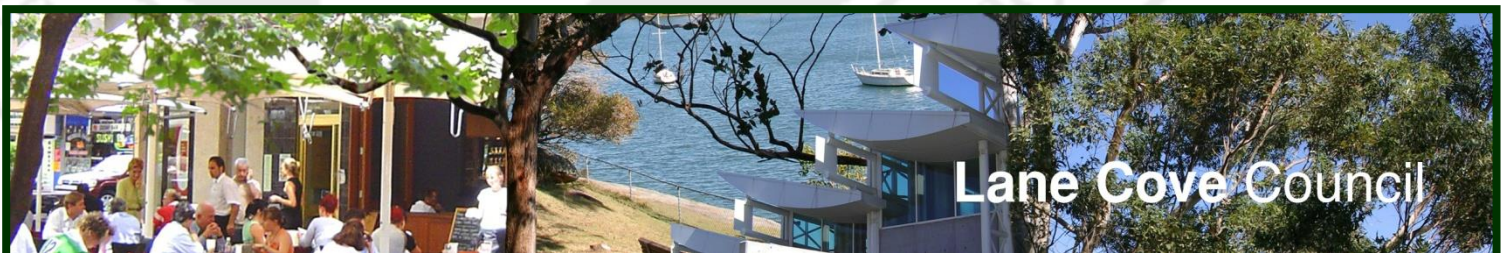


Agenda
Lane Cove Local Planning Panel Meeting
1 November 2022,



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

Yours faithfully



Craig Wrightson
General Manager

Lane Cove Local Planning Panel Meeting Procedures

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

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

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

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

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

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

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

DECLARATIONS OF INTEREST

APOLOGIES

NOTICE OF WEBCASTING OF MEETING

LANE COVE LOCAL PLANNING PANEL REPORTS

- 2. 6 FORD STREET, GREENWICH 4**
- 3. S8.2 REVIEW OF MULTI-DWELLING HOUSING DEVELOPMENT AT 21 - 25
AUSTIN STREET LANE COVE..... 27**

Lane Cove Local Planning Panel Meeting 01 November 2022
6 FORD STREET, GREENWICH

Subject: 6 Ford Street, Greenwich
Record No: DA21/157-01 - 59428/22
Division: Environmental Services Division
Author(s): Greg Samardzic

Property:	6 Ford Street, Greenwich
DA No:	DA157/2021
Date Lodged:	1 August 2022
Cost of Work:	Unchanged from original - \$1,200,000.00
Owner:	C Satterthwaite and B Firth
Applicant:	Clare Satterthwaite

Description of the proposal to appear on determination	Section 4.55(1A) modification to an approved alterations and additions to an existing heritage dwelling house
Zone	R2 Low Density Residential
Is the proposal permissible within the zone	Yes
Is the property a heritage item	Yes – satisfactory impacts
Is the property within a conservation area	No
Is the property adjacent to bushland	No
BCA Classification	Class 1a and 10b
Stop the Clock used	No
Notification	The proposal was notified as per Council's policy. A total of 10 unique submissions were received.

REASON FOR REFERRAL

The modification application is referred to the Lane Cove Local Planning Panel as 10 public submissions were received by way of objection as a result of the notification period and the subject proposal is proposing to amend an approved roof/parapet line RL level of the new rear addition originally approved by the Lane Cove Local Planning Panel.

EXECUTIVE SUMMARY

The Section 4.55(1A) Modification Application is to modify the approved alterations and additions to an existing heritage dwelling house at No. 6 Ford Street, Greenwich. The approved works included internal and external alterations to the dwelling and the rear addition of a garage, two storey addition and swimming pool. The proposal is to amend an approved roof/parapet line RL level of 41.540 originally approved by the Lane Cove Local Planning Panel to a RL level of 41.820 of the rear addition in order to increase the floor to ceiling heights from 2.4m to 2.7m.

The Modification Application has been assessed against Sections 4.15 and 4.55 of the Environmental Planning and Assessment Act, 1979. The proposal continues to comply with the building height and floor space ratio development standards contained within Lane Cove Local Environmental Plan 2009. The proposal also continues to comply with the provisions of Lane Cove Development Control Plan 2009.

The application was notified on two occasions in accordance with Council policy and 10 submissions were received by way of objection. The principal matters raised in the submissions received relate to view sharing, the adverse impacts that would occur onto No. 4 Ford Street and the appropriateness of the development on the subject site and the immediate locality. The submissions are summarised and addressed in this report.

The application required an assessment of the view sharing between No. 6 Ford Street, Greenwich (subject site) and No. 4 Ford Street, Greenwich as the original application was referred to the panel primarily for this reason in the first instance. The view sharing assessment has been summarised in the report and Council's position detailed. It is considered that the view sharing principles in *Tenacity* would be still be achieved with the minor increase in the roof/parapet level for the reason that the loss in view would be negligible while vastly improving the internal amenity of the residents on the subject site.

The Development Application is referred to the Lane Cove Local Planning Panel with a recommendation for approval subject to amending relevant conditions of consent to reflect the updated proposed modifications.

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

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.

