flat building developments.

PREVIOUS APPROVALS/HISTORY

On 5 February 2021, the NSW Land and Environment Court upheld an appeal against the deemed refusal of a Development Application on Nos. 30-32 Mindarie Street which contained 2 of the 4 allotments of the subject Development Application for construction of a 5-storey residential flat building containing 28 units with basement parking. At the time, the developer which is the same developer of the subject application was unable to purchase Nos. 28 and 34 Mindarie Street and was originally refused due to the potential isolation of these allotments. Regardless, the Court upheld the appeal. The subject proposal would now address any isolation concerns.

PROPOSAL

The proposal is for demolition of existing structures and construction of a part 5 and part 6 residential flat building development comprising 58 apartments (15 x 1-bedroom, 37 x 2-bedroom and 6 x 3-bedroom) and two levels of basement parking for 97 vehicles. The basement would also accommodate a car wash bay which can also be used a visitor space, motorcycle/bicycle parking, garbage room, storage and plant. The basement would be accessed from all levels via a lift or ramp. The proposal seeks to partly reuse the existing vehicular crossing at the southern end of Willandra Street as a double vehicle width driveway at the lowest point of the subject site.



Figure 2: Perspective view from Mindarie Street.



Figure 3: View from the corner of Mindarie Street and Willandra Street

Pedestrian access is provided to the residential apartments via two lobby entries from Mindarie Street with lift access. The development provides for a rooftop common open space terrace area which will include a barbeque area, playground, soft landscaping and outdoor seating. It is proposed to remove 38 trees, however the design would retain a large Eucalyptus tree at the northwestern corner of the site. Further, there are seven public domain trees retained, however a Eucalyptus tree would need to be removed to require construction of a new compliant two vehicle width driveway at the most optimal location on the subject site. The proposal utilises a varied palate of materials and finishes such as face brickwork, concrete masonry and metalwork screens.

SECTION 4.15 ASSESSMENT

(a) The provisions of

(i) Any environmental planning instrument:

State and Sydney Regional Environmental Planning Policies

State Environmental Planning Policy (SEPP) Infrastructure 2007

Clause 104 - Traffic Generating Development

The proposal was referred to Transport for NSW under Clause 104 of the SEPP as the proposed development has a car park greater than 50 vehicles. Transport NSW has assessed the proposal and raised no objections subject to standard traffic conditions i.e. to ensure the proposed driveway and car parking areas comply with relevant Australian Standards. The proposal complies with Clause 104 of SEPP (Infrastructure) 2007.

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

A BASIX certificate has been submitted with the subject Development Application.

State Environmental Planning Policy (SEPP) No. 55 - Remediation of Land

The provisions of SEPP 55 require Council to consider the potential for a site to be contaminated. The subject site has a history of residential type uses and as such, it is unlikely to contain any contamination and further investigation is not warranted in this case. Council's environmental health officer requested a draft condition requiring a Preliminary Site Investigation (PSI) report be submitted to Council for approval prior to the issuing of the Construction Certificate. Should the PSI recommend the preparation of a Detailed Site Investigation (DSI) and Remediation Action Plan (RAP), both reports are to be submitted to Council prior to the issue of the Construction Certificate.

State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Apartment Development

This Policy aims to improve the design quality of residential flat building developments. This proposal has been assessed against the following matters relevant to SEPP 65 for consideration in the following manner:

- The NSW Apartment Design Guide (ADG) guidelines compliance table (**attached (AT5)**).

The proposal meets with the design quality principles and the Apartment Design Guide. Refer to Attachment (**AT-1**). The proposed development would provide 79.3% of units with compliant solar access, and 62.1% of units with compliant natural cross ventilation which exceeds the minimum requirements.

Development Standards

The proposal has been assessed against the applicable development standards within LCLEP 2009 as detailed in the following table of compliance:

Lane Cove LEP 2009	Proposal	Compliance
4.3 Height		
17.5m	<u>Roof</u> : maximum 19.45m or 11.14% departure. <u>Southern Lift overrun</u> : maximum 22.2m or 26.86% departure.	No A maximum 4.7m departure for the southern lift overrun (26.86%) – however Clause 4.6 that was submitted is supported – refer below.
4.4 FSR		
1.80:1 (4372.2m ²)	1.799:1 (4,372m ²)	Yes

Clause 4.3 - Height of Buildings

A maximum building height of 17.5m applies to the site under LCLEP 2009. The proposed building has a maximum building height of 19.45m (1.95m or 11.14% variation) to the roof and a maximum building height of 22.2m (4.7m or 26.86% variation) to a lift overrun. The height plane diagrams shown in Figures 4 - 5 below depict the extent of the height variations.

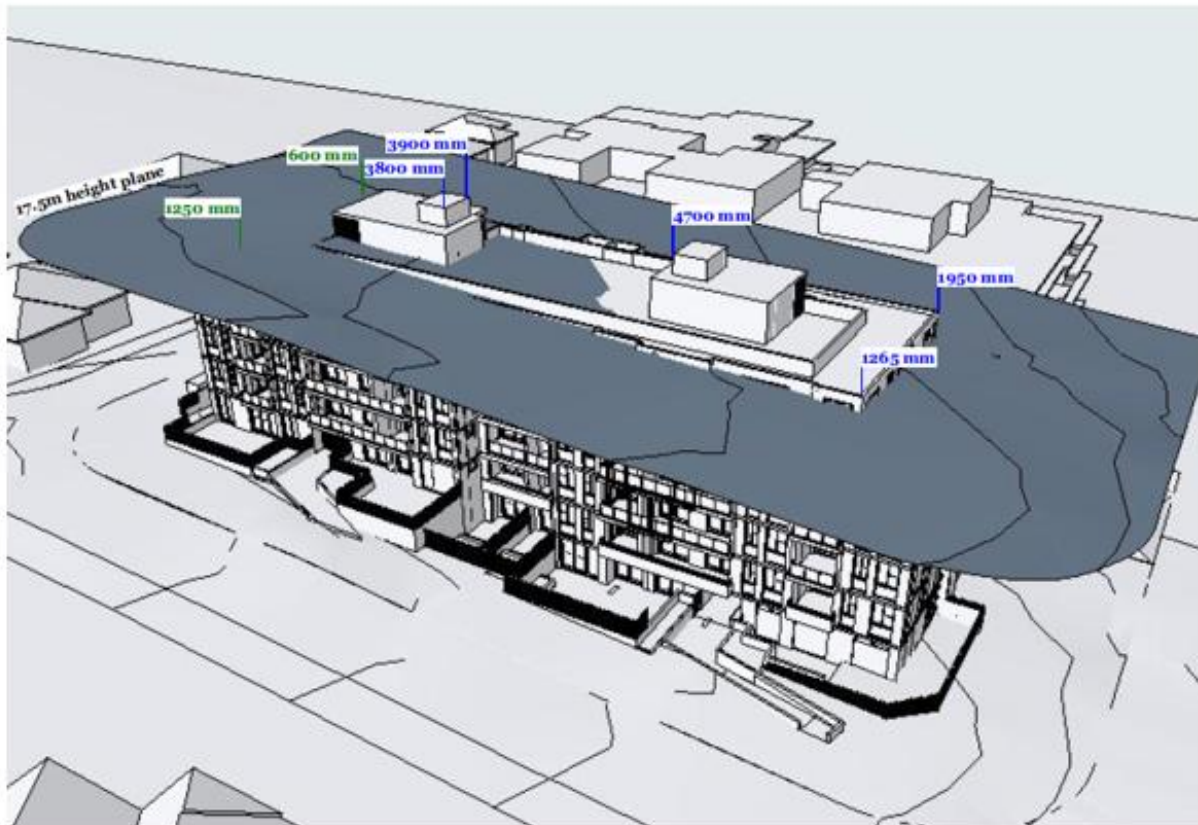


Figure 4: Height plane control diagram

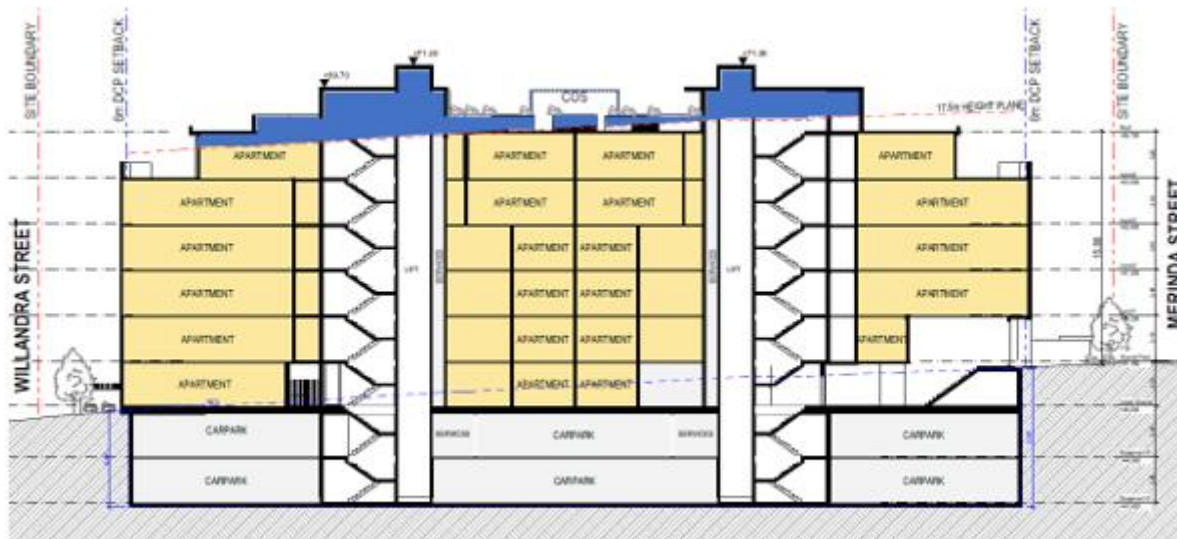


Figure 5: Section- blue areas are proposed works above 17.5m height control.

Clause 4.6 Exceptions to development standards

Clause 4.6 of LCLEP 2009 allows exceptions to development standards. Consent must not be granted for development that contravenes a development standard unless the consent authority has considered and agrees with the written request from the applicant that seeks to justify the contravention of the development standard. This written request must demonstrate compliance with the relevant provisions of Clause 4.6 of LCLEP 2009. These matters are discussed below:

Written request provided by the applicant

The applicant provided a written request seeking a variation to the development standard with the lodged application. A copy of the request is provided to the Panel. Under Clause 4.6(3) the applicant is required to demonstrate:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard*

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

The Clause 4.6 variation has argued that it is unreasonable or unnecessary to require strict compliance with the development standard for the following reasons:-

- *The objectives of the standard are achieved notwithstanding the non-compliance with the numerical standard (First Method established in Wehbe v Pittwater Council [2007] NSW LEC 287).*

Assessment against objectives of the height of buildings standard.

- *The objectives of the standard are achieved notwithstanding the non-compliance with the numerical standard.*
 - *The proposed building presents as predominantly within the maximum height of buildings as it presents to the street and is consistent with the desired character of the locality.*
 - *The proposal minimises overshadowing, loss of privacy and visual impacts for the neighbouring properties, due to predominantly compliant setbacks.*
 - *The proposal maximises solar access for the public domain where the main breaches to the height control is located centrally within the proposed building floorplate and the shadows cast from the variation are demonstrated as being within the shadows of the compliant portions of the building.*
 - *The point encroachments are balanced by other parts of the development which are below the height control, particularly at the north-eastern corner, north-western corner and along the western elevation.*

Compliance with the development standard is considered to be unreasonable and unnecessary in the circumstance of the subject proposal. The written request clearly demonstrates that the breaches to height are the result of massing decisions that do not result in any additional impact compared to a compliant scheme. Clause 4.6(3)(a) is considered to be satisfied. The shadow diagrams confirm shadows caused from elements breaching the height control would generally fall onto the roof of the proposed building and not onto neighbouring properties.

2. Environmental planning grounds to justifying contravening the development standard.

The decision in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 demonstrates that the requirement in Clause 4.6(3)(b) of the LEP to justify there are sufficient environmental planning grounds for the variation, requires identification of grounds particular to the circumstances of the proposed development, and not simply grounds that apply to any similar development on the site or in the vicinity.

The applicant has argued that:

“The proposed distribution of built form and massing across the site is the result of a considered analysis of the constraints of the site combined with context of the site and the desire to deliver a positive urban design outcome. The proposed development has been specifically designed as a robust architectural solution for the site which will result in a high-quality building in a landscaped setting that will sit comfortably within the streetscapes of Mindarie Street, Merinda Street and Willandra Street and be consistent with the emerging character of development within the vicinity of the site.

In particular, the proposal has been designed to respond to the significant fall across the site from north-east to south-west with the competing needs of providing a high level of amenity, maximising the activation of the ground floor plane around the building, as well as achieving an architectural expression in storeys which is compatible with the emerging scale of development. The balancing of these needs has contributed to a development which presents as required by the DCP with a 4-storey street wall and setback fifth floor to the north-east corner of the site, and the building carries these established floor levels across the site. The design addresses the fall of the site and the need to activate the ground floor plane by inserting apartments at the earliest opportunity at the western end of the site. This approach achieves both a continuity to the architectural expression along the primary northern façade, as well as dealing with the need to properly address the street edge around the building. This approach also provides for a singular plane for the roof top which provides the opportunity to provide for a large, consolidated and level common open space area on the roof which can be accessed from both lift cores.

Due to the modest size of the building and also the desire to provide a single and consolidated roof top common open space area which can be accessed from either lift core, it is not practical or desirable to step the building in this instance. As a result, the north-eastern corner of the building is approximately 4.4 metres below the height control, whilst the south-western corner is approximately 1.95 metre above the height control at the highest point. The centrally located lift overruns also encroach on the height plane. In other words, whilst there are areas which protrude above the height control, these are generally point encroachments which are also balanced by other parts of the development which are below the height control.

Notwithstanding the areas of height encroachment, the scale of the proposed development does not result in any unreasonable impacts on the surrounding properties in terms of loss of solar access, loss of privacy or visual impact. The greatest extent of the breach occurs for the lift core at the south-western corner of the development and is located back from the edges of the building, such that this component will not be readily visible from the public domain. The architectural package includes a solar access analysis which demonstrates that the proposed scale of the development will not unreasonably overshadow development on surrounding properties nor the public domain.

The scale of the building will not be perceived as jarring or antipathetic in the existing urban design context of the site and represents a scale which is reasonably contemplated by the planning controls which apply to the site, particularly given the minor nature of the non-compliance. Strict compliance with the development standard would result in an inflexible application of the control that would not deliver any additional benefits to the owners or occupants of the surrounding properties or the general public and in this particular circumstance there are sufficient environmental planning grounds to warrant the proposed variation to the current height control as

the proposal will achieve a superior outcome with a higher level of residential amenity within the site and without any significant adverse impact to adjacent sites”.

The applicant also states that compliance with the standard is unnecessary and unreasonable in context to the height control as Council has adopted flexibility in permitting height control variations to a number of residential flat buildings in proximity to the site.

- Development Application DA18/34 for a residential flat building at 586 – 592 Mowbray Road had a 26% height variation;
- Development Application DA13/176 for a residential flat building at 7-15 Centennial Avenue & 92-96 Gordon Crescent, Lane Cove North had a 44% height variation;
- Development Application DA11/141 for a residential flat building at 626-632 Mowbray Road, Lane Cove had a 46% height variation;
- Development Application DA48/19 for a residential flat building at 608-618 Mowbray Road and 23 Mindarie Street had a 29.65% height variation;
- Development Application DA/86/2017 for a residential flat building on part of the subject site (30-32 Mindarie Street) had a 2.68% height variation; and
- Development Application DA 162/2018 for a residential flat building at 1-7 Merinda and 11-17 Willandra Street had a 13.7% height variation.

The building massing does not result in unacceptable impacts to the properties to the south. The environmental planning grounds provided are considered satisfactory and supported. Clause 4.6(3)(b) is considered to be satisfied.

3. Consistency with the zone objectives and objectives of the development standard

Development consent cannot be granted to vary a development standard unless the consent authority is satisfied that the proposed development would be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out. An assessment against the objectives of building height and the R4 High Density Residential zone contained within LCLEP 2009 are provided as follows:

Height of Building Objectives

Clause 4.3 (1) provides the following objectives:-

- (a) to ensure development allows for reasonable solar access to existing buildings and public areas;*

Comment: The shadows caused by the non-compliant elements of the building would generally fall within shadows of a 100% compliant building envelope.

The solar analysis diagrams demonstrate that the proposed lift overrun, and other upper level roof elements above 17.5m would not result in any material difference compared to a compliant height in relation to solar access to the residential flat building to the south.

- (b) to ensure that privacy and visual impacts of development on neighbouring properties, particularly where zones meet, are reasonable;*

Comment: Visual privacy has been achieved through a combination of apartment orientation and privacy screens. The proposed height variation would not result in any adverse privacy impacts and in fact facilitates an improved privacy outcome for the ground floor units within the development.

(c) to seek alternative design solutions in order to maximise the potential sunlight for the public domain; and

Comment: The solar analysis demonstrates that the proposed development allows for reasonable levels of solar access to the public domain and would not materially impact sunlight within the public domain.

(d) to relate development to topography

Comment: The site is subject to a fall from the north-east corner to south-west of approximately 5m. The change in levels would require the building to step down the ground floor to accommodate to the slope of the site. The parts of the development which project above the height standard are generally point encroachments which are offset by other parts of the development which are compliant.

R4 High Density Residential Zone Objectives

The R4 High Density Residential Zone objectives are as follows:

- *To provide for the housing needs of the community within a high-density residential environment*

Comment: The proposal provides 58 apartments to meet the housing needs of the growing community in accordance with the established strategic planning for the locality. The improved apartment layout and provision of utilities provide adequate amenity for future occupants.

- *To provide a variety of housing types within a high-density residential environment.*

Comment: The proposal provides for a variety of unit types within a high-density residential environment (15 x 1 bedroom, 37 x 2 bedroom and 6 x 3 bedroom).

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment: Not applicable.

- *To provide for a high concentration of housing with good access to transport, services and facilities.*

Comment: The proposal provides 58 new dwellings with good access to Epping Road, Mowbray Road and public transport services. The site has good access to a public reserve with café, sporting and child play equipment facilities at Mindarie Park

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

Comment: The proposed building design has regard to the existing amenity of residences in the neighbourhood and in particular residential land and properties to the south.

The design would comply with setback levels 1-4. These setbacks allow adequate separation to reduce solar access and overlooking impacts.

- *To avoid the isolation of sites resulting from site amalgamation.*

Comment: The proposal would not result in isolation of any site. The site is the amalgamation of 4 lots.

- *To ensure that landscaping is maintained and enhanced as a major element in the residential environment.*

Comment: The proposal provides for landscaped areas well in excess of the Apartment Design Guide requirements (17.5% at ground floor deep soil where ADG requires 15% deep soil) including appropriate streetscape and boundary plantings. The resulting landscape scheme would contribute to local amenity and the broader landscaped character of the residential environment by increasing the overall quantum and quality of landscaping for residential apartment development.

In accordance with the above, the development complies with the LEP 2009 objectives for the R4 High Density Residential zone.

4. Concurrence of the Director General.

The Local Planning Panel can assume concurrence for exceptions to development standards where the variation to the development standard is greater than 10%. As the proposal is referred to the Local Planning Panel for determination; concurrence is taken to be assumed.

5. Conclusion

The objectives of Clause 4.6 are to provide an appropriate degree of flexibility in applying certain development standards and to achieve better outcomes for and from development by allowing flexibility in particular circumstances. The variations to the height standard of LCLEP 2009 are considered justified and supported in the circumstances of this case. The development would satisfy the objectives of the control despite the non-compliance with the height control. The proposal results in a better planning outcome. The elements of the building which vary the height controls do not result in additional shadows as compared to a compliant scheme but would provide access for residents to a high amenity roof top communal open space area. The development satisfies the objectives and the criteria outlined in clause 4.6. As such, the variation is considered well founded, results in a better planning outcome and is in the public interest.

(iii) Any development control plan

Lane Cove Development Control Plan 2010

The proposal has been assessed against Part C – Residential of Lane Cove Development Control Plan 2010 as outlined in the attached tables of compliance **(AT-2)**. The following variations to Lane Cove Development Control Plan 2010 are proposed and addressed as follows:

- **5th floor setback from southern boundary** – The DCP calls for maximum building setback of:
 - ii. 6m up of residential flat buildings up to 4 storeys; and
 - iii. **9m setback from the boundary 5 – 8 storeys**

The proposed complies with setback controls the exception of the 5th floor which uses the rooftop of the level below as a trafficable terrace. The trafficable terrace is 7.3m setback from the boundary. Also on level 5 is a minor encroachment of 2 bedrooms which are setback 8.65m from the boundary. The variations are supported in this instance as potential sightlines from terrace and bedrooms would be obscured by 1.1m tall and 0.8m wide planter boxes proposed along the

southern perimeter. Draft conditions are recommended for minimum soil depths to allow for appropriate screening species accommodating dense planting and sprinkler systems to ensure planting survives. Including: 3.5 metres x 3.5 metres with a soil depth of at least 800mm ensuring a minimum soil volume of at least 9 cubic metres per tree. 4 x small trees are to be planted in these planter boxes at a rate of 1 per planter box.

- **Part 6th Storey** – The DCP calls for the 17.5m height limit is to correspond with a maximum height of 5 storeys. The proposal provides for a part 5 and part 6 storey building due to the fall in natural ground level on the site western end becomes 6 storeys. The partial non-compliance is supported in this instance because the part 5th and part 6th floor is of similar bulk and scale to other residential flat buildings in the area. The proposal would be lower in storeys to the approved neighbouring site to the south at 1-7 Mindarie and 11-17 Willandra is a part 6 and part 7 storey building (DA16/2018). It is noted that the proposal complies with FSR control and is therefore of a density permitted under the planning controls.
- **Upper storey** - The Mowbray Precinct DCP calls for a 5th storey to have a maximum of 50% of the floor area of the storey below and be setback a further 3m from that lower storey building façade line. The proposed 5th floor (Level 4) would be setback an additional 3m (12m total) from the storey below (9m) and complies.

The part 5th and 6th floor would be approximately 77% of the area of the floor below. Although the floor area does not achieve numerical compliance, the proposal complies with the objectives of the control as the 5th floor (level 4) has a reduced floor area and the building bulk is stepped away from the boundaries.

- **Deep Soil Zones** - The Mowbray Precinct DCP calls for 40% deep soil however the ADG minimum (7-15%) and general Part C controls (25% soft landscaping and 15% on structure) have been applied consistently to development in the locality. The proposal exceeds both these minimums and a variation is considered satisfactory in this instance.

REFERRALS

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

Referral	DCP	Comment
Accessibility	Part F – Access and Mobility	Comments taken on board and included as draft conditions.
Landscaping	Part J – Landscaping	No objection subject to draft conditions
Tree Preservation	Part J – Landscaping	Consent to street tree being removed subject to draft conditions.
Engineering	Part O – Stormwater Management	No objection subject to draft conditions.
Waste Management	Part Q – Waste Management and Minimisation	No objection subject to draft conditions.
Traffic, Transport and Parking	Part R – Traffic, Transport and Parking	No objection subject to draft conditions.
Building Surveyor	N/A	No objection subject to draft conditions.
Environmental Health	Part B – General Controls	No objection subject to draft conditions.

EXTERNAL REFERRALS

Referral	Comment
Transport for NSW	No objection subject to draft conditions
Rural Fire Service	No objection subject to draft conditions
NSW Police	No objection subject to draft conditions

APPLICABLE REGULATIONS

Environmental Planning and Assessment Regulation 2000 indicates that the standards for demolition and removal of materials should meet with AS 2601-2001 and therefore any consent will require the application of a relevant condition seeking compliance with the Standard.

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

The impacts of the development have been considered and demonstrated to not adversely impact either the natural and built environments, social and economic or amenity of the locality.

(c) The suitability of the site for the development

The proposal was notified in accordance with Council policy and three (3) submissions were received. The submissions are summarized and addressed within the following table:

Concern	Comment
The proposed breach is the 17.5m height control should not be supported.	<p>The variation in height is addressed in the report. The variations in height predominantly relate to:</p> <ul style="list-style-type: none"> - Ancillary communal roof top structures including lift overruns, accessible toilets pergolas, balustrades, and fire stairs. -The upper section roof of the western-most apartments on level 5. The roof would be setback 5m from the building line and over 10m from the boundary with Willandra Street. -Variations to the height are predominantly setback from the building edges and would not be highly prominent when viewed from the Merinda, Mindarie and Willandra Street frontages. The variations to the height controls do not result in additional overshadowing as compared to a compliant building. The submitted shadow diagrams demonstrate that shadows from the non -compliant elements generally fall on the proposed building and not onto neighbouring properties. The submitted clause 4.6 variation to the height control has been assessed and is supported.
Concerns with bulk and size of	The part 5 th and part 6 th floor is of similar bulk and

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Concern	Comment
development	scale to other residential flat buildings in the area. The approved adjacent site to the south at 1-7 Mindarie and 11-17 Willandra is a part 6 and part 7 storey building (DA16/2018). It is noted that the proposal complies with FSR control and is therefore of a density permitted under the planning controls.
Concerns related to traffic parking impacts from the proposal.	The proposal is within the planned density for the site and is a permissible use. The proposed car parking has been provided in accordance with Council controls and was reviewed by Council's traffic engineers who determined the road network can accommodate the development of the site for a residential flat building. Draft Conditions include the requirement of an additional traffic management plan to be approved by Council prior to the submission of a construction certificate.
Request that Willandra Street be widened to accommodate vehicle movements.	Approval of the proposed would not cumulatively adversely affect existing traffic impacts within the locality and therefore is not enough nexus for this development to require the developer to widen Willandra Street.

(e) Public Interest

The proposal is in the public interest as it provides for planned residential accommodation with an adequate balance between the amenity of future occupants and that of adjoining properties.

SECTION 7.11 ASSESSMENT

The proposal is subject to the provisions of the Lane Cove Section 94 Contributions Plan (now Section 7.11) which levies new developments to assist in catering for the demand placed on existing Council community facilities and/or infrastructure. The Section 7.11 contribution payable is calculated in accordance with the Plan being the average number of persons per dwelling size as detailed in the following table:

No. Bedrooms	Average Occupancy	Amount contribution per person	No. of dwellings	Total Contribution
1 bedrooms	1.2 persons	\$11,044.52 x 1.2 = \$13,253.424 per dwelling	15 x \$13,253.424 = \$198,801.36	\$198,801.36
2 bedrooms	1.9 persons	\$11,044.52 x 1.9 = \$20,984.588 per dwelling. *Capped Rate \$20,000 per dwelling.	37 x \$20,000 =	\$740,000.00
3 bedrooms	2.4 persons	\$11,044.92 x 2.4 = \$26,507.808 per dwelling. *Capped Rate	6 x \$20,000 =	\$120,000.00

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No. Bedrooms	Average Occupancy	Amount contribution per person	No. of dwellings	Total Contribution
		\$20,000 per dwelling.		
			TOTAL	\$1,058,801.36

The Section 7.11 contribution payable is reduced through any existing credit applied to the existing entitlements as detailed in the following table:

No. bedrooms	Average occupancy	Amount of contribution per dwelling	No. of Dwellings	Total contribution
2+ Bedrooms	N/A	Capped Rate \$20,000.00 per dwelling	4 dwellings x \$20,000.00	\$80,000.00
			TOTAL	\$80,000.00

The Section 7.11 contribution payable is \$1,058,801.36 – \$80,000.00 = **\$978,801.36**

CONCLUSION

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

The application complies with SEPP 65 – Design Quality of Residential Apartment Development, the Floor Space Ratio under Lane Cove Local Environmental Plan 2009 and complies with Lane Cove Development Control Plan 2010 either by way of compliance with the prescriptive measures or the objectives.

The proposed variation to the building height standard under Lane Cove Local Environmental Plan 2009 is considered justified and is supported. The written request adequately addresses the matters in Clause 4.6(3) and the proposal meets with both the zone and standard objectives despite the non-compliance with the prescriptive measure of building height contained within Lane Cove Local Environmental Plan 2009.

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

RECOMMENDATION

That the Lane Cove Local Planning Panel at its meeting of 5 April 2021, exercising the functions of the Council as the Consent Authority pursuant to Clause 4.16 of the Environmental Planning & Assessment Act 1979 approve a variation to the height prescribed by Clause 4.3 of the Lane Cove Local Environmental Plan 2009, as it is satisfied that the applicant's request has adequately addressed the matters required to be demonstrated by Clause 4.6 of that Plan, and the proposed development would be in the public interest as it is consistent with the objectives of that particular standard and the objectives for development within the zone.

That pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act, 1979 the Lane Cove Local Planning Panel at its meeting of 5 April 2022, exercising the functions of Council as the consent authority, grant consent to Development Application DA117/21 for the demolition of existing structures and construction of a residential flat building on Lots 35, 48, 49 and 50 in DP 35865, known as 28 -34 Mindarie Street, Lane Cove North, subject to attached draft conditions;

GENERAL CONDITIONS

1. Approved Plans and Documents

Drawing:	Prepared by:	Dated:
DA000 Rev 3 Title Page	DKO	19/11/21
DA104 Rev 3 Development Summary	DKO	19/11/21
DA200 Rev 06 Basement 2 Plan	DKO	19/11/21
DA201 Rev 06 Basement 1 Plan	DKO	19/11/21
DA 202 Rev 06 Lower Ground Floor Plan	DKO	19/11/21
DA203 Rev 06 Ground Floor Plan	DKO	19/11/21
DA204 Rev 06 Level 1-2	DKO	19/11/21
DA205 Rev 06 Level 3	DKO	19/11/21
DA206 Rev 06 Level 4	DKO	19/11/21
DA207 Rev 07 Level 5	DKO	19/11/21
DA208 Rev 06 Roof	DKO	19/11/21
DA209 Rev 01 Lower Ground Floor Plan 1: 250	DKO	19/11/21
DA210 Rev 01 Ground Floor Plan 1:250	DKO	19/11/21
DA211 Rev 01 Level 1-2 1: 250	DKO	19/11/21
DA212 Rev 01 Level 3 1:250	DKO	19/11/21
DA213	DKO	19/11/21

Rev 01 Level 4 1:250		
DA214 Rev 01 Level 5 1:250	DKO	19/11/21
DA215 Rev 01 Roof 1:250	DKO	19/11/21
DA300 Rev 04 Elevations - Sheet 1	DKO	19/11/21
DA301 Rev 03 Elevations - Sheet 2	DKO	16/07/21
DA302 Rev 04 Elevations - Sheet 3	DKO	19/11/21
DA303 Rev 04 Elevations - Sheet 4	DKO	19/11/21
DA304 Rev 03 Sections	DKO	16/07/21
DA305 Rev 03 Sections	DKO	16/07/21
DA306 Rev 03 Sections	DKO	16/07/21
DA307 Rev 01 Sections	DKO	16/07/21
DA308 Rev 03 3D Montage	DKO	19/11/21
DA309 Rev 03 3D Montage	DKO	19/11/21

That the development be in accordance with the following approved plans and documents

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

2. SECTION 7.11 CONTRIBUTION

The payment of a contribution for additional person/s in accordance with Council's Section 7.11 (S94) Contributions Plan shall be made **PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE**. This payment is to be at the current rate at the time of payment. The amount of **\$978,801.36** at the current rate of \$11,044.52 per person (2021/2022) is required to be paid.

NOTE: PAYMENT MUST BE IN BANK CHEQUE. PERSONAL CHEQUES WILL NOT BE ACCEPTED.

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This contribution is for Community facilities, Open Space/Recreation and Roads under the Lane Cove Section 7.11 (S94) Contributions Plan which is available for inspection at the Customer Service Centre located at Lane Cove Council, 48 Longueville Road, Lane Cove.

N/B The Section 7.11 Contribution is calculated as the follows:

Medium density developments (including attached dual occupancy and duplexes):				Total Contribution
No. Bedrooms	Average Occupancy	Amount contribution per person	No. of dwellings	
1 bedrooms	1.2 persons	\$11,044.52 x 1.2 = \$13,253.424 per dwelling	15 x \$13,253.424 = \$198,801.36	\$198,801.36
2 bedrooms	1.9 persons	\$11,044.52 x 1.9 = \$20,984.588 per dwelling. *Capped Rate \$20,000 per dwelling.	37 x \$20,000 =	\$740,000.00
3 bedrooms	2.4 persons	\$11,044.92 x 2.4 = \$26,507.808 per dwelling. *Capped Rate \$20,000 per dwelling.	6 x \$20,000 =	\$120,000.00
			TOTAL	\$1,058,801.36

*N/B The reforms to Local Development Contributions have a cap of \$20,000 per residential lot or per dwelling limitation on local development contributions.

The development site has four existing dwellings. For sites with an existing dwelling house (or houses) a credit is applicable which is capped at \$20,000.00 per dwelling. The Section 7.11 Contribution credit for the existing dwellings is therefore \$80,000.00. The required S7.11 contribution is calculated at: \$1,058,801.36 – \$80,000.00 = **\$978,801.36**

Reason: Statutory requirement.

- 3. Disabled Access** - Prior to the issue of the **Construction Certificate**, a report is to be provided from a suitably qualified access consultant to verify that the construction certificate plans illustrate a minimum 20% of units as adaptable and 80% as visitable in accordance with Lane Cove Development Control Plan 2010, including a mix of 1, 2 and 3 bedroom units and that the units comply with the Building Code of Australia and Australian Standards AS1428.1, AS4299, AS1735.12 and AS2890.6. The report is to be provided to the Principal Certifying Authority and Council (if Council is not the PCA).

Reason: To ensure accessibility requirements are met.

- 4. Adaptable Units** - A total of twelve (12) adaptable apartments are to be provided within the development (LG04, LG03, LG10, LG11, LG12, G01, G13, G14, 101, 115, 201, 215) These apartments are to comply with all of the requirements as outlined in AS4299. Details demonstrating compliance is to be provided on the relevant construction certificate plans. Prior to the issue of the Construction Certificate, a suitably qualified access consultant is to certify that the development achieves the requirements of AS4299.

Reason: To ensure compliance with Council's requirements.

5. **Design Verification** - Prior to the relevant Construction Certificate being issued with respect to this development, the Principal Certifying Authority is to be provided with a written Design Verification from a qualified designer. This statement must include verification from the designer that the plans and specification achieve or improve the design quality of the development to which this consent relates, having regard to the design quality principles set out in Part 2 of *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development*. This condition is imposed in accordance with Clause 143 of the *Environmental Planning and Assessment Regulation 2000*.

Reason: Statutory requirement

6. **Parking Allocation** - Both the owner and occupier of the development and/or the strata body must provide and maintain the minimum parking allocation as follows;
- 97 total spaces including:
 - a) 82 residential spaces;
 - b) 15 residential visitor spaces including 1 accessible space;
 - c) 1 carwash bay
 - d) 6 motorbike spaces;
 - e) 23 bicycle spaces. **(the applicant is encouraged to explore opportunities for additional secure bicycle parking spaces)**

Reason: To ensure parking spaces are provided in accordance with the determination.

BUILDING CONDITIONS

7. **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 based on \$ 2,490,273.00 cost of works 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 longservice levy is paid.

8. **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.

9. **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.

10. B.4.EH Demolition work plan

The name, address, contact details and licence number of the Demolisher / Asbestos Removal Contractor.

- Details of hazardous materials (including asbestos).
- Method/s of demolition (including removal of any asbestos).
- Measures and processes to be implemented to ensure the health & safety of workers and community.
- Measures to be implemented to minimise any airborne dust and asbestos.
- Methods and location of disposal of any hazardous materials (including asbestos).
- Other relevant details, measures and requirements to be implemented.
- Details of re-use, recycling and disposal of waste materials.
- Date the demolition works will commence.

Reason: To ensure health and safety.

11. 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.
- For sites adjoining bushland a 1.8m chain mesh perimeter fence with 1m sediment fencing attached to the lower portion is required to ensure that no foreign materials enter the bushland.
- 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)
- For major works, 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
- 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.
- location of temporary toilets.
- 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*".

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.
3. All stockpiles of potentially contaminated soil must be assessed in accordance with relevant NSW Environment Protection Authority guidelines, including NSW EPA Waste Classification Guidelines (2014).
4. Where sites adjoin bushland:
 - For sites identified to be within bushfire prone land An Asset Protection Zone (APZ) shall be provided entirely within the site boundary. To protect bushland and property from fire risk, APZ standards are to be in accordance with Planning for Bushfire Protection (PBP) 2019.
 - Access to the site from adjacent parks/reserves/bushland for the purposes of carrying out building works, landscaping works, storage materials, storage of soil or rubbish is not permitted.

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

12. 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 BlueBook), 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

13. C.3 - Waste Management Plan (WMP)

Before the issue of a construction certificate, the applicant is to ensure that a waste management plan is prepared in accordance with the EPA's Waste Classification Guidelines and the following requirements before it is provided to and approved by the certifier:

- a) Council's Development Control Plan (Part Q: Waste Management and Minimisation).
- b) Where sites adjoin bushland (private or public):
 - the WMP shall detail measures to mitigate any rubbish or foreign materials from entering the bushland.
 - Access through parks, reserves and bushland to the site is not permitted.
 - Council's Coordinator of Bushland must be notified of any accidental or intentional dumping of material in the bushland area.

- c) details the following:
- the contact details of the person(s) removing the waste
 - an estimate of the waste (type and quantity) and whether the waste is expected to be reused, recycled or go to landfill
 - the disposal and destination of all waste material spoil and excavated material

The applicant must ensure the waste management plan is referred to in the construction site management plan and kept on-site at all times during construction.

Reason: To ensure resource recovery is promoted and local amenity protected during construction.

14. C.4 - Utilities and services

Before the issue of the relevant construction certificate, the applicant must submit the following written evidence of service provider requirements to the certifier:

- a) a letter of consent from <INSERT ELECTRICITY SUPPLY AUTHORITY> demonstrating that satisfactory arrangements can be made for the installation and supply of electricity.
- b) a response from <INSERT WATER AUTHORITY> as to whether the plans proposed to accompany the application for a construction certificate will affect any <INSERT WATER AUTHORITY> infrastructure, and whether further requirements need to be met.
- c) other relevant utilities or services - that the development as proposed to be carried out is satisfactory to those other service providers, or if it is not, what changes are required to make the development satisfactory to them.

Reason: To ensure relevant utility and service providers requirements are provided to the certifier.

15. C.5 - Dilapidation report (if applicable)

Before the issue of a construction certificate, 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.

16. 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.

17. 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.

18. 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.

19. D.2 - Tree protection measures (if applicable)

Before the commencement of any site or building work, the principal certifier must ensure the measures for tree protection detailed in the construction site management plan are in place.

Reason: To protect and retain trees.

20. 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).

21. D.4 - Compliance with Home Building Act (if applicable)

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).

22. 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

OR IF A MAJOR RESIDENTIAL FLAT BUILDING

All demolition, building construction work, including earthworks, deliveries of building materials to and from the site to be restricted as follows:-

Monday to Friday (inclusive) 7am to 5.30pm

High noise generating activities, including rock breaking and saw cutting be restricted between 8am to 5.00pm with a respite period between 12.00 noon to 1.30pm Monday to Friday

Saturday 8am to 12 noon

with NO high noise generating activities, including excavation, haulage truck movement, rock picking, sawing, jack hammering or pile driving to be undertaken. Failure to fully comply will result in the issue of a breach of consent P.I.N.

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.

The principal certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Note: Any variation to the hours of work requires Council's approval.

Reason: To protect the amenity of the surrounding area.

23. 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)

24. 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.

25. 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.

26. E.10 - Shoring and adequacy of adjoining property (if applicable)

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

27. 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.

28. 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.

29. F.3 - Post-construction dilapidation report (if relevant) -

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.

30. G.1.B - Sydney Water requirements

A section 73 certificate is to be obtained for development or subdivision requiring servicing of sewer and water.

Reason: Sydney Water requirement.

31. H.2 - Annual fire safety certificate (if applicable)

During occupation and ongoing use of the building, the applicant must provide an annual fire safety statement to Council and the Commissioner of Fire and Rescue NSW in accordance

with clause 177 of the EP&A Regulation.

Reason: To satisfy Council's Engineering requirements to ensure annual checks on fire safety measures.

WASTE CONDITIONS

32. Garbage Chutes - A garbage chute system and interim recyclable storage facilities must be provided to the development.

- Garbage chutes must be constructed in accordance with the requirements of the Building Code of Australia (BCA).
- Garbage chutes must be located and insulated in a manner that reduces noise impacts.
- Chutes, service openings and charging devices must be constructed of material (such as metal) that is smooth, durable, impervious, non-corrosive and fire resistant.
- Chutes, service openings and charging devices must be capable of being easily cleaned.
- Chutes must be cylindrical and have a diameter of at least 500mm.
- Chutes must not have any vends or sections of reduced diameter in the main shaft of the chute;
- Internal overlaps in the chute must follow the direction of waste flow.
- Chutes must deposit rubbish directly into a bin or compactor located within a waste/recycling storage room.
- A cut-off device must be located at or near the base of the chute so that the bottom of the chute can be closed when the bin or compacting device at the bottom of the chute is withdrawn or being replaced.
- The upper end of the chute must extend above the roofline of the building.
- The upper end of the chute must be weather protected in a manner that does not impede the upward movement of air out of the chute.
- Compaction of garbage must not exceed a ratio of 2:1. No compaction is permitted for recyclable material or green waste.

Reason: Waste condition

33. Garbage Chute Service Rooms - The service opening (for depositing rubbish into the main chute) on each floor of the building must be located in a dedicated service room.

- The charging device for each service opening must be self-closing and must not project into the main chute.
- Branches connecting service openings to the main chute must be no longer than 1m.
- Each service room must include provision for 2x240L recycling bins for the storage of recyclable materials. Signage regarding the materials that can be recycled must be displayed near these recycling bins.
- Each service room must be located for convenient access by users and must be well ventilated and well lit.
- The floors, walls and ceilings of service rooms must be finished with smooth durable materials that are capable of being easily cleaned.
- Service rooms must include signage that clearly describes the types of materials that can be deposited into the garbage chute, the types of materials which must be deposited into recycling bins, and bulky waste collection arrangements including the location and travel paths to the bulky waste storage room.

Reason: Waste condition

34. Waste and Recycling Storage Rooms

- Waste and recycling rooms must be of sufficient size to accommodate garbage chute systems, a total of 1 x240L garbage bins per 3 units, 1 x240L yellow recycling bins per 10 units and 1 x 240L blue recycling bins per 10 units with adequate space for maneuvering garbage and recycling bins. 240L green waste bins available upon request.
 - Minimum clearance between bins of 300mm;
 - Minimum door openings of 1700mm; &
 - Minimum distance of 1700mm between rows of bins (where bins are located on either side of the room).
- The floor of waste and recycling rooms (including bulky waste storage rooms) must be constructed of either:
 - Concrete which is at least 75mm thick; or
 - Other equivalent material; and
 - Graded and drained to a floor waste which is connected to the sewer
- All floors must be finished to a smooth even surface, coved at the intersection of walls and floor.
- The walls of waste and recycling rooms, bulky waste storage areas and waste service compartments must be constructed of solid impervious material and must be cement rendered internally to a smooth even surface coved at all intersections.
- All waste and recycling rooms and bulky waste storage rooms must be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock.
- A close-fitting and self-closing door that can be opened from within the room must be fitted to all waste/recycling and bulky waste storage rooms.
- All waste/recycling and bulky waste storage rooms must be constructed to prevent the entry of vermin.
- All waste/recycling and bulky waste storage rooms must be ventilated by either:
 - Mechanical ventilation systems exhausting at a rate of 5L/s per m² of floor area, with a minimum rate of 100l/s; or
 - Permanent, unobstructed natural ventilation openings direct to the external air, not less than 1/20th of the floor area.
- All waste/recycling and bulky waste storage rooms must be provided with artificial light controlled by switches located both outside and inside the rooms.
- Clearly printed "No Standing" signs must be affixed to the external face of each waste/recycling and bulky waste storage room.

Reason: Waste condition

- 35. Bulky Waste Storage Room** - Readily accessible bulky waste storage areas located near the main garbage rooms must be provided for the use of all residents.

- Bulky waste storage rooms must be designed to the following minimum sizes:
 - 1-10 units: 10m²
 - 11-20 units: 20m²
 - >21 units: 30m²
- Doorways and travel paths must be a minimum width of 1700mm and of sufficient height and be free of obstructions to permit easy transport from individual units to the storage area, and from the storage area to collection point.

Reason: Waste condition

36. Access to Waste Collection Point - All waste must be collected on-site via on-site access by Council's garbage collection vehicles.

- The location(s) of waste and recycling rooms & bulky waste storage areas must be conveniently accessible for both occupants and Council's waste collection contractors.
- The minimum finished ceiling height must be 2.6m along the path of travel from the street to the residential waste and recycling collection point and maneuvering area. This clearance must be kept free of any overhead ducts, services and other obstructions.
- The maximum grade of any access road leading to the waste and recycling collection point must not be more than 1:5 (20%). The turning area at the base of any ramp must be sufficient for the maneuver of a 6.0m rigid vehicle to enter and exit the building in a forward direction.
- Where security gates are proposed, a Council master key system must be installed to permit unimpeded access.