PREVIOUS APPROVALS/HISTORY

Development Application No. 157/2021 for alterations and additions to an existing heritage dwelling house on the subject site was approved by the Lane Cove Planning Panel at its meeting on 5 April 2022 resolved:

DETERMINATION

PART A – DEFERRED COMMENCEMENT CONDITION

That pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act, 1979, as amended, 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 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 eastern wall of the living room 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); the 1 metre setback to the remainder of the wall is to ensure that the window of the heritage building is retained.*
 - b. *A flat roof design is to be provided to the proposed two storey addition, attached to, and south of the proposed garage; the maximum finished roof level shall be at RL41.54.*
 - 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 boundary 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.

The deferred commencement consent was issued to the applicant on 12 April 2022.

The applicant submitted amended plans where the amendments are noted below. Council was satisfied that the amended plans met the requirements of the deferred commencement conditions and Council comments are indicated below in how they were met as follows:

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 eastern wall of the living room 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); the 1 metre setback to the remainder of the wall is to ensure that the window of the heritage building is retained.*

Comment: The proposed rear living had been setback 1.5m from the eastern boundary.

- b. *A flat roof design is to be provided to the proposed two storey addition, attached to, and south of the proposed garage; the maximum finished roof level shall be at RL41.54.*

Comment: A flat roof had been provided to the proposed two-story addition which originally included a high-pitched roof design. The finished roof level was less than that specified being RL 41.54 which is at RL 41.52.

- 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*

Comment: The fill had been minimised where it was indicated on the plans that the proposed planter (in grey) wall would not be higher than the existing retained wall (in black).

- d. *The secondary boundary 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.*

Comment: The plans indicated that the height of the retaining wall would not be more than 1.8m. The existing retaining wall on Council land was indicated for demolition. The proposed wall would be within the subject property.

The operative consent was issued by Council on 12 May 2022.

PROPOSAL

The proposal is to amend an approved roof/parapet line RL level of 41.540 originally approved by the Lane Cove Local Planning Panel to a RL level of 41.820 of the rear addition in order to increase the floor to ceiling heights from 2.4m to 2.7m. It is noted that the approved plans indicate a maximum RL of 41.520 (refer to **Attachments 1 & 2** for the stamped approved plans and proposed modifications plans respectively which would clearly provide a clear comparison between the approval and the proposed amendments).

The main justification for the proposed increase of 280mm in the maximum roof height of the rear extension would be to allow for a living space ceiling height of 2.7m compared to the approved 2.4m floor to ceiling height for the main living/dining/kitchen space area which was discovered subsequently to approval by the applicant and in the process of preparing the relevant Construction Certificate documentation.

The applicant has stated that a 2.4m ceiling height is considered unacceptable on several grounds:

1. Under SEPP 65 the minimum ceiling height for living areas is 2.7m.
2. The proportions of the space.
3. Thermal conditions in summer.

The applicant stated that while there is no standard for a minimum ceiling in class 1 dwellings

other than 2.4m under the BCA, it is entirely reasonable to maintain that the SEPP 65 standard for residential apartments which can or ought to be considered applicable to a private dwelling. There was no opportunity at the meeting of the panel to discuss the implication of the height limit imposed. The structural engineer has determined that the approved framed roof structure with metal roofing and box gutter would result in a ceiling height lower than 2.4m and therefore a concrete roof structure is proposed. The submitted wall section drawings incorporate and reflect the structural engineering input. The resultant depth of the roof element is as follows:

- parapet/flashings/gravel containment: 100mm.
- gravel ballast: 50mm.
- Insulation: 50mm.
- falls to rainwater outlets @ 2% 100mm • minimum concrete slab thickness: 200mm.
- ceiling/service/lighting zone: 100mm.
- TOTAL HEIGHT: 600mm.

By way of background, the applicant also stated that during the original DA assessment process, Council recommended reducing the roof height by limiting ceiling heights at level 1 to 2.4m and level 2 (L2) to 2.7m. At that time, Council may have assumed that the living floor level L2 could be lowered however the applicant explained that lowering L2 would reasonably result in lowering the terrace and that doing so would obstruct access to the garage to less than the minimum standard of 2.2m due to the levels of the road and boundary at that point. Design of the driveway section prepared has proved this to be the case. There is at most a 50mm tolerance which is minimal in the case of ground level survey and construction tolerances.

According to the applicant, Council appeared to have acknowledged the constraints around this issue and did not include the change of floor level strategy in its report to the Panel. It is worth noting however that acknowledgement was made in the early suggestion that a 2.7m ceiling height is appropriate in the living area. In consideration of the above, it is requested that an increase of 280mm in the maximum roof height from RL41.54 to RL 41.82 be supported.

Further, the applicant has submitted a view analysis which has indicated that the impact of the increased height on the views from No. 4 Ford Street is practically imperceptible.

Other minor amendments include altering the sub-floor area to install doors to allow for services to be located within there and to the eastern elevation of the rear addition to include battens to soften the appearance of the extension.

SECTION 4.55 ASSESSMENT

1. Compliance with Section 4.55(1A) & (3) of the EP&A Act, 1979

Under the provisions of Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979, Council may, in response to an application, modify a consent granted if the development, as modified, is substantially the same development as originally approved and involves a minor environmental impact.

To be discussed in more detail later in this report, it is considered that the proposed modification as submitted is 'substantially the same development' and would involve minor environmental impacts where the proposed modifications have demonstrated that it would improve the overall functionality or internal amenity of the development for future residents while maintaining the objectives to complying amenity, view sharing, privacy and overshadowing levels to surrounding developments in particular onto No. 4 Ford Street.

Section 4.55(3) requires Council to consider any reasons given by the consent authority for the granting of the original consent. The reasons provided within the abovementioned resolution of the Lane Cove Local Planning Panel were as follows:

The Panel supports the findings contained in the Assessment Report and endorses the reasons for the approval contained in that Report.
The decision of the Panel was unanimous.

By way of background, the original Council report recommended a deferred commencement approval subject to a flat roofed design however it did not include a RL level however the panel restricted the level to a maximum RL level of 41.54. This level was established to better ensure that the principles of view sharing are achieved and to reduce the visual bulk of the original pitched roof design of the rear extension. Part of the conclusion in the original report included the following commentary as follows:

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 proposed modifications which are now proposed under the subject Section 4.55 Modification Application are supported based on the reasons within the agenda report and resolution by the panel. The slight increase in height to allow for increased floor to ceiling heights would achieve a better planning outcome by improving the overall functionality or internal amenity of the development whilst maintaining relevant view sharing principles and amenity objectives to surrounding developments.

2. Compliance with Section 4.15 of the EP&A Act, 1979

Section 4.15(1) Matters for Consideration

(a) The provisions of

(i) Any environmental planning instrument

Lane Cove Local Environmental Plan (LEP) 2009

Development Standards

The proposal has been assessed against the applicable development standards as detailed in **Table 1** below.

Table 1 – LCLEP 2009 - Development Standards			
Standard	Required (Max.)	Proposed	Compliance
Height of Building	9.5m	Approved: Max. 9.3m Modified height at the rear extension addition: Max. 7m	Yes
Floor Space Ratio	0.6:1	0.598:1 (288.94m ² on a site area of 483m ²) – approved and unchanged under the subject application	N/A

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Other Provisions

The proposal has been assessed against the following additional provisions of LCLEP 2009 as detailed in **Table 2** below.

Table 2 – 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 amended proposed design:</p> <p><i>There are no objections to the proposal as it is complementary with the heritage item.</i></p> <p>Given the above no objection is raised, compliance with the clause is achieved.</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><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</i></p>	Satisfactory as no further excavation is proposed under the subject application.	Yes

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	<p><i>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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SEPP (Building Sustainability Index) 2004

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

SEPP (Biodiversity and Conservation) 2021

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

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.

(ii) Any proposed instrument (Draft SEPP, LEP, Planning Proposal)

Not applicable.

(iii) Any development control plan

Lane Cove DCP 2010

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

Table 3 -Table of Compliance – LCDCP 2009			
Control	Requirement	Proposed	Compliance
Front setback (min)	7.5m	Approved 7.5m – unchanged with proposed modification	Yes
Secondary setback (min)	2.0m	Approved - 2.0m (new structure) – unchanged with proposed modification	Yes
Side setback (min)	1.5m	Approved 1.5m – unchanged with proposed modification	Yes

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Table 3 -Table of Compliance – LCDCP 2009			
Control	Requirement	Proposed	Compliance
Rear setback (min)	25% (9.9m)	Approved 10m – unchanged	Yes
Wall Height (max)	7.0m	Approved 6.6m Modified wall height at the rear extension: Max. 6.4m	Yes
Maximum Ridge height	9.5m	Approved: Max. 9.3m Modified height at the rear extension addition: Max. 7m	Yes
Subfloor height (max)	1m	Unchanged with proposed modification	N/A
Number of Storeys (max)	2	2	Yes
Landscaped area (min)	35% (min. 1m width)	Approved 35.01% - unchanged with proposed modification	Yes
Cut and Fill (max)	1m	Amended to comply under the original stamped plans – unchanged under the subject application	Yes
Solar Access	3 hrs	Achieved	Yes
View sharing	Provide for view sharing	See assessment in below in this report.	Yes
Heritage Conservation	See Part B.9 of the DCP	Part B.9 satisfied.	Yes
Deck/Balcony depth	3m	Approved 6.72m – unchanged with proposed modification	No, however approved and found to be 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 – unchanged with	Yes

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Table 3 -Table of Compliance – LCDCP 2009			
Control	Requirement	Proposed	Compliance
		proposed modification	
Basix	Required	Provided	Yes
Car Parking			
Off-street spaces (min)	2	Approved: 2 – unchanged with proposed modification	Yes
Driveway width	Generally 3m at the lot boundary	Approved: 4.8m - unchanged with proposed modification	Yes – approved and found to be reasonable given secondary setback distance allows for minimal narrowing of driveway.
Setback of Carport Posts (min)	1m from street boundary	Approved: 3.015m to garage door line – unchanged with proposed modification	Yes
% of Allotment Width (garages & carports)	50% of lot width or 6m (lesser)	Provided – unchanged with proposed modification	Yes
Swimming Pools and Fences			
Setback to Neighbour's House	3m to waterline	Approved: 3m to waterline – unchanged with proposed modification	Yes
Setback to boundary (min)	1m to waterline	Approved: 1.5m to waterline – unchanged with proposed modification	Yes
Height (max) (steeply sloping sites)	1.0m	Approved 600mm – unchanged with proposed modification	Yes
Secondary frontage fence	1.8m	Approved 1.8m – unchanged with proposed modification	

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 and visited No. 4 Ford Street, Greenwich and have reviewed the applicant's original view sharing assessment (refer to **Attachment 3** – the original report to the Lane Cove Planning Panel). As part of the subject application, the applicant has provided the following updated view sharing visual assessment below and provided the following conclusion:

The following view analysis indicates that the impact of the increased height on the views from No. 4 Ford Street is practically imperceptible.