Reason: Waste condition

37. Indemnity - Prior to the issue of an Occupation Certificate, the applicant must enter into a suitable Deed indemnifying Council and its contractors against claims for loss or damage to common property, liabilities, losses, damages and any other demands arising from any on-site collection service.

Reason: Waste condition

38. Composting/Worm Farming -The applicant must provide a container for communal composting/worm farming, the siting of such must have regard to potential amenity impacts.

Reason: Waste condition

39. Internal Waste Management

Internal waste/recycling cupboards with sufficient space for one day's garbage and recycling generation must be provided to each dwelling.

Reason: Waste condition

40. Provision of Waste Services

Prior to the issue of an Occupation Certificate, the applicant must make written application to Council for the provision of domestic waste services.

Reason: Waste condition

ENGINEERING CONDITIONS

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

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

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

Reason: To ensure public safety and amenity

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

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

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

Reason: To ensure public safety

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

Reason: To maintain Council infrastructure

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

Reason: To protect, maintain and provide utility services

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

Reason: To ensure pedestrian access is maintained

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

Reason: To protect public infrastructure

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

Reason: To protect and maintain infrastructure assets

50. **(A10) Boundary Levels:** The levels of the street alignment shall be obtained from Council. These levels are to be incorporated into the design of the internal pavements, car parking, landscaping, driveway and stormwater drainage plans and shall be obtained **prior to the issue of the Construction Certificate**. Note: The finished floor level of the proposed driveway shall be no lower than the existing RL of the current driveway and shall be determined by Council. Applicant has to lodge **Vehicular Crossing Application form** with application fee as shown in the form.

Reason: To provide consistent street alignment levels

51. **(A11) Work Zone:** A Construction Traffic Management Plan and an application for a Work Zone adjacent the development shall be submitted to Lane Cove Council for determination, prior to the commencement of the demolition and prior to any works that require construction vehicle and machinery movements to and from the site. If the development has access to a State Road, the Construction Management Plan and Work Zone need to be referred to RMS for approval. The approval of the Traffic Construction Management Plan and application for a Work Zone by Council's Traffic Section must be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate**.

Reason: To provide safer working environment and minimize interruption to pedestrians and motorists

Engineering conditions to be complied with prior to Construction Certificate

52. **(B1) Council Infrastructure Damage Bond:** The applicant shall lodge with Council a \$20000 cash bond or bank guarantee. The bond is to cover the repair of damage to Council's roads, footpaths, kerb and gutter, drainage or other assets because of the development. The bond will be released upon issuing of the Occupation Certificate. If Council determines that damage has occurred because of the development, the applicant will be required to repair the damage. Repairs are to be carried out within 14 days from the notice. All repairs are to be carried in accordance with Council's requirements. The full bond will be retained if Council's requirements are not satisfied. Lodgement of this bond is required **prior to the issue of the Construction Certificate**.

Reason: To protect and maintain public infrastructure

- 53. (D1) Excavation Greater Than 1m depth:** Where there are structures on adjoining properties including all Council infrastructures, located within 5 meters of the proposed excavation.

The applicant shall: -

- (a) seek independent advice from a suitably qualified engineer on the impact of the proposed excavations on the adjoining properties
- (b) detail what measures are to be taken to protect those properties from undermining during construction
- (c) provide Council with a certificate from the engineer on the necessity and adequacy of support for the adjoining properties

The above matters are to be completed and documentation submitted to principal certifying authority **prior to the issue of the Construction Certificate.**

- (d) Provide a dilapidation report of the adjoining properties and Council infrastructure. The dilapidation survey must be conducted **prior to the issue of the Construction Certificate.** The extent of the survey must cover the likely "zone of influence" that may arise due to excavation works, including dewatering and/or construction induced vibration. The dilapidation report must be prepared by a suitably qualified engineer. A second dilapidation report, recording structural conditions of all structures originally assessed shall be submitted to the principle certifying authority **prior to the issue of the Occupation Certificate.**

All recommendations of the suitably qualified engineer are to be carried out during excavation. The applicant must give at least seven (7) days' notice to the owner and occupiers of the adjoining allotments before the excavation works commence.

Reason: To protect surrounding properties and identify vulnerable structures

- 54. (D2) Drainage Plans Amendments:** The stormwater drainage plan prepared SGC Consulting Engineers, reference No: 20200474, issue A and dated on 21/07/21 is to be amended as detailed below by a qualified practicing hydraulic engineer and certified by him/her. This amended plan shall show full details of new pipe network amended as follows and satisfying part O of the Council's stormwater DCP;

1. Proposed drainage system should show pipe sizes and invert levels up to connection point; confirming pipe system satisfies part O of Council' storm water DCP.
2. Sediment control fence shall be placed around the construction site and shown in plan
3. Subsoil agg-line drainage is required around the retaining wall, dwelling, or it is necessary and connected to proposed drainage system
4. One silt arrester pit with mesh (RH3030) and sump(200mm) as shown in section 3.4.1 of Part O of Council DCP is required within the site, at start of the discharge pipe to Council system line.
5. Stormwater runoff from driveway shall be collected by grated driveway pit and connected to stormwater system
6. Seepage agg-line drainage line is required in upstream of the dwelling and connected to proposed drainage system.
7. The kerb connection pipe shall be designed for gravity discharge only and no charged pipe line allowed between fence line and connection point at kerb.
8. A gross pollutant trap suitable for this site needs to be designed and added to the amended plans within the property boundary prior to the connection to the street system. The details of this GPT shall be shown in stormwater plan. The suitable access to the GPT for future maintenance is required.
9. The OSD calculation shall be based on the calculation shown in Appendix 14 in part O of Council's stormwater DCP.
10. The detailed cross section of the OSD is required and shall show levels, sizes, depths and

widths.

11. In case of the blockage or overflow from the OSD, the water shall not re-enter the site via proposed ramp or by seepage into basement pump out system and finally circulates back to OSD. Council does not support this circulation.
12. By considering all these issues, Council recommends installing a kerb inlet pit at Mindarie Street close to OSD system, connect flow from OSD to it and install pipe system from this pit to the nearest Council pit in Willandra Street;
13. The proposed kerb connection from site shall not be allowed to connect directly to the kerb in Willandra Street. At present, there is no standard kerb inlet pit at Willandra Street. The applicant must install a pit in Willandra Street and pipe system from this pit to nearest Council pit in downstream.
14. The plan and longitudinal section of the proposed pipe system from site to Council pit in Willandra Street and relevant calculations shall be submitted to Council for further assessment and/or approval.
15. The pump out system in basement shall satisfy section 5.4 of part O of Council's stormwater DCP. The submitted calculation shall be based on 1 in 100 ARI(2h) is 60.40mm/h, not 45.8mm/h. The full details of the hydraulic calculation for the pump out system shall be included in stormwater management plan submitted to Council.
16. The proposed basement shall be constructed with water-proof walls around it since this section is within flood zone.
17. Installation pipe system near the protected trees must be assessed by Council Tree Officer

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

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

Reason: To ensure the proposed stormwater designs meet and satisfy Part O, Council DCP

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

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

56. **(D4) Construction Methodology Report:** 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 Principal Certifying Authority prior to issue of a Construction Certificate. The details must include a geotechnical report to determine the design parameters appropriate to the specific development and site.
The Report must 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 properties

57. **(D5) Dilapidation Report:** The applicant is to provide a dilapidation report of all adjoining properties, roads and any of Council's and public infrastructure located within the zone of influence of the proposed excavation.

Dilapidation report must be conducted by a suitably qualified engineer **prior to the commencement of any demolition, excavation or construction works**. The extent of the survey must cover the zone of influence that may arise due to excavation works, including dewatering and/or construction induced vibration. The Initial dilapidation report must be submitted to Principal Certifying Authority **prior to issue of a Construction Certificate**.

A second dilapidation report, recording structural conditions of all structures originally assessed prior to the commencement of works, must be carried out at the completion of the works and be submitted to Principle Certifying Authority **prior to issue of an Occupation Certificate**.

Reason: To provide a record of public and private infrastructure

58. **(H1) Road Dilapidation Survey:** The applicant is to prepare a dilapidation survey and a dilapidation report that includes details of the existing state of repair / condition of the road surface of **[insert name of roads]** and provide that survey and report to the Council prior to the issue of the first **Construction Certificate**. Following completion of construction of the development and prior to the issue of the first occupation certificate, the applicant is to cause to be prepared a second dilapidation survey and a dilapidation report that includes details of all changes and damage caused to the surface of the said public roads as a consequence truck movement associated with the construction of the development. The Council may apply funds from the security deposits paid in favour of this consent to meet the cost of making good any damage caused to the surface of the said public road as a consequence truck movement associated with the construction of the development to which the consent relates.

The dilapidation surveys and reports must be prepared by an engineer registered with the Institute of Engineers (Australia).

Reason: To provide a record of Council's infrastructure and protect them

59. **(K1) Council Construction Requirements:** The applicant shall construct / reconstruct the following to Council's satisfaction;
1. New footpath (1.5m wide) adjacent the entire frontage of the site to Council's satisfaction
 2. New Kerb and Gutter along the entire frontage of the site to Council's satisfaction
 3. Reconstruct existing pedestrian access pram ramp
 4. Construction of new street drainage system along Willandra St
 5. Reinstate all adjustments to the road surfaces.
 6. Reinstate all existing nature-strips with turf and soil on road reserve.
 7. Reinstate all damages identified in dilapidation report

Reason: In accordance with Council's requirements to restore site

60. A \$80,000 cash bond or bank guarantee shall be lodged with Council to cover the satisfactory construction of the above requirements. Lodgement of this bond is required **prior to the issue of the Construction Certificate**. The Bond will be held for a period of six months after satisfactory completion of the works. All works shall be carried out **prior to the issue of the Occupation Certificate**. All costs associated with the construction of the above works are to

be borne by the applicant.

Reason: In accordance with Council's requirements to restore site

61. **(K2) Cast in Situ Drainage Pits:** Any drainage pit within a road reserve, a Council easement, or that may be placed under Council's control in the future, shall be constructed of cast in situ concrete and in accordance with Part O Council's DCP- Stormwater Management.

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

62. **(K4) Council Inspection Requirements:** The following items are to be inspected
- Proposed stormwater drainage improvement works in Council streets
 - All footpath, kerb/gutter and landscaping works
 - Any adjustment works in Council road reserve

Each item is to be inspected prior to the pouring of any concrete (formwork) and on completion of the construction. An initial site meeting is to be conducted with council and the contractor prior to the commencement of any of the above works to allow for discussion of Council construction / set out requirements.

An Inspection fee (\$205 for one inspection) is to be paid **prior to the issue of the Construction Certificate**.

Reason: To ensure completion of work satisfying Council

63. **(O1) Positive Covenant Bond:** The applicant shall lodge with Council a \$1000.00 cash bond to cover the registration of a Positive Covenant over the onsite detention system. Lodgement of this bond is required **prior to the issue of the Construction Certificate**

Reason: To protect stormwater infrastructure and confirm future maintenance

64. **(O3) On-Site Stormwater Detention System - Marker Plate:** The on-site detention system shall be indicated on the site by fixing a marker plate. This plate is to be of minimum size: 100mm x 75mm and is to be made from non-corrosive metal or 4mm thick laminated plastic. It is to be fixed in a prominent position to the nearest concrete or permanent surface or access grate. The wording on the marker plate is described in Council's DCP-Stormwater management. An approved plate may be purchased from Council's customer service desk.

Reason: To ensure clear identification of onsite stormwater infrastructure

65. **(O4) On-Site Stormwater Detention Tank:** All access grates to the onsite stormwater detention tank are to be hinged and fitted with a locking bolt. Any tank greater than 1.2 m in depth must be fitted with step irons.

Reason: To prevent unauthorised access and ensure safe access to stormwater infrastructure

66. **(S1) Stormwater Requirement:** Stormwater runoff from all new roof areas shall be collected and disposed of using the following mechanism
- Only roof areas are to drain to the reuse system with overflow to the existing system
 - All other areas to drain to the existing drainage system

The design and construction of the drainage system is to fully comply with, AS-3500 and Part O of Council's DCP-Stormwater Management. The design shall ensure that the development, either during construction or upon completion, does not impede or divert natural surface water to have an adverse impact upon adjoining properties.

Reason: To ensure compliance with Council's requirements

67. **(V1) Proposed Vehicular Crossing:** The driveway opening width along at the face of kerb is to be no wider than 6.0m, in the interest of pedestrian safety. The driveway shall be 300mm away from existing power pole and existing stormwater pit. This driveway is to be designed to stop road runoff entering the property, to be certified that it fully complies with AS 2890 Series and Council's standards and specifications and constructed in accordance with AS 2890.1.2004 "Off Street Car Parking".

The following plans shall show a clear dimension of the aisle width, driveway, footpath and distance of the proposed driveway from the intersection or property boundary shall be prepared and certified by a suitably qualified engineer demonstrating:

- (a.) Longitudinal section along the extreme wheel paths of the driveway/access ramp at a scale of 1:20 demonstrating compliance with the scaping provisions of AS2890.1. It shall include 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 demonstrated that the driveway complies with Australian Standards 2890.1-2004 "Off Street Car Parking". This is to address the following;
 - i. Transitional grades in accordance with AS2890 to be provided.
 - ii. If a gradient in excess of 25% is proposed, the engineer must certify that this design is safe and environmentally sustainable.
- (b.) Sections showing the clearance to the underside of any overhead structure demonstrating compliance 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 the construction of the crossing shall be completed **prior to the issue of the Occupation Certificate**.

Reason: To ensure compliance with Australian Standards and Council's standards

68. **(V4) Car Parking Certification:** The plans and supporting calculations of the internal driveway, turning areas, ramps, garage opening widths, parking space dimensions and any associated vehicular maneuvering facilities shall be submitted to the Principal Certifying Authority. The plans shall be prepared and certified by a suitably qualified engineer. The design is to be certified that it fully complies with AS 2890 Series and Council's standards and specifications. The design and certification shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate**.

Reason: To ensure compliance with Australian Standards and Council's standards

69. **(V5) Traffic Management Plan:** Prior to submission to the principle certifying authority a traffic management plan is to be submitted to and approved by the following consent authorities,
- Lane Cove Council

The traffic management plan shall be prepared and certified by a suitably qualified person. The plan is to fully comply with AS-1742.3 and the consent authority's requirements.

The plans and certification shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate**.

Reason: To ensure safety of pedestrian and motorist around work site

70. **(V6) Temporary Footpath Crossing:** A temporary footpath crossing must be provided at the Vehicular access points. It is to be 1.5m in width, made of sections of hardwood with

chamfered ends and strapped with hoop iron.

Reason: To ensure safety vehicular movement to and from site

71. **(V7) Splay of Front Fence:** The front fence is to have a 1x1m splay on both sides of the driveway to maintain pedestrian sight lines. Plans showing this amendment to the proposed design are to be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate**; all associated works are to be completed **prior to the issue of the Occupation Certificate**.

Reason: To ensure good visibility

72. **(V8) Car Parking and Driveway:** All parking and associated facilities are to be designed to stop road runoff entering the property and constructed in accordance with AS 2890.1.2004 "Off Street Car Parking". The driveway opening width along at the face of kerb is to be no wider than 4.5m, in the interest of pedestrian safety. The driveway shall be 300mm away from existing power pole and existing stormwater pit. The following plans shall be prepared and certified by a suitably qualified engineer demonstrating:

- Longitudinal section along the extreme wheel paths of the driveway/access ramp at a scale of 1:20 demonstrating compliance with the scaping provisions of AS2890.1. It shall include 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 demonstrated that the driveway complies with Australian Standards 2890.1-2004 "Off Street Car Parking". This is to address the following;
- Transitional grades in accordance with AS2890 to be provided.
- 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 demonstrating compliance with the clearance provisions of AS2890.1.

The design is to be certified that it fully complies with AS 2890 Series and Council's standards and specifications. The design and certification shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate**.

Reason: To ensure compliance with Australian Standards

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

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

Engineering condition to be complied with prior to commencement of construction

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

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

Engineering Conditions to be complied with prior to the commencement of demolition

75. **(D7) Safety fence along the boundary of the property:** Before commencement of any works, barrier or temporary fencing is to be provided along the full frontage of the property.

This fence is for the safety of pedestrians on the public footpath.

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

Engineering condition to be complied during construction

76. **(D3) Drainage Construction:** The stormwater drainage on the site is to be constructed generally in accordance with approved plan. Certification by a suitably qualified engineer of the above plans is to be submitted to the Principal Certifying Authority stating that the design fully complies with, AS-3500 and Part O, Council's DCP-Stormwater Management. The plans and certification shall be submitted **prior to the issue of the Construction Certificate**.

The Principal Certifying Authority is to satisfy themselves of the adequacy of the certified plans for the purposes of construction. They are to determine what details, if any, are to be added to the Construction Certificate plans, for the issue of the Construction Certificate.

Reason: To maintain the stormwater management of the property

77. **(H3) Heavy Vehicle Duty Employee and Truck Cleanliness:** The applicant shall
- Inform in writing all contractors of Council's requirements relating to truck cleanliness leaving the site.
 - Keep a register of all contractors that have been notified, the register is to be signed by each contractor. The register must be available for access by Council officers at all times.
 - Place an employee within close proximity of the site exit during site operation hours to ensure that all outgoing heavy vehicles comply with Council's requirements. This employee shall liaise with heavy vehicle drivers and provide regular written updates to drivers on the conditions of entry to the subject site.

Those drivers who have been determined to continually not comply with Council's requirements, either by the developer or authorised Council officers, shall not be permitted re-entry into the site for the duration of the project.

Reason: To protect the environment

78. **(H5) Covering Heavy Vehicle Loads:** All vehicles transporting soil material to or from the subject site shall ensure that the entire load is covered by means of a tarpaulin or similar material. The vehicle driver shall be responsible for ensuring that dust or dirt particles are not deposited onto the roadway during transit. It is a requirement under the Protection of the Environment Operations (Waste) Regulation, 1996 to ensure that all loads are adequately covered, and this shall be strictly enforced by Council's ordinance inspectors. Any breach of this legislation is subject to a "*Penalty Infringement Notice*" being issued to the drivers of those vehicles not in compliance with the regulations.

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

79. **(H4) Truck Shaker:** A truck shaker ramp must be provided at the construction exit point. Fences are to be erected to ensure vehicles cannot bypass the truck shaker. Sediment tracked onto the public roadway by vehicles leaving the subject site is to be swept up immediately.

Reason: To protect the environment

Engineering condition to be complied with prior to Occupation Certificate

80. **(D6) Certification of Retaining Structures and Excavations:** A suitably qualified engineer shall provide certification to the principal certifying authority that all retaining structures and excavations have been carried out in accordance with the relevant Australian Standards and

Codes of Practice.

The certification and a complete record of inspections, testing and monitoring (with certifications) must be submitted to the principal certifying authority **prior to the issue of the Occupation Certificate.**

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

81. **(M1) Stormwater System Engineering Certification:** On completion of the drainage system a suitably qualified engineer shall certify that the drainage system has been constructed in accordance with the approved plans, part O Council's DCP-Stormwater Management and AS-3500. The certification is to include a work as executed plan. The work as executed plan shall:
- (a) Be signed by a registered surveyor, &
 - (b) Clearly show the surveyor's name and the date of signature.

All documentation is to be submitted to the Principle Certifying Authority **prior to the issue of the Occupation Certificate.**

Reason: To ensure stormwater infrastructure has been installed in accordance with Australian Standards and Council's requirements

82. **(M3) Engineering Certification:** A suitably qualified engineer shall certify that following has been constructed in accordance with the approved plans and is within acceptable construction tolerances.
- Pump out system
 - OSD
 - All repair works identified in Dilapidation reports

Certification is to be submitted to the Principle Certifying Authority **prior to the issue of the Occupation Certificate.**

Reason: Statutory requirement

83. **(O2) Positive Covenants OSD and Pump Out System:** Documents giving effect to the creation of a positive covenants over the on-site detention system and over the basement pump out system shall be registered on the title of the property **prior to the issue of the Occupation Certificate.** The wordings of the terms of the positive covenants shall be in accordance with part O Council's DCP-Stormwater Management.

Reason: Statutory requirements

84. **(O3) Works as Executed Drawings for OSD:** A works as executed survey of the onsite detention facility will need to be prepared and certified to demonstrate that the OSD system functions as per the intention of the approved design. A suitably qualified engineer must certify that the construction system is satisfactory.

Reason: Statutory requirements

85. **(O3) Works as Executed Drawings for street drainage construction:** A works as executed survey of the proposed street drainage works on Willandra Road will need to be prepared and certified by qualified engineer to demonstrate that the drainage system is accordance with the approved plan.

Reason: Statutory requirements

86. **(V3) Redundant Gutter Crossing:** All redundant kerb/gutter and footpath crossings shall be removed, and the kerb, gutter and footpath reinstated to the satisfaction of Council's Urban Services Division. These works shall be carried out **prior to the issue of the Occupation Certificate**.

Reason: To ensure Council's footpath and nature strip is free from potential vehicular or other obstructions.

87. **Sydney Water Approval:** The approved plans must be submitted to Sydney Water to determine whether the development will affect Sydney's Waters sewer main which affects this property. If the development complies with Sydney Water's requirements, the approved plans will be appropriately stamped and submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate**.

Reason: To comply with Sydney water requirements

TRANSPORT FOR NSW CONDITIONS

88. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1-2004, AS2890.6-2009 and AS 2890.2-2018.
89. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.
90. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping.
91. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on the surrounding state classified road network during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.

Reason: TfNSW Condition.

RURAL FIRE SERVICE CONDITIONS

92. **Asset Protection Zones - *Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.***

From the start of building works, and in perpetuity to ensure ongoing protection from the impact of bush fires, the entire property 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 should be less than 15% at maturity;
- trees at maturity should not touch or overhang the building;
- lower limbs should be removed up to a height of 2m above the ground;
- tree canopies should be separated by 2m to 5m;
- preference should be given to smooth barked and evergreen trees;
- large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;

- shrubs should not be located under trees;
- shrubs should not form more than 10% ground cover;
- clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
- grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
- leaves and vegetation debris should be removed.

Reason: RFS Condition.

93. **Construction Standards- *Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.***

Proposed construction on the buildings **southern, western and eastern elevations and roofing** must comply with section 3 and section 7 (**BAL 29**) Australian Standard AS3959-2018 *Construction of buildings in bush fire prone areas* or NASH Standard (1.7.14 updated) *National Standard Steel Framed Construction in Bushfire Areas – 2014* as appropriate and Section 7.5 of *Planning for Bush Fire Protection 2019*.

Proposed construction on the building's **northern elevation** (fronting Mindarie Street) must comply with section 3 and section 6 (**BAL 19**) Australian Standard AS3959-2018 *Construction of buildings in bush fire-prone areas* or NASH Standard (1.7.14 updated) *National Standard Steel Framed Construction in Bushfire Areas – 2014* as appropriate and Section 7.5 of *Planning for Bush Fire Protection 2019*.