Figure 4 - DA Approved from Ground Level Balcony of No. 4 Ford Street



Figure 5 - Section 4.55 Proposed from Ground Level Balcony of No. 4 Ford Street



Figure 6 - DA Approved from Upper Level Balcony of No. 4 Ford Street



Figure 7 - Section 4.55 Proposed from Upper Level Balcony of No. 4 Ford Street



Figure 8 – View from Upper Level Balcony of No. 4 Ford Street (Red Line above the DA Approval shows the Area of View Affected by the Height Increase)

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 4** 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 (e.g. 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, e.g. 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 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 within the original report. The view from the first-floor bedroom is panoramic to the south and west. A summary of the view is provided in also provided within the original report.
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. Under the original application, it was found that retention of the ground level view would be extremely difficult given the complying nature of the approved and proposed building envelopes.
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 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>	Under the original application, the extent of the impact was found to be severe at the ground level with 100% loss in some locations. It was weighed against the lower quality view from the lower level, though from a more primary room (the living room). The view loss to the first floor was found to be closer to 20% and while from a bedroom, given the extent of impact to the ground floor view, consideration was given to enhancing the view in this location. Under the subject application, there would be no further view loss from the ground level and only further negligible water view loss would occur.
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</i>	The proposal as amended continues to comply with the building height and side/rear 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 the adjoining neighbour. In this instance, the applicant's architect has confirmed that there is no other reasonable architectural solution available under

<p><i>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 circumstances to reduce the overall height and to have the proposed 2.7m ceiling height. The solution put forward requires the proposed width of the parapet to meet the following requirements:</p> <ol style="list-style-type: none"> 1. minimum ground clearance and head height to the garage 2. minimum structural depth and falls of the terrace 3. minimum flashing clearance at the doors to the terrace 4. allowance for insulation under the perimeter of the roof slab to guard against condensation 5. allowance for recessed downlights 6. minimum structural depth and drainage gradients of the roof 7. minimum above slab insulation to satisfy BCA 8. allowance for over flashing of the roof waterproof membrane. <p>Any deviation from the minimums outlined above would place the build at risk of possible failures. A concrete roof solution was arrived at because a steel framed roof with box gutter would require even more height. Such a design would require careful consideration of the relationship between the addition and the heritage building. According to the applicant's architect, the proposal as amended is simpler and better than, say, an exposed sloping roof with eaves gutter option.</p> <p>Given the resultant height of the approved terrace, it is not considered acceptable to lower the living room below the level of the terrace.</p>
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Based on the applicant's view assessment, it would be reasonable under *Tenacity* to support approval of the subject application in this instance.

(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 as amended have been considered and addressed. The impacts to the natural and built environments, social and economic or amenity of the locality are considered reasonable and anticipated for a low-density residential development.

(c) 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.

(d) Any submissions made in accordance with this Act or the regulations

In accordance with Council's notification policy, owners of surrounding properties were given notice of the application and 10 submissions was received by way objections from Nos. 64 Carlotta Street, 30 Robertson Street and 4 Ford Street. Several submissions included no addresses and one address from Mosman. There were several submissions that were written in or on behalf of No. 4 Ford Street including a submission from an architect and a town planning consultant. The concerns mainly relate to view sharing, the adverse impacts that would occur onto No. 4 Ford Street and the appropriateness of the development on the subject site and the immediate locality. The following issues were raised as follows:

Concern	Comment
The determination was extremely disappointing. Approval of the 6.72m open terrace against a control of 3m allowed the addition to extend further south in the block and essentially close off the viewing corridor which was at the heart of our objections.	Terrace issue already assessed and approved by LCLPP.
It was our understanding, from the determination given at the meeting that the whole of the 1st floor level would be set back to 1.5m from our boundary. No exception was expressed that would exclude the eastern walkway, which is adjacent to our deck, from this setback ruling.	Council assessed the 1.5m setback to the Level 2 living area as complying with the deferred commencement conditions.
The current Section 4.55 modification application seeks approval for an added roof height of 280mm. This adds further gravity to our preceding concerns over bulk and scale and loss of amenity including, most importantly loss of sunlight and shadowing of our home, pool and garden.	The proposed increase in height does not cause any significant adverse shadow impacts to No. 4 Ford Street (refer to Attachment 2). Considering the proportion of the available sky, the effect on light will be imperceptible.
The proposal diminishes the amenity of the residents of No. 4 Ford Street in terms of bulk and scale and overshadowing from a development that is already highly intrusive as it extends, at first floor level, beyond the general rear alignment of buildings on the southern side of Ford Street.	The change from a pitched roof to the flat roof together with the additional setback at Level 2 achieved a substantial reduction in bulk and scale. The raising the parapet still constitutes a substantial reduction in bulk and scale and does not significantly undermine the objectives of the LEP/DCP. The proposal complies with the LEP and DCP in all

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Concern	Comment
<p>An increase of 280mm will add to the visual mass as viewed from the frequently used deck of No. 4 Ford Street and will further diminish their enjoyment of the space. It will also further diminish what is now a piecemeal view from the first-floor balcony.</p>	<p>matters relating to bulk, height and overshadowing.</p> <ul style="list-style-type: none"> • Rear alignment complies with the setback requirement. • Maximum height is well below the 9.5m allowance. • Maximum parapet height is well below the 7.6m allowance • The maximum wall height at the link is well below the 7m allowance. • Minimum 3 hours of sunshine between 9am and pm on June 21 is achieved to adjoining properties. <p>Whilst the increase would add to the visual mass, the additional height would be negligible in the overall scheme when compared to the bulk and scale of the original approval.</p>
<p>It also impacts No. 2 Ellison Lane.</p>	<p>The proposed height increase will not significantly adversely affect access to sunlight to this property (refer to Attachment 2).</p>
<p>Surrounding homes in the tight pocket of Ellison Lane and Robertson Street will also be impacted by the double garage driveway, traffic obstruction and visibility of vehicles at the corner of Ellison Lane and Ford Street.</p>	<p>Issue already assessed and approved by LCLPP</p>
<p>When delivering the determination of the set height limit, the chairman...said that the panel understood that this would obliterate our views from the ground floor living area. Even marginal modifications to the DA would not be consistent with the Planning Panel's reason for their decision.</p> <p>It is not open to the consent authority to allow such a view degradation without carrying out a completely new view impact assessment.</p> <p>If any such new view impact assessment was carried out, in assessing the reasonableness of the proposal it would have to be recognised that it is based on the achievement of a standard concerning the floor to ceiling height of the living area that is not required to be achieved for a class 1a dwelling, in a dwelling house that has other living areas providing a range of living possibilities.</p> <p>On balance, the desire of the applicant for a greater than compliant living area floor to ceiling height must not justify degradation of a critically important view to the residents of No. 4 Ford Street.</p>	<p>The effect on the view from No. 4 Ford Street Level 1 balcony has been assessed and approved by the Panel. The minor increase in height will not affect views from the ground floor level of No. 4 Ford Street. This was clearly demonstrated in the applicant updated view assessment.</p> <p>The applicant seeks to achieve a ceiling height that is appropriate for the everyday use of the main living/dining/kitchen area and is in proportion to the length and width of the space and will contribute to comfort.</p>

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Concern	Comment
<p>We object to the repeated assertion ...that the added height sought under the Section Modification 4.55 Application, is “practically imperceptible”.</p> <p>The view impacts of the proposed increase in height are not minor or indiscernible as the proponent claims. In the case of the water views, the actual amount of water seen is a small proportion of the viewer’s field of vision so that a 300mm encroachment into that view is substantial.</p> <p>The proponent’s visual estimation of impacts shows a loss of actual water viewed and of vegetation that frames the view.</p> <p>The proponent states that the changes to the roof are necessary for the maintenance of a 2700mm floor to ceiling height for the living area and that a 2700mm floor to ceiling height. The proponent states that those changes are acceptable because of there being a minimal impact on views. Those arguments in favour of the proposal are not demonstrated to be well-founded.</p>	<p>Comparison of the views provided from Level 2 balcony would support the assertion that the impact on water views is so small as to be negligible. The updated view analysis provided above is very clear in quantifying the proposed impact on views.</p>
<p>There is added room space labelled “sub floor under the existing heritage home. There is very little detail given however, doors leading to and from the garage to this area as well as a strip drain edging would suggest plans for a fit out now or in the future. This would have implications for the floor space ratio...serious concerns with the more extensive excavations that would be required if this application was to be approved.</p>	<p>The sub-floor space is as existing and no habitable use for this space is proposed that would count as GFA. The area will be used for an air conditioning fan coil unit will be housed in the space for efficiency in ductwork.</p> <p>Sub floor access is also required for termite inspection. No additional excavation will be required or carried out. Strip drain is proposed in the cavity between the existing stone wall and the new block wall supporting the building over. The drain is necessary to protect against seepage from the uphill side of the new work.</p>
<p>Increase of kitchen area by 80mm south, thus increasing the total size of the building and decreasing the outdoor area.</p>	<p>No change is proposed under the subject application.</p>
<p>Pool is moved closer to the eastern boundary to us by 395mm.</p>	<p>Assessed and approved in DA stamped plans</p>
<p>Increased height of level 3 by 40mm.</p>	<p>The increase is required for structural reasons and has no effect on the exterior of the existing building or the new dormers as approved. The modification therefore has no impact on adjoining properties.</p>
<p>Shutters removed from the eastern wall where it was originally placed there to soften the fibre cement wall facing our deck.</p> <p>It is unclear whether there is proposed to be</p>	<p>It is assumed here that the statement is referring to the shutters proposed over window (w2.2) in the original DA documents. Window (w2.2) was subsequently deleted from the stamped approved plans.</p>