Reason: RFS Condition.

94. **Water and Utility Services - *Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.***

The provision of water, electricity and gas must comply with the following in accordance with Table 7.4a of *Planning for Bush Fire Protection 2019*:

- reticulated water is to be provided to the development where available;
- all above-ground water service pipes external to the building are metal, including and up to any taps;
- where practicable, electrical transmission lines are underground;
- where overhead, electrical transmission lines are proposed as follows:
 - (a) lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and
 - (b) no part of a tree is closer to a power line than the distance set out in accordance with the specifications in ISSC3 Guideline for Managing Vegetation Near Power Lines.
- reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 and the requirements of relevant authorities, and metal piping is used;
- all fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side;
- connections to and from gas cylinders are metal;
- polymer sheathed flexible gas supply - lines are not used; and
- above-ground gas service pipes are metal, including and up to any outlets.

Reason: RFS Condition.

95. **Landscaping Assessment *The intent of measures is for landscaping. To achieve this, the following conditions must apply:***

Landscaping within the required asset protection zone 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, 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), and less than 30% (OPA) 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 carry a 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: RFS Condition.

NSW POLICE CONDITIONS (NORTH SHORE POLICE AREA COMMAND)

96.

- (a) The site will need to be clearly identified through a business name and street number and be visible from the street. This will enable all emergency services to locate the premises.
- (b) Appropriate signage should be erected inside and around the perimeter of the entire property to warn of security treatments in place e.g. "This site is under 24 hour video surveillance".
- (c) Bicycle parking should be in a secure area and covered with CCTV cameras.
- (d) Mail boxes and parcel delivery areas should be secure and covered with CCTV cameras. If possible, a secure method for parcel delivery should be set up in the building.
- (e) If the site has storage cages they should be made of solid materials that can't be cut open and covered by CCTV cameras. Signs should be placed in the area warning residents not to leave valuable items in storage cages.
- (f) Lighting in and around the proposed development should comply with Australian Standard AS: 1158 and should provide for adequate, uniform illumination. External lighting should be of a 'white light' source. Note that high or low pressure sodium 'orange' lighting is not compatible with quality surveillance systems. Internal lighting should be controlled from 'Staff only' areas, away from public access. If this is not possible, use tamper-resistant switches. Luminaries (light covers) should be designed to reduce opportunities for malicious damage.
- (g) Lighting within the site will need to be positioned in a way to reduce opportunities for offenders to commit crime i.e. vandalism and graffiti. The lighting will need to be sufficient to enable people to identify signs of intoxication and anti-social behavior. The lighting will also need to be sufficient to support images obtained from any CCTV footage. Please note that some low- or high-pressure lighting is not compatible with surveillance systems.
- (h) Doors should be of solid construction, and should be fitted with quality deadlock sets that comply with the Building Code of Australia and Australian Standards – Lock Sets AS:4145.
- (i) Windows within the site should also be of solid construction. These windows should be

fitted with quality window lock sets that comply with the Australian Standards – Lock Sets AS:4145. Glass within doors and windows should be reinforced to restrict unauthorised access. The glass can be either fitted with a shatter-resistant film or laminated to withstand physical attacks.

- (j) An electronic surveillance system should be included to provide maximum surveillance of all areas of the site including entry/exits, car parks, bicycle parking, mail areas and common areas. Cameras should also cover public footpath areas around the premises. The system should be capable of recording high-quality images of events. The recording equipment should be locked away to reduce the likelihood of tampering.
- (k) An emergency control and evacuation plan should be implemented within the site and displayed for the information of residents.
- (l) All recording made by the CCTV system must be stored for at least 30 days. Ensure that the system is accessible by at least one member of staff at all times it is in operation, and provide any recordings made by the system to a police officer or inspector within 24 hours of any request by a police officer or inspector. The CCTV cameras will need to be placed in suitable locations to enhance the physical security and assist in positively identifying an individual, who may be involved in criminal behavior.
- (m) "Park Smarter" signage should be displayed in the car park to warn/educate motorists to secure their vehicles and not leave valuable items in their cars. The car park will also need to have adequate lighting.
- (n) Wheelchair access should at no time be blocked nor impede access to anyone with a disability.
- (o) The landscaping design around the site needs to be free from potential hiding places and provide sightlines throughout the site and into any surrounding areas such as car parks, playgrounds and recreational amenities. Trees and shrubs should be maintained regularly to reduce concealment opportunities and increase visibility. Avoid the use of landscaping materials which could, when mature, serve as screens or barriers to impede views.
- (p) The boundaries of the site should be clearly identified to deter unauthorised persons from entering the site.

Reason: Safety and amenity.

TRAFFIC AND TRANSPORT

97. PARKING AND SERVICING

- (i) The proposed Car Park design shall comply with AS 2890.1-2004. This includes all parking spaces, ramps, aisles, disabled parking and loading areas. All other aspects of the Car Parking areas are required to comply with AS 2890.2-2002 for Loading Facilities and Services Vehicles.
- (ii) The access to the car park shall comply with Australian Standards. AS 2890.1-2004.
- (iii) Visibility requirements of the proposed access must comply with AS 2890.1-2004.
- (iv) All accessible car spaces in the car park are to be adequately signposted and line marked and provided in accordance with AS2890.6: 2009 including the adjacent shared space and the height clearance.
- (v) Install hazard line markings on the columns in Basement 1 where you cannot achieve 6.1 m aisle width between the columns.
- (vi) On site garbage collection must be provided for with sufficient headroom in accordance with AS2890.2: 2002 and to allow the vehicle to enter and exit in a forward direction. The waste collection and holding area is to be clearly signposted and line marked.

- (vii) Install wheel stops on all car parking spaces to prevent any collision with structures or objects.
- (viii) All vehicles must front in/ front out to/ from the development.
- (ix) Tandem parking spaces must be allocated to the same unit.
- (x) The footpath constructed at the frontage of the proposed development should be constructed 2.5 metres wide where ever it is possible.

Reason: Traffic condition.

98. PEDESTRIAN CYCLING ACCESS

- (i) All cycling racks and secure bike parking provided on-site must meet the minimum standards as outlined in Section 4.3 in Part R of the DCP and designed in accordance with AS 2890.3: 2015. Alternative designs that exceed the Australian Standards will also be considered appropriate.
- (ii) The bicycle facilities are to be clearly labelled, and advisory/directional signage is to be provided at appropriate locations.

Reason: Pedestrian safety

99. CONSTRUCTION TRAFFIC MANAGEMENT PLAN

- (i) A Construction Traffic Management Plan must be lodged with Council prior to the issuing of a Construction Certificate. As per DCP Part R, the Construction Traffic Management Plan should address (but not necessarily be limited too) issues related to the movement of construction vehicles to and from the site, safe access of construction vehicles, and any conflict with other road users in the street including public transport. Heavy vehicles will not be permitted to travel on local roads unless prior Council permission is obtained from Council's Traffic section. Consultation with NSW Police, RMS and Transport for NSW / Sydney Buses will be required as part of preparation of the Construction Traffic Management Plan.
- (ii) The Construction Traffic Management Plan should specify proposed Work/Construction Zones and the impact of the construction traffic activities to all road users including pedestrians and cyclists. The Construction Management Plan may contain issues requiring the attention and approval of the Lane Cove Traffic Committee (LTC). The Construction Management Plan should also assess and address the impact of construction vehicles travelling through the surrounding road network.

Reason: Safety and amenity

- 100. 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:-

- i. Make provision for all construction materials to be stored on site, at all times.
- ii. Specify construction truck routes and truck rates. Nominated truck routes are to

be distributed over the surrounding road network where possible.

- iii. 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.
- iv. Include a Traffic Control Plan prepared by an RMS accredited ticket holder for any activities involving the management of vehicle and pedestrian traffic.
- v. 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.

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.

- i. 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.
- ii. The DTMP shall 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”.

NOTE: This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. The DTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent the site.

Reason: Safety and amenity

- 101. Work Zones** - Due to requirements for safe traffic and pedestrian movement, loading or unloading of any vehicle or trailer carrying material associated with the development must not take place on the public road unless within an approved Works Zone.

If the Works Zone is required, the developer must give the Council written notice of at least six (6) weeks prior to the date upon which use of the Works Zone will commence and the duration of the Works Zone approval shall be taken to commence from that date. All vehicle unloading/loading activities on a public roadway/footway are to be undertaken within an approved Works Zone

Reason: Safety and amenity

ENVIRONMENTAL HEALTH CONDITIONS

- 102.** In accordance with the provisions of SEPP55 Contaminated Land, a Preliminary Site Investigation (PSI) Report is to be submitted to Council for approval prior to the issuing of the Construction Certificate. Should the PSI recommend the preparation of a Detailed Site Investigation and Remediation Action Plan, both reports are to be submitted to Council prior to the issue of the Construction Certificate

Reason: Safety and amenity

- 103. Dust Control** - The following measures must be taken to control the emission of dust:
- (a) Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the work
 - (b) Any existing accumulations of dust (e.g. in ceiling voids and wall cavities) must be removed using an industrial vacuum cleaner fitted with a high efficiency particulate air (HEPA) filter
 - (c) All dusty surfaces must be wet down and any dust created must be suppressed by means of a fine water spray. Water used for dust suppression must not be allowed to enter the street or stormwater system
 - (d) All stockpiles of materials that are likely to generate dust must be kept damp or covered
 - (e) Demolition work must not be carried out during high winds, which may cause dust to spread beyond the boundaries of the site.

Reason: Safety and amenity

- 104. Erosion and Sedimentation Controls** – Major Works Erosion and sediment control devices are to be provided. All devices are to be established prior to the commencement of engineering works and maintained for a minimum period of six months after the completion of all works. Periodic maintenance of the erosion and sedimentation control devices is to be undertaken to ensure their effectiveness.

Reason: Safety and amenity

- 105. Stabilised Access Point** - A stabilised all weather access point is to be provided prior to commencement of site works and maintained throughout construction activities until the site is stabilised. These requirements shall be in accordance with Managing Urban Stormwater – Soils and Construction produced by the NSW Department of Housing (Blue Book).

Reason: Safety and amenity

- 106. Site Water Management Plan** - A site water management plan is to be submitted to Principal Certifying Authority for approval prior to the issue of a Construction Certificate. The plan is required to be site specific and be in accordance with “Managing Urban Stormwater – Soils and Construction” (the blue book) produced by the NSW Department of Housing.

Reason: Safety and amenity

- 107. A Construction Noise Management Plan** is to be submitted to Council for approval prior to the issue of a Construction Certificate. The plan is required to be site specific and be in accordance with the NSW EPA's Interim Guidelines for Construction Noise Management

Reason: Safety and amenity

- 108. Noise Monitoring** - Noise monitoring must be carried out by a qualified acoustical consultant if complaints are received, or if directed by Council, and any control measures recommended by the acoustical consultant must be implemented during the demolition work.

Reason: Safety and amenity

- 109. Storage of Potentially Contaminated Soils** - All stockpiles of potentially contaminated soil must be stored in an environmentally acceptable manner in a secure area on the site.

Reason: Safety and amenity

- 110. Assessment of Potentially Contaminated Soils** - All stockpiles of potentially contaminated

soil must be assessed in accordance with relevant NSW Environment Protection Authority guidelines, such as the publication titled Environmental Guidelines: Assessment, Classification and Management of Liquid and Non – Liquid Wastes (EPA, 1999).

Reason: Safety and amenity

- 111. Offsite Disposal of Contaminated Soil** - All contaminated soil removed from the site must be disposed at a waste facility that can lawfully receive that waste. Copies of all test results and disposal dockets must be retained for at least 3 years and be made available to authorised Council officers on request.

Reason: Safety and amenity

- 112. Clean Water only to Stormwater System** - Only clean unpolluted water is permitted to enter Council's stormwater drainage system.

Reason: Safety and amenity

- 113. Operation of Plant or Equipment** - To minimise the impact of noise from the development, all sound producing plant, equipment, machinery, mechanical ventilation systems and or refrigeration systems, shall be designed and or located so that the noise emitted does not exceed 5db(A) above the ambient background level when measured from the boundary of any affected premises between the hours of 8am to 10pm. Between the hours of 10pm and 8am, noise shall not exceed the ambient background level when measured at the boundary of an affected premises.

Reason: Safety and amenity

- 114. An environmental management plan** for the construction phase of the development that addresses – sediment and erosion controls, dust management and treatment and disposal of rain/groundwater water from excavated areas. The plan is to be submitted for approval to Council's prior to the issue of a Construction Certificate.

Reason: Safety and amenity

- 115. Environmental Reports Certification** - Prior to the issue of an Occupation Certificate, written certification from a suitably qualified person(s) shall be submitted to the Principal Certifier and Council, stating that all works/ methods/ procedures/ control measures/recommendations approved by Council's Environmental Health Officer and the following reports have been completed:

(a.) Acoustic Report – Acoustic Dynamics, Date: 14 July 2021, Reference number:
5294R001.BC.070621

Reason: Safety and amenity

TREE CONDITIONS

- 116. Tree preservation and approved landscaping works** 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. 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 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.

117. The following trees shall be retained:

Tree No.	Species	Location	Dimension (metres)
1	Angophora costata	Council verge	10H x 6W
2	Eucalyptus spp	Council verge	12H x 8W
3	Melaleuca spp	Council verge	10H x 6W
6	Eucalyptus microcorys	Inside eastern boundary	12H x 8W
41	Eucalyptus saligna	Inside norther west boundary	20H x 10W
43	Banksia integrifolia	Inside norther west boundary	6F x 3W
44	Eucalyptus saligna	Council verge	20H x12W
47	Eucalyptus saligna	Council verge	20H x 12W

This consent gives approval for the removal of the following trees:

Tree No	Species	Location
4	Cupressus spp.	North Eastern Boundary
5	Eucalyptus spp	North Eastern Boundary
7	Agonis flexuosa	Eastern Boundary
8	Pinus patula	Eastern Boundary
9	Cupressus spp	Eastern Boundary
10	Cupressus spp	Eastern Boundary
11	Cupressus spp	Rear 28 Mindarie
12	Cupressus spp	Rear 28 Mindarie
13	Cupressus spp	Rear 28 Mindarie
14	Cupressus spp	Rear 28 Mindarie
15	Ligustrum lucidum	Side 28 Mindarie
16	Oleander	Front 28 Mindarie
17	Olea europea var cuspidata	Front 28 Mindarie
18	Pittosporum	Front 28 Mindarie
19	Pittosporum	Front 28 Mindarie
20	Syagrus romanzoffiana	Rear 30 Mindarie
21	Pittosporum	Rear 30 Mindarie
22	Archontophoenix cunninghamiana	Rear 30 Mindarie
23	Olea europea var	Front 30 Mindarie

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	cuspidata	
24	Syzygium spp	Front 30 Mindarie
25	Cotoneaster spp	Front 32 Mindarie
26	Ligustrum lucidum	Front 32 Mindarie
27	Eucalyptus spp	Rear 32 Mindarie
28	Jacaranda mimosifolia	Rear 32 Mindarie
29	Grevillea robusta	Rear 32 Mindarie
30	Eucalyptus spp	Side 32 Mindarie
31	Ligustrum lucidum	Rear 32 Mindarie
32	Ligustrum lucidum	Side 32 Mindarie
33	Ligustrum lucidum	Side 32 Mindarie
34	Eucalyptus spp	Front 32 Mindarie
35	Ficus rubiginosa	Front 34 Mindarie
36	Ligustrum sinense	Front 34 Mindarie
37	Pittosporum	Rear 34 Mindarie
38	Melia azedarach	Rear 34 Mindarie
39	Oleander	Rear 34 Mindarie
40	Pittosporum	Rear 34 Mindarie
42	Chamadorea lowsonia	Front 34 Mindarie
45	Eucalyptus saligna	Willandra Street

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

Tree No.	Species	Location	Permitted works in TPZ
1	Angophora costata	Merinda Street nature strip	Construction of development
3	Melaleuca quinquenervia	Mindarie street	Excavation of basement and construction of dwelling
6	Eucalyptus microcorys	Inside eastern boundary	Excavation of basement and construction of dwelling
41	Eucalyptus saligna	Front 34 Mindarie Street	Excavation for basement and construction of development
44	Eucalyptus saligna	Willandra Street Nature Strip	Excavation for basement and construction of development Installation of new driveway
T47	Eucalyptus saligna	Willandra street nature strip adjoining neighbouring property	Removal of Existing driveway and installation of new driveway

Reason: to ensure the protection of trees to be retained and to confirm trees removed for

pruning/removal.

- 118. A.3 - Payment of security deposits (if applicable)** 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
Council owned trees	\$100,000

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
- any inspection carried out by Council in connection with the completion of public work or the making good any damage to council property.

Note: The inspection fee includes Council's fees and charges and includes the Public Road and Footpath Infrastructure Inspection Fee (under the *Roads Act 1993*). The amount payable must be in accordance with council's fees and charges at the payment date.

Note: Council inspection fees are calculated in accordance with Council's fees and charges at the payment date.

Note: Required Council inspections for civil works involving Council assets are to be carried out prior to the pouring of any concrete (formwork) and on completion of the construction. An initial site meeting is to be conducted with council and the contractor prior to the commencement of any of the above works to allow for discussion of Council construction/set out requirements.

The following items are to be inspected:

- proposed stormwater drainage improvements
- proposed stormwater connection to existing Council pit in street;
- all footpath, kerb/gutter and landscaping works; and
- any adjustment works in Council's Road reserve.

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

PART B – PRIOR TO DEMOLITION WORKS

- 119. 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 section B.14 prior to demolition works
- Oversee the removal of the stump and root crown of tree 45
- Oversee the excavation for the basement level within the Tree Protection Zone of trees 3, 41 and 44

- Oversee the demolition of existing driveway, excavation and installation of the proposed driveway within the Protection Zone of tree 47
- Oversee the excavation required for stormwater drainage and installation of services within the Tree Protection Zone of any retained trees on or adjoining the subject site
- Provide monthly 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.

- 120. B.14 - Special Condition - Tree Protection Measures** The following tree protection measures must be in place prior to demolition works and certified by the project arborist. A Tree Protection Plan must be submitted to the Principal Certifying Authority prior to the issue of a Construction certificate. The Tree Protection Plan must show the location of Tree Protection Fencing in the locations outlined below. The Tree Protection Plan must be included in the Revised Landscape Documentation Package and be available on-site during compliance inspections.

Tree Protection Fencing must be installed within the following locations:

1. Edge of boundary of subject site to edge of gutter along Merinda Street Within the Protection Zone of Trees # 1 and #2
2. Edge of footpath to edge of gutter to form a "box" around tree #6
3. A 2.5m radial distance from the edge of trunk from tree 6 to the boundary of the subject site
4. A 4m Radial distance from the edge of trunk from tree 41 to the boundary of the subject site
5. Edge of boundary of subject site to edge gutter along Willandra street within the Protection Zone of tree #44. Fencing is to stop at the existing footpath on the corner of Willandra and Mindarie streets adjoining tree #41 and the line of the proposed driveway on its northern side
6. Along the Southern side of the proposed driveway and 4m radial distance from tree 45A adjoining the site. Fencing is to be installed from the boundary of the subject site to the gutter.

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*. 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. The area within the fencing must be mulched to a depth of 75mm using weed free coarse woodchip with leaf mulch and irrigated for the life of the development.

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 for the installation of new footpaths 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

PART E - WHILE BUILDING WORK IS BEING CARRIED OUT

- 121. 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 **B14**. 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.

- 122. E.24 Special Condition – Site excavation and installation of stormwater, removal of hard surfaces within Tree Protection Zones** Excavation for the basement and stormwater services within a Tree Protection Zone of retained trees must be undertaken by via the use of hand tools only to a depth of 500mm under the supervision of the project arborist. Excavation with the use of machinery is acceptable below this depth. No roots greater than 30mm diameter are to be severed during excavation. Roots <30mm diameter must be pruned by the project arborist via the use of a sharp implement such as secateurs, loppers or handsaw to ensure a clean cut.

Removal of the existing concrete driveway on Willandra Street must be undertaken by hand under the supervision of the project arborist, no roots are to be severed as part of hardscape removal works.

Works must be completed in accordance with section 13 and 14 of the supplied arborist Report by William D Home of Dr Treegood Dated July 2021

Reason: To protect retained trees during construction

- 123. E.25 Special Condition - Construction of the new driveway** Construction of the new driveway must not be below the current RL for the southern side of the existing driveway. No excavation is permitted on the southern side of the driveway adjoining tree 47. A work method statement pertaining to the removal of the stump and construction of the new driveway must be completed by an AQF5 Arborist in conjunction with findings made within the Root Mapping Report prepared by William D Home of Dr Treegood Dated December 2021. The method statement must be approved by Council's Manager of Open Space, Tree Management Officer and Civil Works Engineer **Prior to the issue of a Construction certificate**

Reason: To protect retained trees during construction

PART F - BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE

- 124. 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 work have been completed before occupation, in accordance with the approved landscaping plan(s).

LANDSCAPING CONDITIONS

PART A – GENERAL CONDITIONS

- 125. A.1 - Approved landscape plans and supporting documentation** The following listed plans have not been approved until they have been revised detailing the design amendments contained herein.

Plan Number	Drawing Title	Date	Issue
1 of 8	Landscape Plan – Ground Floor	20.07.21	D
2 of 8	Landscape Plan – Lower Ground Floor	20.07.21	D
3 of 8	Level 3 Plan	20.07.21	D
4 of 8	Level 5 Plan	20.07.21	D
5 of 8	Sections	20.07.21	D
6 of 8	Planting Plan – Ground Floor	20.07.21	D
7 of 8	Planting Plan – Lower Ground Floor	20.07.21	D
8 of 8	Level 3 & Level 5 Planting Plan	16.07.21	D
DA 102	Site Plan	Feb 2021	02
DA 201	Basement 1 Plan	Feb 2021	05
DA 418	Landscape Area Calcs	Feb 2021	01
DA 410	Deep Soil and COS Calcs	Feb 2021	02
DA 415	Tree Protection Plan - Proposed	Feb 2021	01
DA 416	Tree Protection Plan - Existing	Feb 2021	01
SW201	Lower Ground Floor Plan – Stormwater concept design	21.07.21	A
Sheet 1	Plan showing selected detail & levels over No. 28-34 Mindarie Street, Lane Cove	14.01.21	N/a

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

- 126. 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. Areas of deep soil and landscaping are to comply with the definition of Lane Cove Council and the Apartment Design guide which state respectively”.