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Concern	Comment
a change to the materials or openings within the eastern side of the living room wall. The approved plans indicating rendered cladding there whilst the submitted drawings indicate timber battening which might be indicative of a window now being proposed there.	The subject application proposes timber battened cladding to the east end of the living room which will be more effective in softening and modulating the wall than the shutters proposed in the original DA submission. No opening is proposed in the eastern side of the living room wall. .
It is our view that these and any other changes proposed beyond what has been clouded, should be withdrawn from the application and not be considered.	As these very minor modifications listed above are included in the stamped plans, it is unreasonable and unnecessary to call for their removal.
Air conditioning unit on the eastern wall would face one of our bedrooms. Due to noise considerations, we request that the unit be relocated to the western wall that does not share a boundary with any neighbour. It is unclear whether there is proposed to be the new provision of an air conditioning unit under the walkway adjacent to the eastern side boundary.	The installation will be required to comply with the DCP Part C 1.8.2(d). If the installer is unable to meet that requirement, then a complying solution will be carried out.
Privacy from (we5) window on the eastern wall of existing home and this was raised in our previous submission and has not been acknowledged. DA09 of the plans shows the brick infill of two existing openings on that wall, but it is WE5 that is the most pertinent to ensuring privacy for both dwellings. We request that this window also be infilled, relocated or fitted with opaque glass to block visibility.	Window (we5) provides a downward view to a window in the lower ground level of No. 4 Ford Street. The applicant proposes to address this concern by including fixed shutters on the inside of the window to obstruct downward vision and it is recommended that this be conditioned.
Separate to this we also had requested that the double dormer windows overlooking our front courtyard be fitted with opaque glass for privacy.	Window (w3.1) is a high-level window within the stair well. It does not provide a view to any openings in No. 4 Ford Street or to the front courtyard. Window (w3.2) does provide a view to the courtyard. The applicant proposes to address this concern by including fixed shutters on the inside of the window to provide the privacy requested and it is recommended that this also be conditioned.
The reference to SEPP 65 is a guide only for residential apartments. It is unreasonable to use SEPP 65 to justify the extra visual mass the amendment will create when viewed from No. 4 Ford Street. The applicant's statement "it is entirely reasonable to maintain that the SEPP65 standard for residential apartments can be considered applicable to a private dwelling" is subjective and reasonable only to the applicant.	The value of the 2.7m ceiling height design would provide for substantial improvement in quality and comfort for future residents whilst not involving significant adverse off-site impacts.

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Concern	Comment
It is not appropriate for the consent authority to take into consideration the Apartment Design Guide because it is not applicable to the proposal.	
It is unclear whether the enclosing material for the eastern side of the garage is changing from heavy material to a lightweight material	There is no proposed change to the material. It remains as load bearing masonry however extended 1.2m to the north for structural support.
The proposed modifications will increase the impacts of the proposal on the upper level views from the rear first floor level balcony at No. 4 Ford Street.	The comparison of views from the upper balcony indicates minimal view impacts.
The proposed modification will result in the parapet being only 260mm lower than the gutter of the heritage-significant fabric, compared to the approved difference of 560mm. The proposal will therefore reduce the subservience of the proposed development in relation to the significant fabric and will increase the heritage impacts of the proposal.	The proposal as amended remains subservient when viewed in relation to the significantly larger bulk and height of the existing building. The original DA submission with a pitched roof was more dominant than the current proposal and no objections are raised from Council's heritage consultant. The height difference at the link remains unchanged.
The publicly available information does not allow a full comparison to be made of the approved drawings to the proposed modifications. Any modifications other than those described in the applicant's written statement accompanying the Section 4.55 application should not be approved and the consent authority must ensure that any approved plans emanating from the present application do not include any other changes that have not been described in writing and presented to neighbours so that the changes can be assessed.	Objectors have demonstrated their awareness of the minor modifications involved and their issues have been addressed in this report.
<p>In relation to the feasibility of maintaining a 2700mm floor to ceiling height, the proponent has not demonstrated that the garage level must be maintained at RL35.6. The garage door is approved as being set back 3030mm from Ellison Lane. It is not evident why that is an insufficient distance to achieve a fall.</p> <p>It is also not evident why the levels within the driveway crossing of the Ellison Lane nature strip could not be adjusted to achieve a lower garage floor level. Such a lower garage floor level would allow the whole structure to be lowered. Insufficient evidence is provided in the supporting submission to demonstrate that all available options have been exercised to achieve the approved parapet level whilst providing a</p>	<p>This issue already assessed and approved by LCLPP.</p> <p>Any alteration to the footpath levels is not supported.</p>

Concern	Comment
2700mm floor to ceiling height.	
Even if a 2700mm floor to ceiling height cannot be achieved for the approved living room, that floor to ceiling height is unnecessary as a 2400mm floor to ceiling height complies with the Building Code of Australia.	<p>This is an argument where strict application of the minimum 2.4m ceiling height standard in the BCA would suppress good quality space and comfort for the future occupants. The proposal is well within the applicable LEP and DCP height limits. If a concession for non-compliance on height was being sought, then it would be appropriate in that case to refer to the minimum under the BCA.</p> <p>The area of view affected by the increase in height is approximately 3.56% of all land and water features i.e. excluding the sky which would be an insignificant amount.</p>
<p>The context of the proposed living room is that it is being proposed within an area of the site where view retention is of paramount importance. The expectations of the owners and other users of the proposed living room must be adjusted in recognition of that constraint.</p> <p>Where there are known constraints, a reduced standard can be supported. In any case, a 2400mm floor to ceiling height is an accepted standard for habitable rooms within Class 1a structures</p>	The impacts on view is insignificant and does not justify refusal of the subject application in this instance. It is considered that 2.4m ceiling heights are rarely adopted now and 2.7m ceiling are much more common.
The future residents will have use of the principal part of the dwelling house which would have higher floor to ceiling heights. Their mode of use of the different parts of the dwelling house will be adjusted to suit the character of each space and the outcome for the applicant is reasonable on balance.	To provide for open plan family living within the existing heritage building would require significant modifications that would degrade the building. This is the reason the main living/dining/kitchen facilities are housed within the new structure. The applicant has attempted to minimise alterations and associated impacts to the heritage component of the building.

(e) Any submissions made in accordance with this Act or the regulations

Having regard to the assessment contained in this report, it is considered that approval of the development as amended would not be contrary to the public interest.

CONCLUSION

The Section 4.55 Modification Application has been assessed against the relevant provisions of the Environmental Planning and Assessment Act, 1979. The proposal as amended is still compliant with LCLEP 2009 in relation to the maximum building height and floor space ratio development standards. The proposal as amended is again subject to specific view sharing considerations given the potential impact on No. 4 Ford Street, Greenwich.

The subject application is also subject to an updated view sharing assessment which concludes that the increase in the roof height by 300mm would result in negligible water view loss when compared to the original approval and it is considered that the principles of view sharing are still achieved while vastly improving the internal amenity of the residents on the subject site. The

applicant's architect has confirmed that there is no other reasonable architectural solution is available under the circumstances to reduce the overall height to have the proposed 2.7m ceiling height.

The subject application is reported to the Lane Cove Local Planning Panel with a recommendation for approval subject to amending and adding conditions of consent to reflect the updated plans and imposition of privacy measures to windows.

RECOMMENDATION

That pursuant to the provisions of Section 4.55 of the Environmental Planning and Assessment Act, 1979, the Lane Cove Local Planning Panel at its meeting of 1 November 2022, exercising the functions of Council as the consent authority, grant consent to the Section 4.55 modification to Development Application DA157/21 for alterations and additions to a dwelling house on Lot 13 in DP 3760, known as No. 6 Ford Street, Greenwich, subject to attached updated draft conditions below:

1. (20) That the development be strictly in accordance with:
 - Drawing numbers DA-01-09 Revision 4 dated 13/07/22 and DA-31 Issue 3 dated 4/5/22 prepared by Simmonds Associates.

except as amended by the following conditions.

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

- 1A. Relevant privacy measures such as fixed shutters or opaque glass are to be installed to Windows (we5 & w3.2) to the satisfaction of Council prior the issue of occupation certification.

Reason: To ensure appropriate privacy is achieved between the development and the adjoining property.

ATTACHMENTS:

AT-1	View	Approved Plans	9 Pages	Available Electronically
AT-2	View	Proposed Plans	15 Pages	Available Electronically
AT-3	View	Original Assessment Report	27 Pages	Available Electronically

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S8.2 REVIEW OF MULTI-DWELLING HOUSING DEVELOPMENT AT 21 - 25 AUSTIN STREET
LANE COVE

Subject: S8.2 Review of multi-dwelling housing development at 21 - 25 Austin Street Lane Cove
Record No: DA21/131-01 - 56691/22
Division: Environmental Services Division
Author(s): Christopher Shortt

Property:	21 – 25 Austin Street Lane Cove
DA No:	DA131/2021
Date Lodged:	1 st August 2022
Cost of Work:	\$10,986,269.80
Owner:	CNAU GROUP PTY LTD ATF ZHONGZHOU FAMILY TRUST
Applicant:	Ms Hong Huang -Brewster Murray

Description of the proposal to appear on determination	S8.2 Review of multi-dwelling housing development at 21 - 25 Austin Street Lane Cove
Zone	R3 Medium 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	No
Notification	Notified as per Council's policy. Five (5) submissions were received.

1. REASON FOR REFERRAL

The section 8.2 review of the development application is referred to the Lane Cove Local Planning Panel as the original DA was refused by the Local Planning Panel.

2. EXECUTIVE SUMMARY

The Section 8.2 Review Application was lodged seeking to review the refusal of Development Application 131/2021.

The Section 8.2 Application was accompanied by amended plans. Upon Council's review a further set of amended plans were submitted to address concerns relating to lack of deep soil, protection of retained trees, privacy of neighbours and carparking. The final amended plans are considered to result in a development that would be in keeping with the envisaged scale and character of R3 medium density zone residential development for the locality, and would be sympathetic to the amenity of adjoining properties with regard to privacy, view sharing and solar access.

The Section 8.2 Application was notified in accordance with Council policy and five (5) unique submissions were received. The issues raised in the submissions are addressed in the report and are not considered to warrant refusal of the amended application.

The Section 8.2 Application, based on the amended design, is considered satisfactory, and is recommended the Lane Cove Local Planning Panel at its meeting of 1 November 2022, exercising the functions of Council as the consent authority, grant consent for approval subject to recommended conditions of consent.

3. SITE

The site is located on the western side of Austin Street and includes the properties:

- 21 Austin Street, 21A Austin Street, 23 Austin Street, 23A Austin Street, 23B Austin Street and 25 Austin Street.

The sites are legally known as:

- Lots 1 and 2 of DP 872498;
- Lots 11 and 12 of DP 734969; and
- Lots A and B of DP 362786.

The site comprises 6 lots and has an accumulative area of approximately 3679m². The site is irregular in shape. Its north-eastern boundary is approximately 55m in length, the north-western boundary is approximately 42m in length, the south-western boundary is 36m in length, the non-linear front (Austin Street) boundary is approximately 61m in width, and the irregular southern boundary is 62m in length. Refer to Figures 1, 2 and 2A below.