*a. **Deep soil zones** are areas of natural ground with relatively natural soil profiles retained within a development. Buildings, basement car parks, swimming pools, tennis courts, patios and decks, and impervious surfaces such as paved areas, driveways, carparking and roofed areas are NOT included as part of the deep soil zone.*

Reason: Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality

- 127.** A revised planting plan is to be submitted showing the proposed locations of 10 small trees, 8 medium trees and 11 large endemic canopy trees to replace 29 non-weed species of the 39 trees proposed for removal. All trees are to be selected from Lane Cove Council DCP Part J Landscaping Appendix 1

Reason: To ensure no net loss of tree canopy on the LGA as a result of the proposed development

- 128.** The planter boxes on level 5 are to be redesigned to show a minimum plantable area of 3.5 metres x 3.5 metres with a soil depth of at least 800mm ensuring a minimum soil volume of at least 9 cubic metres per tree. 4 x small trees are to be planted in these planter boxes at a rate of 1 per planter box.

An additional raised planter box along the western edge of the rooftop communal open space is to be provided with at least 2 x small trees specified for this planter in the minimum amount of soil volume required.

Reason: To provide natural shade to the rooftop communal open space in accordance with planting on structures guidelines.

- 129.** Canopy trees in the front setback shall be a minimum 4m above finished ground level at the time of planting and planted in a contiguous trench of structural root cell such as Strata Vault© by City Green or approved equal. The revised landscape documentation is to specify in detail the extent and depth of the root cell system and ensure that the appropriate soil volume is available for the healthy development of the trees specified for this area by Council. The structural root cell is to extend from the back of kerb to the building footprint along the northern boundary and shall be backfilled with a native soil mix

The revised landscape plans shall specify 3 x 4M height *Eucalyptus saligna* which has a container size not less than 200 litres

A row of 200 litre *Corymbia maculata* are to be planted at 7 metre centres on the southern side of the building in raised planter boxes with a minimum of 20 cubic metres of soil per tree ensuring that a minimum 2 metre separation of canopies will be maintained at maturity. Adequate soil volumes in accordance with the Apartment Design Guide shall be provided to

ensure these trees can grow to their full potential size

Reason: To maintain the street and neighbourhood character and ensure that no canopy cover is lost as a result of approving the development.

- 130. Automatic irrigation system** An automatic drip irrigation system is to be designed and installed to all garden bed areas that will ensure the ongoing health of the planting scheme for the life of the development.

Reason: To ensure adequate moisture levels are maintained for the 12-month establishment period eliminating the threat of plants dying due to lack of water during this time of in times of future drought

- 131. Raised planter boxes:** All raised planter boxes shall be waterproofed by a licensed professional in accordance with AS4654.1-2012 *Waterproofing membranes for external above-ground use*.

Reason: The ensure the structural integrity of the planter box and parking structure below are maintained and to ensure that no leaks occur in the raised planter box as installed

PART B BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

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

- 133. Erosion and sediment control plan:** 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.

- 134. Pre-Construction Dilapidation report: Trees to be Retained:** Before the issue of a construction certificate, a suitably qualified Arborist with a minimum of an AQF level 5 Degree must prepare a pre-construction dilapidation report on the health of the trees to be retained and protected following a site visit with Council's Senior Tree Preservation Officer. The report shall be agreed upon by both parties and shall include photographs of each tree and any existing damage, defects or areas of concern well represented.

- (i) 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
- (ii) 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 existing trees retained resulting from building work on the development site

- 135. Works within structural root zones of existing trees:** Where works must take place within the Structural Root Zone of any tree to be retained, root mapping through hand digging shall take place and a report showing the findings shall be prepared by the Project Arborist with an AQF5 qualification and then shall be submitted to Council's Senior Tree Assessment Officer for approval

Reason: To ensure that no damage occurs to the root system of trees to be retained thus ensuring their ongoing health and vigour.

- 136. Plant supply:** All trees planted on site shall conform to Australian Standard AS 2303-2015 Tree Stock for Landscape Use. All other plants shall conform to NATSPEC specifications and be free from disease or defects and be in a healthy condition.

Reason: To ensure the proposed planting is free of disease and defects to provide the best chance for successful establishment and ongoing health and vigour

- 137. Planting of garden beds:** All garden beds shall be planted out with enough plant quantities and spacing to ensure that no areas of bare mulch remain visible following the typical 12-month landscape establishment period.

Reason: For suppression of weeds and to fulfil the Landscape Design Intent

PART C - BEFORE THE COMMENCEMENT OF BUILDING WORK

- 138. 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

- 139. Tree protection measures:** Before the commencement of any site or building work, the principal certifier must ensure the measures for tree protection detailed in the construction site management plan are in place.

Reason: To protect and retain trees

PART D – WHILE BUILDING WORK IS BEING CARRIED OUT

- 140. 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

- 141. 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* and any arborist's report approved under this consent. 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

- 142. Compliance Certificate for waterproofing planting on structures:** A certificate must be submitted by a qualified practicing Landscape Architect certifying that the proposed subsoil drainage and any associated waterproofing membrane have been installed in accordance with the details shown on the approved landscape working drawings and specification to all raised and formed garden bed areas.

Reason: To ensure there is no water penetrating the planter boxes to the infrastructure or building below

- 143. 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: 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.

All fill material imported to the site must be Virgin Excavated Natural Material 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

- 144. 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:
 - (i) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and is of State or local heritage significance; and
 - (iii) “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

PART E – BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE

Note: *Where the project is being supervised by a private certifier, for the purposes of public record, a copy of the certification must be forwarded to the attention of via e-mail at service@lanecove.nsw.gov.au within five (5) working days of the date of issue*

Reason: To meet Council Statutory Regulations

- 145. 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:

- All stormwater drainage systems and storage systems

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

- 146. Post Construction Dilapidation report: Trees to be Retained:** Before the issue of a construction certificate, a suitably qualified Arborist with a minimum of an AQF level 5 Degree must prepare a post-construction dilapidation report on the health of the trees to be retained and protected following a site visit with Council’s Senior Tree Preservation Officer. The report shall be agreed upon by both parties and shall include photographs of each tree and any existing damage, defects or areas of concern well represented. 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 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 existing trees retained resulting from building work on the development site

- 147. Repair of infrastructure:** Before the issue of an occupation certificate, the applicant must ensure any tree to be retained or surrounding public open space or landscape areas 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 to identify damage to existing trees retained resulting from building work on the development site

- 148. Practical Completion Report - Landscape works:** A landscape practical completion report must be prepared by the consultant landscape architect and submitted to Council or the accredited certifier within 7 working days of the date of practical completion of all landscape works. This report must certify that all landscape works have been completed in accordance with the landscape working drawing. A copy of the report must be submitted to Council.

Reason: To ensure the landscape works have been carried out in accordance with the stamped approved construction documents.

- 149. Practical Completion Report - Landscape maintenance and establishment:** At the completion of the landscape maintenance period, the consultant landscape architect/ designer must submit a final report to Council or the accredited certifier, certifying that all plant material has been successfully established, that all of the outstanding maintenance works or defects have been rectified prior to preparation of the report and that a copy of the 12 month landscape maintenance strategy has been provided to the Owner/ Occupier. A copy of the report must be submitted to Council.

Reason: To ensure the landscape works have been carried out in accordance with the stamped approved construction documents

Rajiv Shankar
Manager - Development Assessment
Environmental Services Division

ATTACHMENTS:

There are no supporting documents for this report.

Lane Cove Local Planning Panel Meeting 05 April 2022
6 FORD STREET, GREENWICH

Subject: 6 Ford Street, Greenwich
Record No: DA21/157-01 - 14221/22
Division: Environmental Services Division
Author(s): Henry Burnett

DA Number	Council Reference: DA157/2021 Portal Reference: PAN-151526
Proposed Development	Alterations and Additions to a Dwelling House
Street Address	6 Ford Street, Greenwich
Applicant/Owner	Applicant: C Satterthwaite Owner: C Satterthwaite and B Firth
Date of DA Lodgment	27 October 2021
Development Cost	\$1,200,000.00
Public Notification Period	1st Notification Period: 27 October 2021 to 12 November 2021 2nd Notification Period: 21 February 2022 to 9 March 2022
Submissions Received	Seven (7) submissions received by way of objection.
Recommendation	Deferred Commencement Consent
Local Planning Panel Referral Criteria (Schedule 1 of Planning Direction)	The Development Application is at the discretion of Council staff referred to the LPP to consider view sharing.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • relevant environmental planning instruments • SEPP (Building Sustainability Index) 2004; • SEPP (Biodiversity and Conservation) 2021; • SEPP (Resilience and Hazards) 2021; • Lane Cove Local Environmental Plan 2009. • proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority • Nil • relevant development control plan • Lane Cove Development Control Plan 2009 • relevant planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

	<ul style="list-style-type: none">• Nil• relevant regulations e.g. Regs 92, 93, 94, 94A, 288• Nil• coastal zone management plan• Nil• other relevant plans• Nil																		
List all documents submitted with this report for the Panel’s consideration	<p>The following documentation was submitted with the Development Application (PAN-151526) and is included as a list of attachments to the Panel.</p> <table><tr><th>Attachment</th><th>Document</th><th>Prepared By</th></tr><tr><td>1</td><td>Architectural Plans (Revision 2)</td><td>Simmonds Associates</td></tr><tr><td>2</td><td>Applicant Response to 2ND Request for Further Information</td><td>Weir Phillips Heritage and Planning</td></tr><tr><td>3</td><td>Applicant’s View Impact Assessment (Revision 2)</td><td>Weir Phillips Heritage and Planning</td></tr><tr><td>4</td><td>Statement of Environmental Effects</td><td>Weir Phillips Heritage and Planning</td></tr><tr><td>5</td><td>Heritage Impact Statement</td><td>Weir Phillips Heritage and Planning</td></tr></table>	Attachment	Document	Prepared By	1	Architectural Plans (Revision 2)	Simmonds Associates	2	Applicant Response to 2 ND Request for Further Information	Weir Phillips Heritage and Planning	3	Applicant’s View Impact Assessment (Revision 2)	Weir Phillips Heritage and Planning	4	Statement of Environmental Effects	Weir Phillips Heritage and Planning	5	Heritage Impact Statement	Weir Phillips Heritage and Planning
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5	Heritage Impact Statement	Weir Phillips Heritage and Planning																	
Clause 4.6 requests	Not applicable																		
Summary of key submissions	<ul style="list-style-type: none">• Bulk and scale• View sharing• Overshadowing																		
Report prepared by	Henry Burnett																		
Report date	24 March 2022																		

1. REASON FOR REFERRAL

The Development Application is referred to the Lane Cove Local Planning for determination on behalf of Council at the discretion of Council staff as the proposal includes detailed view sharing considerations.

2. EXECUTIVE SUMMARY

The Development Application is for alterations and additions to a dwelling house at 6 Ford Street, Greenwich. The proposed works include internal and external alterations to the existing heritage dwelling and the rear addition of a garage, two storey addition and swimming pool.

The Development Application has been assessed against Section 4.15 of the Environmental Planning and Assessment Act, 1979. The proposal complies with the building height and floor space ratio development standards contained within Lane Cove Local Environmental Plan 2009. The proposal complies with the provisions of Lane Cove Development Control Plan 2009 with the exception of view sharing and side setback.

The Development Application was notified on two occasions in accordance with Council policy and seven (7) submissions were received by way of objection. The principal matters raised in the submissions received relate to view sharing. The submissions are summarised and addressed in this report.

The Development Application requires an assessment of the view sharing between No. 6 Ford Street, Greenwich (subject site) and No. 4 Ford Street, Greenwich. The view sharing assessment of the applicant and submitter has been summarised in the report and Council's assessment position detailed. It is considered that the view sharing principles in *Tenacity* would be better achieved through the provision of compliant side setbacks and a flat roof design.

The Development Application is referred to the Lane Cove Local Planning Panel with a recommendation for approval subject to deferred commencement to amend the side setback and to provide for a flat roof design.

3. SITE

3.1 Subject Site

The site is known as 6 Ford Street, Greenwich and is legally described as Lot 13 DP 3760. The site has a width of 12.19 metres and depth of 39.62m. The site area is 482.97m². The site is a corner allotment with frontages to Ford Street (existing primary frontage) and Ellison Lane (existing secondary frontage). The site has a fall of approximately 5 metres from the high point on Ford Street to the rear southern boundary. The site contains an existing dwelling house with sub-floor area and vehicle access from Ellison Lane. An aerial photograph of the subject site is provided in **Figure 1** below.



Figure 1: Aerial Photograph of Subject Site – 6 Ford Street, Greenwich



Figure 2: Subject Site Viewed from Ford Street



Figure 3: Subject Site Viewed from Ellison Lane

3.2 Adjoining Sites

The site is adjoined by single detached dwelling houses including No. 4 Ford Street, Greenwich to the east and No. 2 Ellison Lane to the south. To the north and west the site is adjoined by a public road.

4. ASSESSMENT HISTORY

The assessment history is summarised in **Table 1** below.

Table 1 – Assessment History	
Date	Description
13/09/2021	Pre-DA meeting report issued to the applicant.
27/10/2021	Subject Development Application lodged.
13/12/2021	Site inspection undertaken of No. 6 Ford Street, Greenwich by Council staff.
10/01/2022	Preliminary assessment issued by Council staff to the applicant.
25/01/2022	Site inspection undertaken of No. 4 Ford Street, Greenwich by Council staff.
11/02/2022	Applicant provision of additional information including increased landscaped area, compliant rear setback and stepped roof form.
09/03/2022	Further assessment issued by Council staff to the applicant.
22/03/2022	Applicant provision of additional information.

5. PROPOSAL

The Development Application is for the works shown on the submitted architectural plans (**Attachment 1**) following proposed works:

- **Existing Dwelling House:** Dormer windows, creation of an attic level and stair access and general restoration and refurbishment/fitout works at the ground floor;
- **Rear Addition:** The rear addition of a garage (with deck above), and beyond a two storey addition with gabled roof with connection to the existing dwelling via a covered walkway;
- **Swimming Pool:** Construction of a swimming pool in the rear setback zone;
- **Landscaping Works:** Various landscaping works including retaining walls, fencing and planting.

A perspective of the proposed works is provided in **Figure 4** below.



View from Ellison Lane

Figure 4: Perspective of Proposed Works (Source: Simmonds Associates)

6. SECTION 4.15 ASSESSMENT

The Development Application has been assessed against Section 4.15 of the Act as follows:

6.1 Any environmental planning instrument:

6.1.1 Lane Cove Local Environmental Plan 2009

6.1.1.1 Permissibility

The site is zoned R2 Low Density Residential under LCLEP 2009. The proposed development is permissible with consent.



Figure 5: Zoning (Source: Eplanning Spatial Viewer)

6.1.1.2 Development Standards

The proposal has been assessed against the applicable development standards as detailed in **Table 2** below.

Table 2 – LCLEP 2009 - Development Standards			
Standard	Required (Max.)	Proposed	Compliance
Height of Building	9.5m	9.3m	Yes
Floor Space Ratio	0.6:1	0.598:1 (288.94m ² on a site area of 483m ²) of	Yes

6.1.1.3 Other Provisions

The proposal has been assessed against the following additional provisions of LCLEP 2009 as detailed in **Table 3** below.

Table 3 – Additional LCLEP 2009 Provisions			
Clause	Provision	Comment	Compliance
5.10 – Heritage Conservation	<i>(4) Effect of proposed development on heritage significance</i> <i>The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).</i>	<p>The existing dwelling is listed as an item of local significance under Schedule 5 of LCLEP 2009.</p> <p>Council's Heritage Advisor provided the following comments on the proposed design:</p> <p><i>I consider that the proposed extension is complementary in its design and will enhance the significance of the heritage item. The proposed conservation work is comprehensive and timely and will retain and appropriately conserve the heritage features of the interior.</i></p> <p>Given the above no objection is raised subject to compliance with the submitted scope of works in the Heritage Impact Statement.</p>	Yes
6.1A - Earthworks	<p><i>(3) Before granting development consent for earthworks, the consent authority must consider the following matters—</i></p> <p><i>(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,</i></p>	<p>The proposed earthworks on the southern boundary are required to be further reduced in scale adjoining the rear boundary (refer draft deferred commencement condition).</p>	Yes

	<p><i>(b) the effect of the proposed development on the likely future use or redevelopment of the land,</i></p> <p><i>(c) the quality of the fill or the soil to be excavated, or both,</i></p> <p><i>(d) the effect of the proposed development on the existing and likely amenity of adjoining properties,</i></p> <p><i>(e) the source of any fill material and the destination of any excavated material,</i></p> <p><i>(f) the likelihood of disturbing relics,</i></p> <p><i>(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.</i></p>		
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The Development Application complies with Lane Cove Local Environmental Plan 2009.

6.1.2 SEPP (Building Sustainability Index) 2004

The proposal was accompanied by a BASIX Certificate and complies with the SEPP.

6.1.3 SEPP (Biodiversity and Conservation) 2021

The proposal has been reviewed in relation to Chapter 10 – Sydney Harbour Catchment and is considered satisfactory.

6.1.4 SEPP (Resilience and Hazards) 2021

The proposal has been reviewed in relation to Chapter 2 – Coastal Management, and Chapter 4 – Remediation of Land, and is considered satisfactory.

6.2 Any proposed instrument (Draft LEP, Planning Proposal)

Not applicable.

6.3 Any development control plan

6.3.1 Lane Cove Development Control Plan 2009

The Development Application has been assessed against the relevant provisions of LCDCP 2009 as detailed in the following tables:

Table 4 -Table of Compliance – LCDCP 2009			
Control	Requirement	Proposed	Compliance
Front setback (min)	7.5m	7.5m	Yes
Secondary setback (min)	2.0m	2.0m (new structure)	Yes
Side setback (min)	1.5m	1.05m	No, draft deferred commencement requiring compliance.
Rear setback (min)	25% (9.9m)	10m	Yes
Wall Height (max)	7.0m	6.6m	Yes
Maximum Ridge height	9.5m	9.3m	Yes
Subfloor height (max)	N/A	1.5m	N/A
Number of Storeys (max)	2	2	Yes
Landscaped area (min)	35% (min. 1m width)	35.01%	Yes
Cut and Fill (max)	1m	1.66m (in south-western rear corner)	No, draft deferred commencement requiring compliance.
Solar Access	3 hrs	The block orientation (north front) results in a	Yes
Provide for view sharing	Provide view sharing	See assessment in Section 7 of this report.	No, draft deferred commencement proposed to address concerns.
Heritage Conservation	Part B	Part B satisfied.	Yes
Deck/Balcony depth	3m	6.72m	No, however satisfactory as the deck faces Ellison Lane and provides spatial separation between heritage item and new addition.
Private open space	24 m²/ 4m depth	Provided	Yes
Basix	Required	Provided	Yes
Car Parking			
Off-street spaces (min)	2	2	Yes
Driveway width	Generally 3m at the lot boundary	4.8m proposed reasonable given secondary setback distance allows for minimal narrowing of driveway.	Yes

Table 4 -Table of Compliance – LCDCP 2009			
Control	Requirement	Proposed	Compliance
Setback of Carport Posts (min)	1m from street boundary	3.015m to garage door line.	Yes
% of Allotment Width (garages & carports)	50% of lot width or 6m (lesser)	Provided.	Yes
Swimming Pools			
Setback to Neighbour's House	3m to waterline	3m to waterline	Yes
Setback to boundary (min)	1m to waterline	1.5m to waterline	Yes
Height (max) (steeply sloping sites)	1.0m	600mm	Yes
Fences			
Secondary frontage fence	1.8m	3.2m	No, draft deferred commencement requiring compliance.

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

The impacts of the development have been considered and addressed by the applicant revisions and draft deferred commencement conditions. Subject to these conditions the impacts to the natural and built environments, social and economic or amenity of the locality are considered reasonable and anticipated for low density residential development.

6.5 The suitability of the site for the development

The site suitability has been established and would allow for the refurbishment of a heritage item and the continued use of the site for residential purposes.

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

The submissions have been provided to the Lane Cove Local Planning Panel accompanying the planning report. Where the submissions relate to areas of non-compliance such as side setbacks, view sharing and balcony depth, they are addressed in this report. View sharing in particular is addressed in detail in **Section 7** of this report. In the instance of view sharing and side setbacks the report recommends amendments by way of deferred commencement. Other matters relate to issues where compliance is achieved, being the rear setback and overshadowing. In these instances Council cannot require more than stipulated by the DCP. The submissions have been assessed and incorporated into the final recommendation of the report.

6.7 Public Interest

The proposal would be in the public interest subject to draft deferred commencement conditions.

7. VIEW SHARING

The view sharing matter relates to No. 4 Ford Street, Greenwich, and the impacts to this property from the subject proposal. Council staff have read the submissions (**provided to the Panel**) and visited No. 4 Ford Street, Greenwich and have reviewed the applicant's view sharing assessment (**Attachment 3**) and response to the submissions/Council comments (including **Attachment 2**) in coming to the below assessment position.

The Lane Cove Development Control Plan 2009 guides view sharing assessments to be undertaken in accordance with the NSW Land and Environment Court Planning Principles which are contained in *Tenacity Consulting v Warringah Council [2004] NSWLEC 140*. The principle is contained at paragraph 25-29 of the judgement. Paragraph 25 states the following:

The notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment. (Taking it all away cannot be called view sharing, although it may, in some circumstances, be quite reasonable.) To decide whether or not view sharing is reasonable, I have adopted a four-step assessment.

An assessment of the view sharing against the four steps is provided in **Table 5** below.

Court View Assessment	Comment
Step 1 – <i>The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.</i>	The proposed views are of the water and are more obscured at the ground level than the first floor level. The view from the ground floor living area is to the west. A summary of the view is provided in Figure 6 . The view from the first floor bedroom is panoramic to the south and west. A summary of the view is provided in Figure 7 .
Step 2 – <i>The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.</i>	The view is across a side boundary though a portion of the view is through the rear setback area. Retention of the ground level view is considered to be extremely difficult given the proximity the complying building envelope zone on the adjoining property.
Step 3 – <i>The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that</i>	The extent of the impact is severe at the ground level with 100% loss in some locations. This is weighed against the lower quality view from the

<p><i>is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.</i></p>	<p>lower level, though from a more primary room (the living room). The view loss to the first floor is closer to 20% and while from a bedroom, given the extent of impact to the ground floor view, consideration should be given to enhancing the view in this location.</p>
<p>Step 4 – <i>The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skillful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.</i></p>	<p>The proposal complies with the building height and rear setback provisions. The proposal does not comply with the side setback provisions. The principle asks whether a more skillful design could provide the applicant the same development potential and amenity and reduce the impact on the views of neighbours. In this instance a flat roof design and 1.5m side setback would enhance the view to the bedroom which given the impact at the ground level, has a greater significance in the assessment.</p>



Figure 6: Photograph of Ground Level Outlook



Figure 7: Photograph of First Floor Level Outlook

The applicant has provided a view assessment from similar locations as provided in **Figure 8** and **Figure 9**. While the view assessment is not prepared in accordance with Court guidelines it provides a reasonable tool for the assessment of the view sharing impacts which would be further enhanced through a site inspection by the Panel should the adjoining property allow for this to occur.

In conclusion, it is considered reasonable under Tenacity to require compliant side setbacks and a flat roof design in the circumstances of the case.



Figure 8: Applicant's View Sharing Assessment from Ground Floor



Figure 9: Applicant's View Sharing Assessment from First Floor

8. CONCLUSION

The Development Application has been assessed against the provisions of the Environmental Planning and Assessment Act, 1979.

The proposal is compliant with LCLEP 2009 in relation to the maximum building height and floor space ratio development standards.

The proposal is subject to specific view sharing considerations given the potential impact on No. 4 Ford Street, Greenwich.

The Development Application is subject to a view sharing assessment which concludes that design changes would result in major impacts to the existing living area views, increasing the importance of the bedroom views, and accordingly justifying the need for design amendments to minimise the view sharing impacts.

The Development Application is reported to the Lane Cove Local Planning Panel with a recommendation for deferred commencement.

RECOMMENDATION

PART A – DEFERRED COMMENCEMENT CONDITION

That pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act, 1979, as amended, the Council grants a deferred commencement consent to Development Application DA157/2021 for alterations and additions to a dwelling house on Lot 13 DP 3760 and known as 6 Ford Street, Greenwich, subject to the following:

1. The following plan amendments to improve view sharing, provide a design that better responds to topography and minimises bulk and scale impacts on adjoining properties:
 - a. The rear addition is to be set back a minimum of 1.5m from the side boundary (eastern side boundary common with No. 4 Ford Street, Greenwich);
 - b. A flat roof design is to be provided to the proposed two storey addition, attached to, and south of the proposed garage;
 - c. The fill adjoining the rear boundary is to be limited to 300mm to minimise bulk and scale impacts on the lower southern property; and
 - d. The secondary frontage fence is to be a maximum of 1.8m (including retaining walls) measured from the immediately adjacent public domain level. Stepping to 2.0m is

permitted to deal with changes in topography.

Plans that address the point under Part A above are to be submitted to Council within 12 months of the granting of this deferred commencement consent. Commencement of the approval cannot commence until Council has confirmed in writing that the matter under Part A above has been provided and is satisfactory.

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

PART B – CONDITIONS OF CONSENT:

Subject to Part A above being satisfied, an Operative Consent and plans be issued, subject to the following conditions:

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

- Drawing number/s *TO BE INSERTED*
- Dated
- By

except as amended by the following conditions.

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

2. Compliance with the restoration, refurbishment and alteration works to *Waterview* as described in the Heritage Impact Statement prepared by Weir Phillips Heritage and Planning dated October 2021 Reference J5086.

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

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

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

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

Reason: Statutory requirement.

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

Reason: Statutory requirement.

6. (12) Approval is subject to the condition that the builder or person who does the residential building work complies with the applicable requirements of Part 6 of the Home Building Act

1989 whereby a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy Council or the Principal Certifier (PC) that they have complied with the applicable requirements of Part 6. **Council as the PC will not release the Construction Certificate until evidence of Home Owners Warranty Insurance or an owner builder permit is submitted.** THE ABOVE CONDITION DOES NOT APPLY TO COMMERCIAL/INDUSTRIAL CONSTRUCTION, OWNER BUILDER WORKS LESS THAN \$5000 OR CONSTRUCTION WORKS LESS THAN \$20,000.

Reason: Statutory requirement.

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

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

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

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

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

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

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

Reason: To protect the environment and public amenity.

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

Reason: To protect the environment and public amenity.

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

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

Reason: To protect the environment and public amenity.

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

- a) the name, address and telephone number of the Principal Certifier;
- b) the name of the person in charge of the construction site and telephone number at which that person may be contacted outside working hours; and
- c) a statement that unauthorised entry to the construction site is prohibited.

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

Reason: To ensure public safety and public information.

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

Reason: To protect the environment.

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

- a) That forms a barrier between the swimming pool; and
 - i) any residential building or movable dwelling situated on the premises; and
 - ii) any place (whether public or private) adjacent to or adjoining the premises; and
- b) That is designed, constructed and installed in accordance with the standards as prescribed by the Regulations under the Swimming Pool Act, 1992, and the Australian Standard AS1926 – 2012, "Swimming Pool Safety".

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

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

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

Reason: Statutory requirement.

15. (53) The filter and pump being located in a position where it will create no noise nuisance at any time or, alternatively, being enclosed in an approved soundproof enclosure. 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.

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

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

Reason: Statutory requirement.

17. (58) Structural Engineer's Certificate being submitted certifying that existing building is capable of carrying the additional loads. Such Certificate being submitted PRIOR TO THE

ISSUE OF A CONSTRUCTION CERTIFICATE.

Reason: To ensure structural adequacy.

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

Reason: To protect residential amenity.

19. Standard Condition (64) A check survey certificate is to be submitted at the completion of works.

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

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

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

Reason: To ensure public safety.

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

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

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

Reason: To ensure public safety.

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

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

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

Reason: To ensure compliance with the Australian Standards.

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

Reason: To protect the surrounding environment.

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

Reason: To ensure all works are carried out lawfully.

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

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

Reason: To ensure the levy is paid.

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

Reason: Statutory requirement.

Engineering Conditions

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

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

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

Reason: To ensure public safety and amenity

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

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

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

Reason: To ensure public safety

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

Reason: To maintain Council infrastructure

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

removal of services shall be borne by the applicant.

Reason: To protect, maintain and provide utility services

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

Reason: To ensure pedestrian access is maintained

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

Reason: To protect public infrastructure

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

Reason: To protect and maintain infrastructure assets

38. **(A10) Boundary Levels:** The levels of the street alignment shall be obtained from Council. These levels are to be incorporated into the design of the internal pavements, car parking, landscaping, driveway and stormwater drainage plans and shall be obtained **prior to the issue of the Construction Certificate**. Note: The finished floor level of the proposed garage or carport shall be determined by Council.

Applicant has to lodge Vehicular Crossing Application form with application fee as shown in the form.

Reason: To provide consistent street alignment levels

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

Reason: To protect and maintain public infrastructure

40. **(D1) Excavation Greater Than 1m depth:** Where there are structures on adjoining properties including all Council infrastructures, located within 5 meters of the proposed excavation.

The applicant shall: -

- (a) seek independent advice from a suitably qualified engineer on the impact of the proposed excavations on the adjoining properties
- (b) detail what measures are to be taken to protect those properties from undermining during construction
- (c) provide Council with a certificate from the engineer on the necessity and adequacy of support for the adjoining properties
- (d) The above matters are to be completed and documentation submitted to principal certifying authority **prior to the issue of the Construction Certificate.**
- (e) Provide a dilapidation report of the adjoining properties and Council infrastructure.

The dilapidation survey must be conducted **prior to the issue of the Construction Certificate.** The extent of the survey must cover the likely "zone of influence" that may arise due to excavation works, including dewatering and/or construction induced vibration. The dilapidation report must be prepared by a suitably qualified engineer.

A second dilapidation report, recording structural conditions of all structures originally assessed shall be submitted to the principle certifying authority **prior to the issue of the Occupation Certificate.**

All recommendations of the suitably qualified engineer are to be carried out during excavation. The applicant must give at least seven (7) days' notice to the owner and occupiers of the adjoining allotments before the excavation works commence.

Reason: To protect surrounding properties and identify vulnerable structures

41. **(D2) Drainage Plans Amendments:** The stormwater drainage plan prepared by Simmonds Associates, reference No: SW211001, revision 2 and dated on 13/10/21 is to be amended as detailed below by a qualified practising hydraulic engineer and certified by him/her. This amended plan shall show full details of new pipe network amended as follows and satisfying part O of the Council's stormwater DCP;
 1. This DA requires OSD or 10000 litre of rainwater tank. The detailed design for this proposed system is required
 2. 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.
 3. Clean out pits are required at all low points of charged drainage line if charged pipe system is proposed.
 4. Sediment control fence shall be placed around the construction site and shown in plan
 5. Subsoil agg-line drainage system is required around proposed retaining wall, dwelling, or it is necessary and connected to proposed drainage system
 6. One silt arrester pit with mesh (RH3030) and sump(200mm) as shown in section 3.4.1 of Part O of Council DCP is required within the site, at start of the discharge pipe to Council kerb line.
 7. Stormwater runoff from driveway shall be collected by grated driveway pit and connected to stormwater system
 8. One inlet pit is required behind the pool or rainwater tank and connected to proposed silt arrester pit
 9. Entire roof area to be connected to Rainwater tank as per section 7.3 in Council DCP.
 10. Minimum of 1.8m height difference is required between start and end of the charged pipe system as per section 5.1 in Council DCP. The details of design level difference shall be shown in plan.

11. The kerb connection pipe from fence line to kerb shall be designed for gravity discharge only and no charged pipe line allowed.
12. The kerb discharge shall be 300mm away from edge of driveway wing and complied with section 4.1 in Council DCP
13. Council does not support pipe lines underneath of any part of the buildings including garage and carport except seepage agg-line system.
14. 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
15. Council will not support any pit where the flow direction changes more than 90 degree.
16. Installation pipe system near the protected trees must be assessed by Council Tree Officer.

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

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

Reason: To ensure the proposed stormwater designs meet and satisfy Part O, Council DCP

42. **(K1) Council Construction Requirements:** The applicant shall construct / reconstruct the following to Council's satisfaction;
1. Reinstall all adjustments to the road surfaces.
 2. Reinstall all existing nature-strips with turf and soil on road reserve.

Reason: In accordance with Council's requirements to restore site

43. **(K4) Council Inspection Requirements:** The following items are to be inspected

- All kerb/gutter and landscaping works in road reserve
- Any adjustment works in Council road reserve

Each item is to be inspected prior to the pouring of any concrete (formwork) and on completion of the construction. An initial site meeting is to be conducted with council and the contractor prior to the commencement of any of the above works to allow for discussion of Council construction / set out requirements.

An Inspection fee (\$205 for one inspection) is to be paid **prior to the issue of the Construction Certificate.**

Reason: To ensure completion of work satisfying Council

44. **(R2) Rainwater Reuse Tanks:** The applicant is to install a rainwater reuse system with a minimum effective capacity of 10,000 Litres. Rainwater tanks are to be installed in accordance with Section 7.3 in Council's rainwater tank policy and relevant Australian standards. The plumbing requirements are as follows

- Rainwater draining to the reuse tanks is to drain from the roof surfaces only. No “on - ground” surfaces are to drain to the reuse tank. “On - ground” surfaces are to drain via a separate system.
- Mosquito protection & first flush device shall be fitted to the reuse tank.
- This tank shall have effective volume of 10,000 litre, with 100mm air gap on top and 100mm sludge zone at the bottom
- The overflow from the rainwater reuse tank is to drain by gravity to the receiving system.
- Rainwater tank is to be connected to all new toilets, one cold water washing machine tap and one outside tap within the development.
- Hydraulic Calculation is required for charged pipe system draining to rainwater tank satisfying Part O, Council stormwater management DCP.

Reason: To ensure requirement for OSD exclusion comply with Council’s requirements

45. **(V1) Proposed Vehicular Crossing:** The proposed vehicular crossing shall be constructed to the specifications and levels issued by Council. The driveway opening width includes wings along at the face of kerb is to be no wider than 4.0m for single garage and 5.5m for double garage (as per Council drawing CV:3.1 and 3.2), in the interest of pedestrian safety. The driveway shall be 300mm away from existing power pole and existing stormwater pit. This driveway is to be designed to stop road runoff entering the property, to be certified that it fully complies with AS 2890 Series and Council's standards and specifications and constructed in accordance with AS 2890.1.2004 “Off Street Car Parking”. The following plans shall be prepared and certified by a suitably qualified engineer demonstrating:
- Longitudinal section along the extreme wheel paths of the driveway/access ramp at a scale of 1:20 demonstrating compliance with the scaping provisions of AS2890.1. It shall include 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 demonstrated that the driveway complies with Australian Standards 2890.1-2004 “Off Street Car Parking”. This is to address the following;
 - a. Transitional grades in accordance with AS2890 to be provided.
 - b. 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 demonstrating compliance with the clearance provisions of AS2890.1.
 - An analysis of vehicle maneuvering is required to confirm vehicle movement is safe in the proposed parking area.

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 the construction of the crossing shall be completed **prior to the issue of the Occupation Certificate**.

Reason: To ensure compliance with Australian Standards and Council’s standards

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

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

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

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

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

Reason: To ensure Council accepted stormwater management around the pool

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

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

Reason: To ensure Council accepted stormwater management around the pool

50. **(W2) Pool Construction Stormwater:** The stormwater runoff from the new impervious areas surrounding the pool shall be connected to the 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

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

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

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

Reason: To ensure safety of road and footpath users

53. **(D6) Certification of Retaining Structures and Excavations:** A suitably qualified engineer shall provide certification to the principal certifying authority that all retaining structures and excavations have been carried out in accordance with the relevant Australian Standards and Codes of Practise.

The certification and a complete record of inspections, testing and monitoring (with certifications) must be submitted to the principal certifying authority **prior to the issue of the Occupation Certificate.**

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

54. **(M1) Stormwater System Engineering Certification:** On completion of the drainage system a suitably qualified engineer shall certify that the drainage system has been constructed in accordance with the approved plans, part O Council's DCP-Stormwater Management and AS-3500. The certification is to include a work as executed plan. The work as executed plan shall:

- (a) Be signed by a registered surveyor, &
- (b) Clearly show the surveyor's name and the date of signature.

All documentation is to be submitted to the Principle Certifying Authority **prior to the issue of the Occupation Certificate.**

Reason: To ensure stormwater infrastructure has been installed in accordance with Australian Standards and Council's requirements

55. **(M3) Engineering Certification:** A suitably qualified engineer shall certify that following has been constructed in accordance with the approved plans and is within acceptable construction tolerances.

- Swimming Pool
- Rainwater tanks

Certification is to be submitted to the Principle Certifying Authority **prior to the issue of the Occupation Certificate.**

Reason: Statutory requirement

56. **(V3) Redundant Gutter Crossing:** All redundant kerb/gutter and footpath crossings shall be removed, and the kerb, gutter and footpath reinstated to the satisfaction of Council's Urban Services Division. These works shall be carried out **prior to the issue of the Occupation Certificate.**

Reason: To ensure Council's footpath and nature strip is free from potential vehicular or other obstructions.

Tree Conditions

57. Lane Cove Council regulates the Preservation of Trees and Vegetation in the Lane Cove local government area in accordance with State Environmental Planning policy (Vegetation in non- rural areas) 2017. Part 2 Section 7 (1) of the SEPP states "A person must not clear vegetation in 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.

Reason: To protect the natural environment.

58. **Tree Removal:** The consent gives approval for the removal of Tree No. 6 (Cabbage Tree Palm). Tree No. 6 can only be removed after issue of a **Construction Certificate**. All other trees are to be retained and protected in accordance with the submitted Arborist Report prepared by Arbor Logix dated 30 September 2021 as submitted with the Development Application with the exception of Tree No. 5 which is to be retained and also protected during construction in accordance with recommendation of the arborist. Prior to works

commencing all tree protection measures are to be installed.

Reason: To protect the natural environment.

ATTACHMENTS:

AT-1	View	Attachment 1 - Architectural Plans (Revision 2)	Available Electronically
AT-2	View	Attachment 2 - Applicant Response to 2nd Request for Further Information	Available Electronically
AT-3	View	Attachment 3 - Applicant's View Impact Assessment (Revision 2)	Available Electronically
AT-4	View	Attachment 4 - Statement of Environmental Effects	Available Electronically
AT-5	View	Attachment 5 - Heritage Impact Statement	Available Electronically

**Lane Cove Local Planning Panel Meeting 05 April 2022
706 MOWBRAY ROAD WEST LANE COVE NORTH**

Subject: 706 Mowbray Road West Lane Cove North
Record No: DA21/170-01 - 82584/21
Division: Environmental Services Division
Author(s): Christopher Shortt

Property:	706 Mowbray Road West Lane Cove North
DA No:	DA/21/170
Date Lodged:	15 November 2021
Cost of Work:	\$2,490,273.00
Owner:	Microsoft Data Centre Australia Pty Ltd
Applicant:	Willowtree Planning – Ante Perica

Description of the proposal to appear on determination	Proposed demolition of existing industrial building and associated structures.
Zone	IN2 Light Industrial
Is the proposal permissible within the zone	Yes
Is the property a heritage item	No
Is the property within a conservation area	No
Is the property adjacent to bushland	Yes
Stop the Clock used	Yes
Notification	Notified as per Council's Policy. Twenty-one (21) submissions were received.

REASON FOR REFERRAL

The proposal is referred to the Lane Cove Local Planning Panel as more than 10 public submissions were received as a result of the notification period. The proposal is therefore considered to be a contentious development application.

EXECUTIVE SUMMARY

The site is proposed to be redeveloped as a Data Centre. The redevelopment of the site would be subject to a separate application as a State Significant Development (SSD 13475973). It is anticipated that the SSD will be lodged with the Department sometime in 2022.

The application for demolition of existing structures on site was lodged with Council in November 2021.

The Development Application was notified to surrounding property owners and twenty-one (21) submissions were received by way of objection. Eighteen (18) of the submissions were from properties within the Lane Cove North Estate on the northern side of Mowbray Road West within the Willoughby Council LGA. One (1) submission was from the adjoining Possums Corner Childcare centre, one (1) submission was received from a dwelling house on Fitzsimmons Avenue, and one (1) submission was received on behalf of Willoughby Council.

SITE

The site is located on the southern side of Mowbray Road West, Lane Cove North and legally described as Lot 10 of Deposited Plan 1179953. The site has an area of approximately 17,570 square metres. The site contains a three-storey commercial/light industrial building with multiple commercial units and warehousing. The site has a fall in natural ground level from the front boundary (high point) to the rear boundary (low point) of approximately 7m.

East of the site is an industrial development at 700 - 704 Mowbray Road West, and is occupied by the Security company Prosegur. West of the site at 708 Mowbray Road West is a single-storey building used as child care centre. South and south west of the site is land zoned E2 Environmental Conservation and is a Council bushland Reserve (Epping Road Plateau).

Mowbray Road West forms the boundary between the Lane Cove Council Local Government Area (south) and the Willoughby Council Local Government Area (north).

North and north-east of the site on the opposite side of Mowbray Road West are 1 and 2-storey dwelling houses and the intersection with Fitzsimmons Avenue. North-west of the site on the opposite side of Mowbray Road is the intersection with Taylors Drive and 708b Mowbray Road West, which is occupied by a two-storey light industrial building. The two-storey building is occupied by the 'Nuss Removals' a removalist company. The site also has an associated parking lot area for removal trucks. Further north of 'Nuss Removals' is the Lane Cove North Estate which is accessed via Taylors Drive and contains approximately 202 apartment and townhouse dwellings.

PREVIOUS APPROVALS/HISTORY

Council at its meeting 17th September 1984 gave development consent to the erection of an office /warehouse building at 706 Mowbray Road West. The approval included a requirement that the developer provide a site for the establishment of a child care centre. (Ref: DA343/1984)

On 17th June 1985, Council resolved to approve amendments to the Lane Cove Draft LEP to the western end of the site to be amended from Industrial/Open Space Zoning to Special Use Zoning to allow for a future child care centre use. Following the gazettal of the re-zoning, the site subdivided and an agreement between Council and the owners of 706 Mowbray Road West was created for a reciprocal right-of-carriageway for access to the parking area within the western end of the site.

In 1986 Council granted consent for a child care centre. Also included was the construction by Lane Cove Council of a six (6) bay car parking area with landscaping in the unmade section of Mowbray Road West. (Ref: 567/1986).

Over the years, dozens of individual fit-out and use DAs, and signage DAs have been submitted to Council for the various industrial and commercial units within the complex of 706 Mowbray Road.

PROPOSAL

Development consent is sought for the proposed demolition of the existing industrial and commercial building and associated structures.



Figure 1: Location Plan.



Figure 2: Site viewed from Mowbray Road West.

PROPOSAL DATA/POLICY COMPLIANCE

Local Environmental Plan 2009

Site Area: 17,570 m² (1.757 hectares)

	Proposed	Control	Complies
Floor Space Ratio	Nil	0.5:1	Yes
Height of Buildings	Nil	9.5m	Yes

Zoning and Permissibility:

The site is zoned IN2 Light Industrial.

The proposal solely pertains to demolition of existing structures on the site. The permissibility of any proposed future use and compliance with the objectives of the zone will be addressed as part of the assessment of any later development application.

Pursuant to clause 2.7 of Lane Cove LEP 2009, *the demolition of a building or work may be carried out with development consent*. The proposal seeks development consent for demolition works, in accordance with the intent of the zone objectives and the scale of the proposed works.

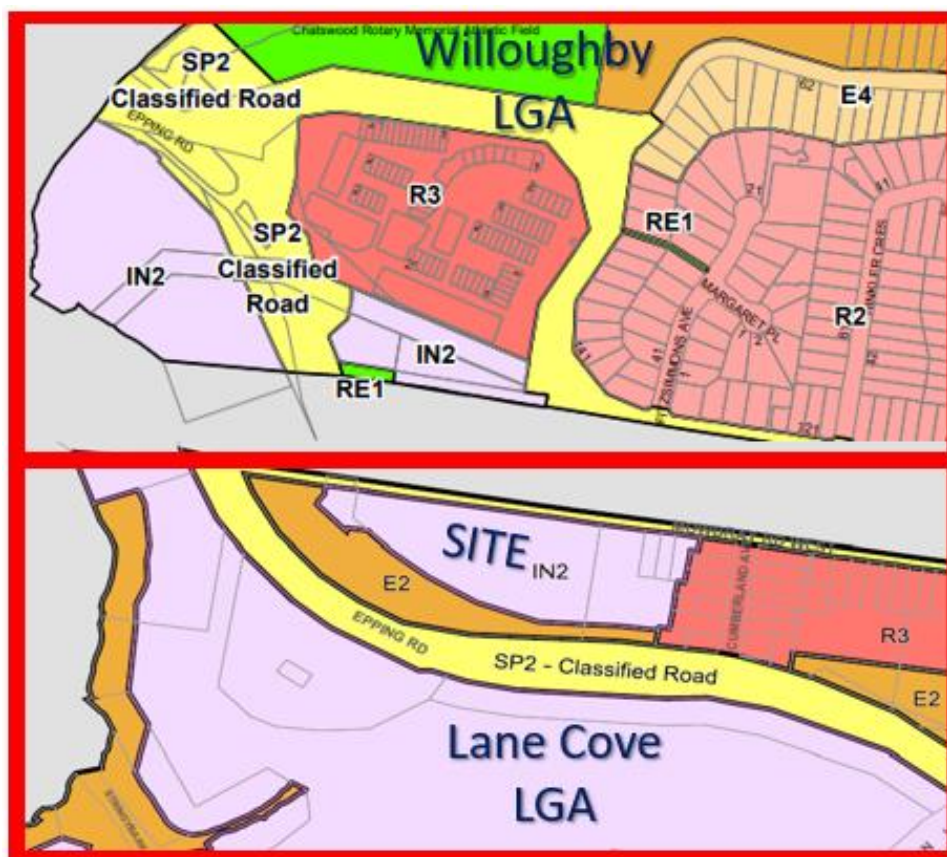


Figure 3: Zoning map.

Heritage Conservation

The subject site is not listed as a heritage item, is not located within a heritage conservation area, and is not located in the vicinity of a heritage item.

Accordingly, the provisions of Clause 5.10 of the Lane Cove LEP 2009 do not apply.

Acid Sulphate Soils

Clause 6.1 of Lane Cove LEP 2009 requires Council to consider any potential acid sulphate soil affectation so that it does not disturb, expose or drain acid sulphate soils and cause environmental damage.

The subject site is not identified as being of Class 2, 3 or 5 land on the Acid Sulphate Soils Map. The proposed demolition works are unlikely to lower the water table. Accordingly, preliminary assessment is not required and there is unlikely to be any acid sulphate affectation. The proposal is therefore acceptable with regards to Part 6.1 of Lane Cove LEP 2009.

Earthworks

Clause 6.1A Earthworks of the Lane Cove LEP 2009 states as follows:

6.1A Earthworks

- 1) *The objectives of this clause are as follows:*
 - a) *to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
 - b) *to allow earthworks of a minor nature without requiring separate development consent.*
- 2) *Development consent is required for earthworks unless:*
 - a) *the work is exempt development under this Plan or another applicable environmental planning instrument, or*
 - b) *the work is ancillary to other development for which development consent has been given.*
- 3) *Before granting development consent for earthworks, the consent authority must consider the following matters:*
 - a) *the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,*
 - b) *the effect of the proposed development on the likely future use or redevelopment of the land,*
 - c) *the quality of the fill or the soil to be excavated, or both,*
 - d) *the effect of the proposed development on the existing and likely amenity of adjoining properties,*
 - e) *the source of any fill material and the destination of any excavated material,*
 - f) *the likelihood of disturbing relics,*
 - g) *the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.*

Clause 6.1A of Lane Cove LEP 2009 lists the matters Council must consider before granting consent for earthworks.

The proposal limited to demolition of the existing structures on the site. This is permitted under subclause 6.1A(1)(b), which permits earthworks of a minor nature. Site preparation including excavation would form part of a later DA with the Department of Planning Industry and Environment (DPIE).

The application and supporting documents have been reviewed and endorsed by Council's Development Engineer, Environmental Health Officer and Traffic Engineer having regard to clause 6.1A of Lane Cove LEP 2009.

Suitable draft conditions are recommended to minimise any adverse impacts on surrounding environmental functions and processes, particularly in relation to dust control, erosion and sedimentation control, water management, litter control, noise control, and traffic management.

Therefore, the proposal is acceptable with regard to clause 6.1A of Lane Cove LEP 2009.

LANE COVE DEVELOPMENT CONTROL PLAN (DCP) 2010 [SECTION 79C(1)(a)(iii)]

Part H – Bushland Protection

The proposal is acceptable with regard to Part H of Lane Cove DCP 2010. The proposal is for demolition only. No works are proposed in the bushland buffer zone. No trees are proposed for removal as part of the application. The proposal was referred to Council's bushland officer who recommended draft conditions to protect the integrity of the bushland adjacent to the site during demolition including sediment fences and restrictions of contractors entering or storing materials in the bushland.

Part J – Landscaping

The proposal is acceptable with regard to Part J of Lane Cove DCP 2010.

No trees are proposed to be removed as part of the Demolition DA. Draft Conditions have been included prohibition of any tree removal and protection of trees during the demolition phase.

Part O – Stormwater Management

Erosion and Sediment Control Plans have been submitted with the application and endorsed by Council's Development Engineer.

The proposal is acceptable with regards to Part O of Lane Cove DCP 2010.

Part Q – Waste Management and Minimisation

The applicant has provided a Demolition Waste Management Plan with the development application and it was found to be satisfactory.

Suitable conditions of consent are recommended to ensure the proper handling of waste in accordance with relevant Council policies and standards, through demolition works.

Therefore, the proposal is acceptable with regards to Part Q of Lane Cove DCP 2009.

Part R – Traffic, Transport and Parking

Council's traffic engineer has recommended a draft deferred commencement condition requiring an amended Demolition Traffic Management Plan which would provide more comprehensive requirements as compared to the submitted plan. The amended DTMP will include:

- Vehicles are prohibited from entering/exiting the site at the western-most access driveway (adjacent to Childcare Centre);
- Specify truck departure and approach routes and truck rates;
- Traffic Control Plan prepared by a TfNSW accredited ticket holder;
- 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;

- Take into consideration the combined construction activities of other development in the surrounding area;
- Provide swept paths for the largest truck entering and exiting site; and
- A pedestrian management plan.

REFERRALS - INTERNAL

Development Engineer

No objections subject to recommended draft conditions.

Tree Assessment Officer

No trees are proposed for removal as part of this development. Council would provide comment on trees when the future DA is publicly exhibited by the Department of Planning Industry and environment. Draft conditions are recommended prohibiting tree removal and for tree protection plans to be implemented for trees in proximity to the site.

Bushland Officer

Council's bushland officer who recommended draft deferred commencement conditions for a Bushland Management Plan (BMP) to protect the integrity of the bushland adjacent to the site during demolition. The BMP is to include:

- Sediment fencing must be erected around the entire perimeter of the site during the period of demolition;
- Sediment fences should be installed around the base of stockpiles;
- A retention basin is to be installed along the southern aspect of the site where the development is adjacent to bushland; and
- Rubbish/waste material must be stored in a locked container/cage.

Environmental Health

No objections subject to recommended draft conditions.

REFERERALS – EXTERNAL

Transport for NSW

No objections subject to conditions.

Rural Fire Service

As the proposal is for demolition only, the application is not required to be referred to the Rural Fire Series (RFS). The future DA for the replacement building would be required to be referred to the RFS.
LANE COVE LOCAL ENVIRONMENTAL PLAN 2009 (Section 79C(1)(a))

The proposal is permissible, complies with the Floor Space Ratio and height and does not raise any issues in regard to the Lane Cove Local Environmental Plan 2009.

OTHER PLANNING INSTRUMENTS

SEPP 55 Remediation of Land

The subject site is used for light industrial purposes. The applicant submitted Hazardous Building Materials (HAZMAT). The survey report found no evidence of asbestos through all parts of the site identified. There were some limitations to the survey due to a number of areas not being accessible to visit due to COVID access restrictions. Although no bulk soil works, or excavation are proposed, suitable conditions of consent are recommended to ensure that all asbestos, hazardous and/or intractable wastes be disposed of in accordance with the Workcover Authority and EPA guidelines.

Further conditions are recommended prior to the commencement of works, a detailed site contamination investigation (DSI) must be undertaken by an independent appropriately qualified environmental consultant in order to provide information on land and ground water contamination and migration in relation to past and current activities and uses that may have occurred on the site.

On balance, it is considered that the land does not require further consideration under Clause 7(1)(b) and (c) of SEPP 55. The proposal is therefore acceptable with regard to *SEPP 55: Remediation of Land*.

Protection of Environmental Operations Act 1997

The proposed development relates to demolition of existing building structures only, and there is no requirement for an Environmental Protection License (EPL).

APPLICABLE REGULATIONS

The Environmental Planning and Assessment Regulation 2000 indicates that the standards for demolition and removal of materials should meet with AS 2601-2001 and therefore any consent would require the application of a relevant condition seeking compliance with the Standard.

VARIATIONS TO COUNCIL'S CODES/POLICIES

No variations are sought to any standard contained within the Lane Cove LEP 2009, DCP 2010 or any other Planning Instrument or Council Policies.

SUITABILITY OF THE SITE

The proposed demolition works are suitable to the site and would facilitate future redevelopment of the site for a light-industrial development.

RESPONSE TO NOTIFICATION

The development proposal was notified in accordance with Council's notification policy between 15 November and 29 November 2021. Following contact by a number of residents within the Lane Cove North Estate requesting additional time to provide submissions, Council permitted an additional 26 days until 25 December 2021.

As a result of the notification twenty-one (21) submissions were received. Concerns related to the proposal are summarised below:

1. Concerns that the proposal was not notified properly.

Response: The proposal was notified in accordance with Council's policy. Three (3) signs were posted up at different parts of the site. The proposal was notified to properties located on the opposite side of Mowbray Road West within the Willoughby Council Local Government Area. During notification a number of residents within the Lane Cove North Estate contacted Council and raised concerns that they were not directly notified. In response Council granted all residents (including residents within the Lane Cove North Estate) extended public advertising period of an additional 26 days to provide comment to Council.

2. Concerns related to the proposed data centre on the site. Including height, diesel storage tank and use.

Response: The subject application is for demolition only. The proposed data centre building (including diesel storage tanks) would be part of a future State Significant Development Application assessed and determined by the NSW Department of Planning Industry and Environment (DPIE).

3. Concerns with impacts on trees.

Response: No trees are proposed to be removed as part of the Demolition DA. Draft Conditions have been included for prohibition of any tree removal and protection of trees during the demolition phase.

4. Concerns with traffic impacts during the demolition period. Concerns that heavy vehicles would impact access to and from the Lane Cove North Estate. Concerns with the submitted Construction/Demolition Traffic Management Plan.

Response: A deferred commencement condition is requiring an amended Demolition Traffic/Management Plan. The plan is to be submitted to Council prior to the consent becoming operative. The plan is to include:

- Vehicles are prohibited from entering/exiting the site at the western-most access driveway (adjacent to Childcare Centre);
- Specify truck departure and approach routes and truck rates;
- Traffic Control Plan prepared by a TfNSW accredited ticket holder;
- 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;
- Take into consideration the combined construction activities of other development in the surrounding area;
- Provide swept paths for the largest truck entering and exiting site; and
- A pedestrian management plan.

The proposal was referred to Transport for NSW who recommended the following condition.

5. Concerns relating to potential obstruction of pedestrian access during demolition in the instance that footpath in front of the site will not be accessible. Concerns that pedestrian (especially children) will have to access the Lane Cove North Estate from the opposite side of Mowbray Road West which has no crossing or facilities and is considered dangerous.

Response: As part of the amended Demolition Traffic Management Plan recommended by Council as a deferred commencement condition, a pedestrian management plan is also required with particular focus on pedestrians accessing the Lane Cove North Estate via Taylors Drive. A further condition by the Transport for NSW requires a construction pedestrian management plan.

A draft condition has been recommended requiring Pedestrian access, including disabled and pram access, is to be maintained throughout the course of the demolition as per AS-1742.3, *'Part 3 - Traffic control devices for works on roads'*.

Any potential closure of the front footpath would be subject to a separate application and shall be made to Council's Urban Services Division for any associated works on Council property. This shall include hoarding applications, vehicular crossings, footpaths, miscellaneous works. Applications shall be submitted prior to the commencement of any works on Council property.

6. Concerns about the site's proximity to Lane Cove Tunnel.

Response: No bulk earthworks or excavation are proposed as part of the demolition DA. Therefore, the DA would have no impact to the zone of influence of the Lane Cove Tunnel.

7. Concerns related to dust impacts during demolition.

Response: A deferred commencement condition requires a dust management plan to Council for approval including the provision of industrial misting sprayers at a minimum of 4 locations around the site for the duration of the project.

Dust and noise monitors to be installed on the child care centre and reports submitted to Council on a weekly basis with a report that addresses the level of compliance with the requirements of the NSW protection of the Environment Operations Act, 1997.

8. Concerns about noise during demolition.

Response: A deferred commencement condition is recommended requiring a Demolition Noise Management Plan (DNMP) is to be submitted to Council for approval prior to the consent becoming operative.

A further condition requires noise monitoring to be carried out by a qualified acoustical consultant if complaints are received, or if directed by Council, and any control measures recommended by the acoustic consultant must be implemented during the demolition work.

9. Request for a swept path analysis to confirm adequate heavy vehicle maneuverability in and out of the site.

Response: Part of the deferred commencement condition for an amended Demolition Traffic Management Plan requires the provision of swept paths for the largest truck entering and exiting site.

10. Request for a Demolition Management Plan.

Response: Conditions have been included in the consent by Council's environmental health engineer including a Demolition Work Plan which requires:

- Details of hazardous materials (including asbestos).
- Method/s of demolition (including removal of any asbestos).
- Measures and processes to be implemented to ensure the health & safety of workers and community.
- Measures to be implemented to minimise any airborne dust and asbestos.
- Methods and location of disposal of any hazardous materials (including asbestos).
- Other relevant details, measures and requirements to be implemented.
- Details of re-use, recycling and disposal of waste materials.

A further condition requires a Demolition Site Management Plan including pedestrian fences, noise management, vehicle access, waste, temporary toilets, tree protection measures, among others.

11. Request for an acoustic report prior to determination.

Response: A deferred commencement condition requires a Demolition Noise Management Plan (DNMP). The DNMP shall include an acoustic report prepared by a qualified acoustic consultant for Council review and endorsement.

12. Concerns raised with the contamination impacts during demolition.

Response: A condition is recommended that prior to issuing the relevant construction certificate for the development, a detailed site contamination investigation (DSI) must be undertaken by an independent appropriately qualified environmental consultant in order to provide information on land and ground water contamination and migration in relation to past and current activities and uses that may have occurred on the site.

A further condition recommends the submission of a Detailed Site Investigation (Contamination) (DSI) to be carried out following demolition of the existing buildings/structures. The DSI shall provide information on land and ground water contamination and migration in relation to past and current activities and uses that may have occurred on the site.

Other conditions relating to the disposal of asbestos and contaminated soils offsite in accordance with the Australian standards. These conditions are in place to ensure no impacts to health and safety of neighboring properties.

13. Concerns raised in relation to the impacts on Possums Corner child care centre including access to parking, noise, dust and safety during demolition.

Response: A deferred commencement condition requires a child care centre management plan to be submitted to ensure the Possums Corner childcare centre can operate to its current capacity throughout the demolition period. In particular unencumbered access to all parking spaces, heavy/Demolition vehicles are prohibited from entering/exiting the site at the western-most access driveway (adjacent to Possums Corner Childcare Centre), a detailed dust management plan, all possible effort is made to cordoned off the demolition zone from the child care centre among others. Noise impacts are dealt with as part of the separate noise management plan condition.

PUBLIC INTEREST [SECTION 4.15(1) (e)]

The proposal is considered to be in the public interest. Suitable draft conditions are recommended to ensure the safety and amenity to the surrounding locality is maintained throughout the demolition works.

CONCLUSION

The matters in relation to Section 4.15 of the Environmental Planning and Assessment Act 1979 have been satisfied for the following reasons:

1. the proposal is acceptable having regard to SEPP (Infrastructure) 2007, SEPP 55 – Remediation of Land;
2. the proposal is acceptable having regard to Lane Cove LEP 2009 and Lane Cove DCP 2010;
3. the proposal is acceptable having regard to the relevant matters prescribed by the Environmental Planning and Assessment Regulations 2000;

4. the proposal is not considered to give rise to any unacceptable environmental impacts on both the natural and built environments, and social and economic impacts in the locality; and
5. the site is considered to be suitable for the proposed demolition works.

Therefore, the proposal is considered acceptable and is accordingly recommended for deferred commencement approval, subject to the recommended draft conditions of consent.

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

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

RECOMMENDATION

Part A – DEFERRED COMMENCEMENT CONSENT:

That pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act, 1979 the Lane Cove Local Planning Panel at its meeting of 5 April 2022, exercising the functions of Council as the consent authority, grants a deferred development consent to Development Application 170/2021 for demolition of existing light industrial building and associated structures on Lot 10 of Deposited Plan 1179953 and known as 706 Mowbray Road Lane Cove North; subject to the following matters being addressed:

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(s):

1. DEMOLITION TRAFFIC MANAGEMENT PLAN

As a result of the site constraints, limited vehicle access and parking, an updated Demolition Traffic Management Plan (DTMP) and report shall be prepared by a Transport for NSW accredited person and be submitted to and approved by Council prior to commencing any demolition work. The DTPMP is to include:

- Heavy/ Demolition vehicles are prohibited from entering/exiting the site at the western-most access driveway (adjacent to Possums Corner Childcare Centre) that is identified as *Access 01* in the *Demolition Traffic Management Plan Issue 1, prepared by ARUP and dated 27 October 2021*. Heavy / Demolition vehicles are only permitted to enter and exit the site from Access 02 and 03;
- Make provision for all demolition equipment/ materials to be stored on site, at all times;
- Specify truck departure and approach routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible;
- 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;
- Include a Traffic Control Plan prepared by a TfNSW accredited ticket holder for any activities involving the management of vehicle and pedestrian traffic;

- 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;
- 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.
- 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;
- 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”;
- Provide swept paths for the largest truck entering and exiting site; and
- The pedestrian management plan (in particular pedestrians accessing the Lane Cove North Estate via Taylors Drive) with the Traffic Control Plan.

2. CHILDCARE CENTRE MANAGEMENT PLAN

A child care centre management plan is to be submitted to ensure the Possums Corner child care centre can operate to its current capacity throughout the demolition period. In particular:

- Unencumbered access for staff/deliveries/customers to the child care Centre including the existing right of carriageway on 706 Mowbray Road, and parking spaces;
- Unencumbered/ safe access to all onsite parking including 6 parallel car spaces/8 tandem spaces dedicated to the child care centre;
- No access to this area by heavy vehicle associated with the demolition;
- Spaces clearly marked as ‘Possums Corner Only’;
- No obstruction to rear gate access area;
- All possible effort is made to cordon off the demolition zone from the child care centre;
- A transition plan and timeline as to how the applicant would accommodate the operational requirements of the child care centre (staff/customer parking, utilities, deliveries and emergency evacuation) during the demolition of the existing carpark to accommodate the new carpark;
- A detailed dust management plan is to be submitted that includes the provision of industrial misting sprayers at a minimum of four (4) locations around the site for the duration of the project; and
- Dust and noise monitors to be installed on the child care centre and reports submitted to Council on a weekly basis with a report that addresses the level of compliance with the requirements of the NSW protection of the Environment Operations Act, 1997. Where any exceedance is reported of pollution standards, the corrective action taken is to be included in the weekly report. The weekly report is to be prepared by an appropriately qualified environmental consultant.

3. BUSHLAND MANAGEMENT PLAN

The applicant shall submit Bushland Management Plan (BMP) to Council for review and endorsement. The BMP should include:

- Sediment fencing must be erected around the entire perimeter of the site during the period of demolition.
- Sediment fences should be installed around the base of stockpiles and the stockpiles should be covered.
- A retention basin is to be installed along the southern aspect of the site where the development is adjacent to bushland before sediment fencing. The water and sediment runoff are to be flocculated in the retention basin to filter out sediment before water passes through sediment fencing. Excess water should be piped to nearest stormwater outlet.
- Rubbish/waste material must be stored in a locked container/cage. Any building rubbish/waste material that is not contained must be cleaned up immediately, including the immediate worksite, surrounding area and/or public open space.

4. DEMOLITION NOISE MANAGEMENT PLAN

The applicant shall submit Demolition Noise Management Plan (DNMP) for all demolition works to Council for review and endorsement. The DNMP shall include an acoustic report prepared by a qualified acoustic consultant. While demolition work is being carried out the applicant is to ensure that any noise caused by demolition, 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.

- a) **Reason:** To protect the amenity of the neighbourhood.

Part B – CONDITIONS OF CONSENT:

Subject to the matters under Part A above being satisfied to the satisfaction of Council, an Operative Consent and plans be issued subject to the following conditions:

That pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979, the Council grants development consent to:

- (i) Development Application DA170/2021;
- (ii) For demolition of existing industrial building and all structures
- (iii) 706 Mowbray Road Lane Cove North

1. Approved Plans

Except where otherwise provided in this consent, the development is to be carried out strictly in accordance with the following plans (stamped approved by Council):

DRAWING:	PREPARED BY:	DATED:
Demolition Plan Issue 1	Greenbox Architecture	01/05/2021

2. No trees are approved for removal as part of the development application.

Reason: Protection of trees.

3. A Principal Certifying Authority (PCA) is to be appointed prior to the commencement of any works to ensure all conditions of this consent are complied with and details are made available to Council and on site.

Reason: Compliance with conditions of consent.

4. **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.

5. **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.

6. **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.

7. **B.4.EH - Demolition work plan - The name, address, contact details and licence number of the Demolisher / Asbestos Removal Contractor.**

- Details of hazardous materials (including asbestos).
- Method/s of demolition (including removal of any asbestos).
- Measures and processes to be implemented to ensure the health & safety of workers and community.
- Measures to be implemented to minimise any airborne dust and asbestos.
- Methods and location of disposal of any hazardous materials (including asbestos).
- Other relevant details, measures and requirements to be implemented.
- Details of re-use, recycling and disposal of waste materials.
- Date the demolition works will commence.

Reason: To ensure health and safety.

8. **B.5.EH - Demolition/ Construction environmental management plan (larger/more complex developments)**

Prior to the commencement of any demolition and remedial works, a demolition/construction environmental management plan (DCEMP) must be prepared for the site and submitted to Council for written approval prior to the commencement of work. The DCEMP must consider all potential environmental impacts from the approved works including but not limited to sedimentation control, contamination containment, stockpiles, noise and vibration, odours and dust emissions. All works must be undertaken onsite in accordance with the approved DCEMP.

Reason: To ensure health and safety.

9. **B.9.EH - General remediation requirement**

Any contaminated land must be remediated to satisfy the relevant requirements of the Contaminated Land Management Act 1997 and the National Environment Protection (Assessment of Site Contamination) Measure (NEPM) 2013 and details of compliance are to be provided to the site auditor and Council from a suitably qualified environmental consultant upon completion of the remediation works.

Reason: To ensure health and safety.

10. **B.11.EH - On-site Containment**

Should it be proposed to provide on-site containment/capping of asbestos or other contaminants, written details of the proposal must be contained in the Remedial Action Plan and must be referred to Council for consideration and written concurrence must be obtained from Council prior to implementation of the Remedial Action Plan.

Reason: To ensure health and safety

11. **C.1 - Demolition site management plan**

Prior to any demolition works commencing on site the applicant must ensure a demolition site management plan is prepared before it is provided to an approved by the certifier. The plan must include the following matters:

- (i) location and materials for protective fencing and hoardings to the perimeter on the site;
- (ii) For sites adjoining bushland a 1.8m chain mesh perimeter fence with 1m sediment fencing attached to the lower portion is required to ensure that no foreign materials enter the bushland;
- (iii) provisions for public safety;
- (iv) pedestrian and vehicular site access points and construction activity zones;
- (v) details of demolition 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;
- (vi) 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);
- (vii) For major works, appointment of a project arborist of minimum AQF Level 5 qualification to oversee/monitor tree(s) condition during the demolition process;
- (viii) details of any bulk earthworks to be carried out;
- (ix) location of site storage areas and sheds;
- (x) equipment used to carry out all works;
- (xi) a garbage container with a tight-fitting lid;
- (xii) 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; and

- (xiii) location of temporary toilets.

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

Council Approvals

Where hoarding is required to be provided along the street frontage, a Hoarding Application is to be submitted to Council for approval.

Any construction plant on the public road reservation requires an approved "Application for standing plant permit".

Additional Council Requirements

- (i) 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;
- (ii) 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; and
- (iii) All stockpiles of potentially contaminated soil must be assessed in accordance with relevant NSW Environment Protection Authority guidelines, including NSW EPA Waste Classification Guidelines (2014).

Where sites adjoin bushland:

- (i) For sites identified to be within bushfire prone land An Asset Protection Zone (APZ) shall be provided entirely within the site boundary. To protect bushland and property from fire risk, APZ standards are to be in accordance with Planning for Bushfire Protection (PBP) 2019; and
- (ii) Access to the site from adjacent parks/reserves/bushland for the purposes of carrying out building works, landscaping works, storage materials, storage of soil or rubbish is not permitted.

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

12. C.2 - Erosion and sediment control plan

Prior to any demolition works, 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:

- (i) Council's development control plan,
- (ii) the guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the BlueBook), and
- (iii) 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.

13. C.3 - Waste Management Plan (WMP)

Before the issue of a construction certificate, the applicant is to ensure that a waste management plan is prepared in accordance with the EPA's Waste Classification Guidelines and the following requirements before it is provided to and approved by the certifier:

- (i) Council's Development Control Plan (Part Q: Waste Management and Minimisation);
- (ii) Where sites adjoin bushland (private or public):
 - the WMP shall detail measures to mitigate any rubbish or foreign materials from entering the bushland;
 - Access through parks, reserves and bushland to the site is not permitted; and
 - Council's Coordinator of Bushland must be notified of any accidental or intentional dumping of material in the bushland area.

Details of the following:

- (i) the contact details of the person(s) removing the waste
- (ii) an estimate of the waste (type and quantity) and whether the waste is expected to be reused, recycled or go to landfill
- (iii) the disposal and destination of all waste material spoil and excavated material

The applicant must ensure the waste management plan is referred to in the demolition site management plan and kept on-site at all times during demolition.

Reason: To ensure resource recovery is promoted and local amenity protected during construction.

14. C.12.EH - Offsite disposal of contaminated soil

All contaminated material to be removed from the site will need to be assessed, classified, and managed in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the NSW EPA Waste Classification Guidelines (2014). Once assessed, the materials will be required to be disposed to a licensed waste facility suitable for the classification of the waste with copies of tipping dockets supplied to Council. Copies of all test results and disposal dockets must be retained for at least 3 years and be made available to authorised Council officers on request.

Reason: To ensure health and safety.

15. C.13.EH - Hazardous or intractable wastes

Hazardous or intractable wastes arising from the site works, excavation and remediation process must be removed and disposed of in accordance with the requirements of WorkCover NSW and the Environment Protection Authority, and with the provisions of:

- (i) Work Health and Safety Act 2011;
- (ii) The Occupational Health and Safety (Hazardous Substances) Regulation 2001;
- (iii) The Occupational Health and Safety (Asbestos Removal Work) Regulation 2001;
- (iv) Protection of the Environment Operations Act 1997 (NSW);
- (v) Protection of the Environment Operations (Waste) Regulation 2005;
- (vi) Waste Avoidance and Resource Recovery Act 2001; and
- (vii) NSW EPA Waste Classification Guidelines (2014).

The works must not cause any environmental pollution, public nuisance or, result in an offence under the Protection of the Environment Operations Act 1997 or Work Health & Safety Act 2011 and Regulations.

Reason: To ensure health and safety

16. C.14.EH - Contaminated land

Prior to the appointment of a Principal Certifying Authority (PCA) a detailed site contamination investigation (DSI) must be undertaken by an independent appropriately qualified environmental consultant in order to provide information on land and ground water contamination and migration in relation to past and current activities and uses that may have occurred on the site. The detailed site contamination investigation must be undertaken in accordance with relevant NSW Environment Protection Authority guidelines.

(Option) Where the DSI states that the site is suitable for the proposed use, the DSI must be reviewed by a NSW EPA Accredited Site Auditor and a Site Audit Statement provided to Council which indicates that the site is suitable for the proposed land use. The Site audit Statement shall be submitted to Council.

Reason: To ensure health and safety.

17. C.15.EH - Evidence of disposal of all waste, spoil and excavation material

As soon as practicable after demolition is completed, documentary evidence detailing the destination of waste materials in accordance with the Waste Management Plan is to be submitted to the Principal Certifying Authority.

Reason: To ensure waste is managed in accordance with the approved Waste Management Plan.

18. C.16.EH - Construction waste management plan

Prior to the commencement of any demolition works on the subject site, a construction waste management plan (CWMP) must be prepared for the development by a suitably qualified person in consultation with the Council and be submitted for approval.

The CWMP must address, but not be limited to, the following matters:

- (i) Recycling of demolition materials including concrete;
- (ii) Removal of hazardous materials and disposal at an approved waste disposal facility in accordance with the requirements of the relevant legislation, codes, standards and guidelines, prior to the commencement of any building works;
- (iii) Details of methods to be used to prevent spill, escape of any dust, waste or spoil from the vehicles or trailers used to transport waste or excavation spoil from the site;
- (iv) Details demonstrating compliance with the relevant legislative requirements, associated with the removal of hazardous waste (if present), particularly the method of containment and control of emission of fibres to the air, must be submitted to the satisfaction of the Certifying Authority prior to the removal of any hazardous materials; and
- (v) Provide details of truck routes and make appropriate notifications as required to comply with current regulations. The Applicant must submit a copy of the CWMP for review to Council prior to the commencement of demolition work.

Reason: To promote resource recovery and environmental protection.

19. C.21.EH - Detailed site investigation

A Detailed Site Investigation (Contamination) (DSI) is to be carried out following demolition of the existing buildings/structures. The DSI shall provide information on land and ground water contamination and migration in relation to past and current activities

and uses that may have occurred on the site. Any recommendations for further investigations identified in the Preliminary Site Investigation are to be carried out as part of the DSI. The DSI is to provide recommendation on the need for any further targeted investigation(s) and/or site remediation (if deemed necessary).

The DSI and remedial action plan (if required) shall be undertaken/completed by a suitably qualified environmental consultant in accordance with relevant Acts/guidelines:

- (i) Contaminated Land Management Act 1977
- (ii) NEPC National Environment Protection (Assessment of Site Contamination) Measure 1999 (as amended 2013) (NEPC, 2013); and
- (iii) NSW EPA Guidelines for Consultants Reporting on Contaminated Land (NSW EPA, 2020).

A NSW Environmental Protection Authority (EPA) Accredited Site Auditor shall provide a Site Audit Statement at the completion of the demolition and earthworks (and after any further investigation and/or remediation works), i.e. prior to construction, and provide a Validation Certificate to confirm that:

- (i) Any remediation works have been undertaken in accordance with the relevant requirements;
- (ii) the site is suitable for its intended use; and
- (iii) that all works have been completed in accordance with SEPP 55 and the NSW EPA requirements for consultants reporting on contaminated sites.

Note:

Prior to any remediation works, a Site Environmental Management Plan (SEMP) must be prepared by a suitably qualified environmental consultant. The SEM shall include measures to address the following matters:

- (i) General site management, site security, barriers, traffic management and signage;
- (ii) Hazard identification and control;
- (iii) Worker health & safety, work zones and decontamination procedures;
- (iv) Prevention of cross contamination;
- (v) Appropriate site drainage, sediment controls, and if necessary dewatering;
- (vi) Air quality criteria to be implemented during remediation, in accordance with Part 8 of the WHS Regulation 2011;
- (vii) Air and water quality monitoring requirements;
- (viii) Air quality management measures for asbestos to protect on-site workers and the surrounding community during remediation, particularly in relation to dust mitigation;
- (ix) Site work responses to be implemented during remediation should environmental monitoring criteria be exceeded;
- (x) Storage, handling, classification, and disposal of hazardous wastes;
- (xi) contingency plans and incident reporting, including Health and Safety and environmental incident management;
- (xii) Details of provisions for monitoring implementation of remediation works and persons/consultants responsible (to include contact name and numbers);
- (xiii) Details for deliveries, parking and vehicular access to and from the site, ensuring adequate measure are in place to minimise environmental and neighbourhood disturbance;
- (xiv) Any other proposed preventative response procedures to manage the issue of public exposure to contaminants including but not limited to asbestos;
- (xv) Containment control zones; and
- (xvi) A copy of the Auditor approved Site Environment Management Plan is to be forwarded to Council prior to commencing remediation works.

Reason: To ensure that the site is suitable for its intended use.

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

Before the commencement of any site or demolition 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.

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

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

All demolition, building construction work, including earthworks, deliveries of building materials to and from the site to be restricted as follows:-

Monday to Friday (inclusive)	7.00am to 5.30pm
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High noise generating activities, including rock breaking and saw cutting be restricted between 8.00am to 5.00pm with a respite period between 12.00 noon to 1.30pm Monday to Friday

Saturday	8.00am to 12 noon
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Sunday and Public Holidays	No works permitted.
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with NO high noise generating activities, including excavation, haulage truck movement, rock picking, sawing, jack hammering or pile driving to be undertaken. Failure to fully comply will result in the issue of a breach of consent P.I.N.

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.

The principal certifier must ensure building work, demolition is not carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Note: Any variation to the hours of work requires Council's approval.

Reason: To protect the amenity of the surrounding area.

22. **Noise Control – Demolition Works** Noise must be minimised as far as practicable, by the selection of appropriate methods and equipment, and by the use of silencing devices where practicable.

Reason: Safety and Amenity

23. **Noise Level Restrictions – Demolition Works** Noise from demolition works must comply with the following criteria:

- a) For demolition periods of 4 weeks or less the noise level from demolition work must not exceed the background noise level by more than 20dB(A) when

- b) measured at the boundary of the worst affected premises in the vicinity; and
 For demolition periods greater than 4 weeks the noise level from demolition work must not exceed the background noise level by more than 10dB(A) when measured at the boundary of the worst affected premises in the vicinity.

Reason: Safety and Amenity

24. **Noise Monitoring** Noise monitoring must be carried out by a qualified acoustic consultant if complaints are received, or if directed by Council, and any control measures recommended by the acoustic consultant must be implemented during the demolition work.

Reason: Safety and Amenity

25. **E.4 - Implementation of the site management plans** While demolition 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.

26. **E.7 – Demolition noise**
 While work is being carried out, and where a noise and vibration management plan is approved under this consent, the applicant must ensure that any noise generated from the site is controlled in accordance with the requirements of that plan.

Reason: To protect the amenity of the neighbourhood.

27. **E.13 - Waste management**
 While demolition is being carried out, the principal certifier must be satisfied all waste management is undertaken in accordance with the approved waste management plan.

Upon disposal of waste, the applicant is to compile and provide records of the disposal to the principal certifier, detailing the following:

- (i) The contact details of the person(s) who removed the waste;
- (ii) The waste carrier vehicle registration;
- (iii) The date and time of waste collection;
- (iv) A description of the waste (type of waste and estimated quantity) and whether the waste is expected to be reused, recycled or go to landfill;
- (v) The address of the disposal location(s) where the waste was taken; and
- (vi) The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste.

Note: If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, the applicant is to maintain all records in relation to that Order or Exemption and provide the records to the principal certifier and Council.

Reason: To require records to be provided, during construction, documenting that waste is appropriately handled.

28. **E.17.E – Heavy vehicle requirements**
All contractors are to be notified of Council's requirements regarding truck cleanliness of vehicles leaving the site. A signed register of all notified contractors is to be kept. Failure to comply shall result in the contractor not being permitted re-entry to the site. All vehicles transporting soil material to and from the site shall be covered by a tarpaulin or similar material in accordance with the Protection of the Environment Operations (Waste) Regulation, 1996 (as amended). Any breach will result in a PIN being issued. A truck shaker ramp is to be provided at the construction exit point. Any sediment tracked onto any public roadway is to be cleared immediately.
- Reason:** To protect the environment.
29. **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.
30. **E.20.EH - Stockpiles**
Stockpiles of topsoil, sand, aggregate, spoil or other material capable of being moved by water to be stored clear of any drainage line, easement, natural watercourse, footpath, kerb or roadside.
- Reason:** To mitigate adverse environmental impacts on the surrounding area.
31. **E.22.EH - Environmental Impacts during construction**
The works shall not give rise to environmental pollution or public nuisance or, result in an offence under the Protection of the Environment Operations Act 1977 or the NSW Occupational Health and Safety Act (2000) & Regulations (2001).
- Reason:** To protect the environment.
32. **F.6 - Removal of waste upon completion**
Before final inspection/ final signoff, 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.
- Reason:** To ensure waste material is appropriately disposed or satisfactorily stored.
33. **F.11.EH - Compliance with acoustic report**
At completion of the demolition works and prior to the issue of a final inspection/ final signoff, a validation certificate is to be submitted to the Principal Certifier confirming that the development has been demolished in accordance with the acoustic report, and that the internal noise levels have been achieved.
- Reason:** To ensure adequate internal acoustic amenity.
34. **(A2) Materials on Roads and Footpaths:** Where the applicant requires the use of Council land for placement of building waste, skips or storing materials a "*Building waste containers or materials in a public place*" application form is to be lodged. Council land is not to be occupied or used for storage until such application is approved.

Reason: To ensure public safety and amenity

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

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

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

Reason: To ensure public safety

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

Reason: To maintain Council infrastructure

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

Reason: To protect, maintain and provide utility services

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

Reason: To ensure pedestrian access is maintained

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

Reason: To protect public infrastructure

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

Reason: To protect and maintain infrastructure assets

Engineering conditions to be complied with prior to the commencement of works

42. **(B1) Council Infrastructure Damage Bond:** The applicant shall lodge with Council a \$20000, cash bond or bank guarantee. The bond is to cover the repair of damage to Council's roads, footpaths, kerb and gutter, drainage or other assets because of the development. The bond will be released upon issuing of the final inspection. If Council determines that damage has occurred because of the development, the applicant will be required to repair the damage. Repairs are to be carried out within 14 days from the notice. All repairs are to be carried in accordance with Council's requirements. The full bond will be retained if Council's requirements are not satisfied. Lodgement of this bond is required **prior to the appointment of a Principal Certifying Authority (PCA).**

Reason: To protect and maintain public infrastructure

43. **(D5) Dilapidation Report:** The applicant is to provide a dilapidation report of all adjoining properties, roads and any of Council's and public infrastructure located within the zone of influence of the proposed excavation.

Dilapidation report must be conducted by a suitably qualified engineer **prior to the commencement of any demolition, excavation works.** The extent of the survey must cover the zone of influence that may arise due to excavation works, including dewatering and/or construction induced vibration. The Initial dilapidation report must be submitted to Principal Certifying Authority **prior to commencement works.** A second dilapidation report, recording structural conditions of all structures originally assessed prior to the commencement of works, must be carried out at the completion of the works and be submitted to Principle Certifying Authority **prior to issue of an final inspection.**

Reason: To provide a record of public and private infrastructure

44. **(D5) Dilapidation Report Stormwater:** The applicant is to provide a dilapidation report on the existing Council stormwater pipeline affecting this property.

The dilapidation report must be conducted by a suitably qualified person and a CCTV survey of the pipeline needs to be conducted. The Initial dilapidation report and CCTV footage must be submitted to Principal Certifying Authority **prior to commencement of works.**

A second dilapidation report, recording structural conditions of all structures originally assessed prior to the commencement of works, must be carried out at the completion of the works and be submitted to Principle Certifying Authority **prior to issue of a final inspection.**

Reason: To provide a record of Council's drainage infrastructure

45. **(H1) Road Dilapidation Survey:** The applicant is to prepare a dilapidation survey and a dilapidation report that includes details of the existing state of repair / condition of the road surface of **Mowbray Road West** and provide that survey and report to the Council prior to the commencement of works. Following completion of construction of the works and prior to the final inspection, the applicant is to cause to be prepared a second dilapidation survey and a dilapidation report that includes details of all changes and damage caused to the surface of the said public roads as a consequence truck movement associated with the construction of the development. The Council may apply funds from the security deposits paid in favour of this consent to meet the cost of making good any damage caused to the surface of the said public road as a consequence truck movement associated with the construction of the development to which the consent

relates.

The dilapidation surveys and reports must be prepared by an engineer registered with the Institute of Engineers (Australia).

Reason: To provide a record of Council's infrastructure and protect them

46. **(K4) Council Inspection Requirements:** The following items are to be inspected:

- (i) All footpath, kerb/gutter and landscaping works
- (ii) Any adjustment works in Council road reserve

Each item is to be inspected prior to the pouring of any concrete (formwork) and on completion of the construction. An initial site meeting is to be conducted with council and the contractor prior to the commencement of any of the above works to allow for discussion of Council construction / set out requirements.

An Inspection fee (\$205 for one inspection) is to be paid **prior to the commencement of works.**

Reason: To ensure completion of work satisfying Council

47. **(V6) Temporary Footpath Crossing:** A temporary footpath crossing must be provided at the Vehicular access points. It is to be 1.5m in width, made of sections of hardwood with chamfered ends and strapped with hoop iron.

Reason: To ensure safety vehicular movement to and from site

Engineering Conditions to be complied with prior to the commencement of demolition

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

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

Engineering condition to be complied during construction

49. **(H3) Heavy Vehicle Duty Employee and Truck Cleanliness:** The applicant shall:

- (i) Inform in writing all contractors of Council's requirements relating to truck cleanliness leaving the site;
- (ii) Keep a register of all contractors that have been notified, the register is to be signed by each contractor. The register must be available for access by Council officers at all times; and
- (iii) Place an employee within close proximity of the site exit during site operation hours to ensure that all outgoing heavy vehicles comply with Council's requirements. This employee shall liaise with heavy vehicle drivers and provide regular written updates to drivers on the conditions of entry to the subject site.

Those drivers who have been determined to continually not comply with Council's requirements, either by the developer or authorised Council officers, shall not be permitted re-entry into the site for the duration of the project.

Reason: To protect the environment

50. **(H5) Covering Heavy Vehicle Loads:** All vehicles transporting soil material to or from the subject site shall ensure that the entire load is covered by means of a tarpaulin or similar material. The vehicle driver shall be responsible for ensuring that dust or dirt particles are not deposited onto the roadway during transit. It is a requirement under the Protection of the Environment Operations (Waste) Regulation, 1996 to ensure that all loads are adequately covered, and this shall be strictly enforced by Council's ordinance inspectors. Any breach of this legislation is subject to a "*Penalty Infringement Notice*" being issued to the drivers of those vehicles not in compliance with the regulations.

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

51. **(H4) Truck Shaker:** A truck shaker ramp must be provided at the construction exit point. Fences are to be erected to ensure vehicles cannot bypass the truck shaker. Sediment tracked onto the public roadway by vehicles leaving the subject site is to be swept up immediately.

Reason: To protect the environment

Engineering condition to be complied with prior to final inspection

52. **(D6) Certification of Retaining Structures and Excavations:** A suitably qualified engineer shall provide certification to the principal certifying authority that all retaining structures and excavations have been carried out in accordance with the relevant Australian Standards and Codes of Practice.

The certification and a complete record of inspections, testing and monitoring (with certifications) must be submitted to the principal certifying authority **prior to the final inspection.**

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

Transport for NSW Conditions TfNSW has reviewed the application and whilst raises no objections, recommends that the following requirements are included in any determination issued by Council:

53. A Demolition Pedestrian Traffic Management Plan (DPTMP) should be submitted to Council for assessment. The DPTMP needs to include, but not be limited to, the following: construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control, taking into consideration the cumulative traffic impacts of other developments in the area.

Reason: TfNSW condition.

54. All demolition vehicles are to be contained wholly within the site and vehicles must enter the site before stopping.

Reason: TfNSW condition.

55. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre (TMC) for any works that may impact on traffic flows on Epping Road and Mowbray during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.

Reason: TfNSW condition.

Bushland Conditions

56. Rubbish/waste material must be stored in a locked container/cage. Any building rubbish/waste material that is not contained must be cleaned up immediately, including the immediate worksite, surrounding area and/or public open space.

Reason: To avoid illegal dumping in bushland. To avoid wildlife access to rubbish and foreign materials. To minimise likelihood of chemical spills, building waste and foreign materials from entering bushland.

57. There shall be no access through the adjacent park/reserve to carry out any demolition/building works, storage of materials, storage of soil or storage of rubbish during demolition.

Reason: In compliance to DCP part H.1 Objectives: 1. To protect both public and private bushland from adjacent development which could result in any adverse change to the condition of bushland through altered moisture conditions, increased nutrient levels, soil movement, invasive or inappropriate plant species and proximity of development.

58. During demolition the designated environmental/bushland area within the property and adjacent public bushland area must be kept clean of all building materials and rubbish. Any rubbish that is blown into these areas must be immediately cleaned up.

Reason: To avoid any foreign material from entering bushland.

59. In the event that there occurs any accidental or intentional dumping of building material in the bushland area, Council's *Coordinator of Bushland* must be notified immediately. Any clean-up operation which involves disturbing the vegetation, leaf litter, soil crust, or natural bedrock, must be coordinated through Council's *Coordinator Bushland*.

Reason: To ensure the correct course of action is taken for clean-up of environmentally sensitive areas and reported to the relevant authoritative bodies.

60. All Aboriginal sites and relics in NSW are protected under the *National Parks and Wildlife Act 1974*. If during the course of construction an Aboriginal site or relic is uncovered, works must cease and the *Metropolitan Local Aboriginal Lands Council* and the *NSW National Parks and Wildlife Service* must be notified immediately.

Reason: In compliance with:

- (i) National Parks and Wildlife Act 1974 to report any Aboriginal site or relic uncovered during course of construction;
- (ii) Bushland plan of management 4.1.2 5) To protect and manage the aesthetic, Aboriginal, archaeological, historical, scientific and social values of bushland for past, present and future generations; and
- (iii) Bushland plan of management 4.1.3 22) Follow the recommendations of the Aboriginal Heritage Management Report when working around Aboriginal sites.

TREE PRESERVATION CONDITIONS

61. Lane Cove Council regulates the Preservation of Trees and Vegetation in the Lane Cove

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

Reason: To protect the natural environment.

62. A tree protection plan (TPP) and work method statement for all retained trees on or adjacent to the is to be submitted prior to the commencement of works. Protection specifications are to be made for each tree with reference to AS4970-2009 and appropriate to the site constraints.

Reason: To protect the natural environment.

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

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

Mark Brisby
Executive Manager
Environmental Services Division

ATTACHMENTS:

There are no supporting documents for this report.