4. ADJOINING PROPERTIES

North-east of the site is a part single and part two-storey dwelling house at No. 19 Austin Street. Further north-east is a dwelling house converted for use as an early-learning child care centre at No. 17 Austin Street. North-west of the site is a strip of vegetated buffer area fronting the Sera Street carpark. South of the site is a single-storey dwelling at No. 5 Austin Crescent. Further south are 2 dwelling houses fronting Austin Crescent which are locally heritage listed items.

East of the site on the opposite side of Austin Street is Lane Cove Public School. The school grounds are located opposite the development site. The two-storey modern classroom building is located directly opposite, and behind the modern building is a 1927 heritage listed school building.

5. PREVIOUS APPROVALS/HISTORY

On 11 May 2022, a development application for the demolition of existing structures and construction of multi-dwelling housing development (17 townhouses) with basement parking was **refused** by the Local Planning Panel. (Ref: DA131/2021)

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Figure 1: Location Plan.



Figure 2: Northern end of the Austin Street frontage.



Figure 2A: Northwest corner of site viewed from Sera Street.

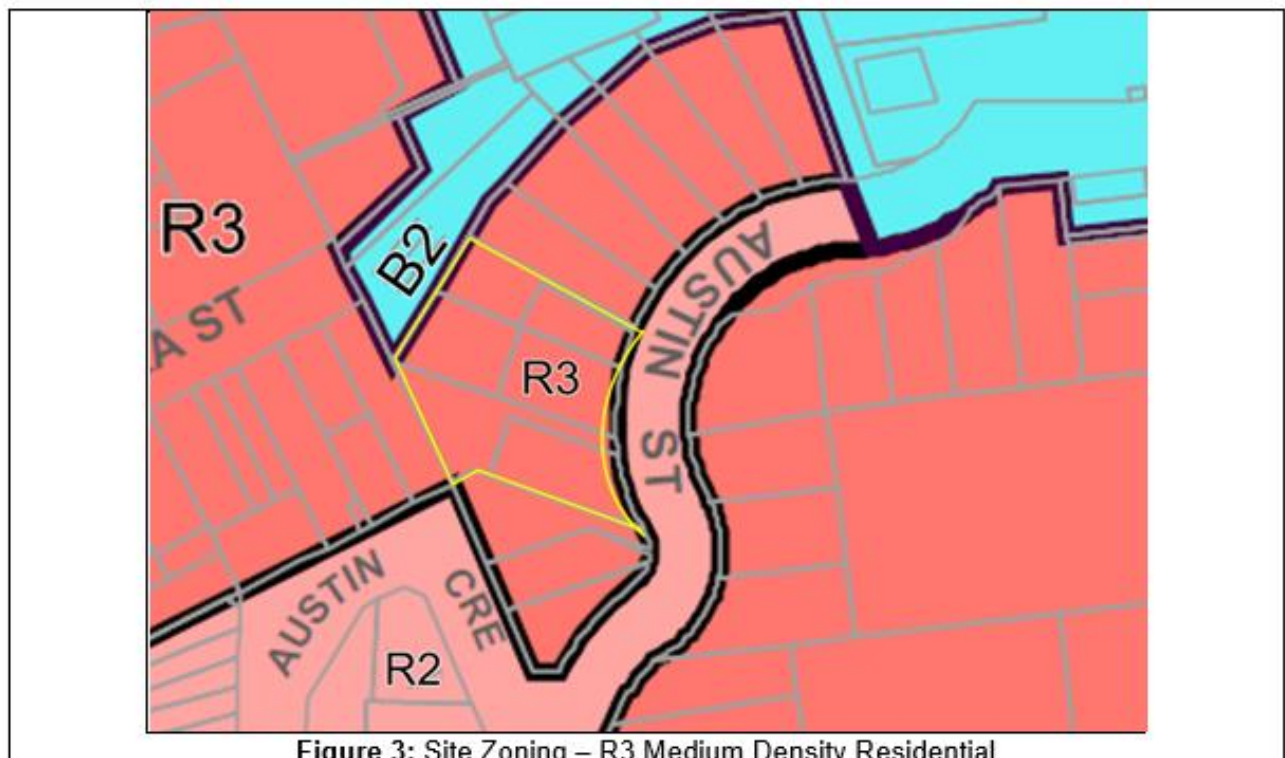


Figure 3: Site Zoning – R3 Medium Density Residential

DETERMINATION UNDER REVIEW

The determination of Development Application DA131/2021 is the subject of this review. Development Application DA131/2021 was lodged on 6 September 2021 and sought consent for demolition of existing structures and construction of multi-dwelling housing development with basement carparking. The proposal included 17 dwelling houses. The Development Application DA

131/2021 was determined by way of **refusal** under Delegation of the Local Planning Panel at its meeting on 3 May 2022.

The notice of determination included the following reasons for refusal:

Lack of Information:

1. *The proposal does not include adequate information to make an assessment.*

Particulars:

The proposal includes a variation with the height control under clause 4.3 of the Lane Cove LEP 2009. No clause 4.6 variation statement was submitted to support the variation. Under Clause 4.6 (3) Council cannot grant consent to a development that contravenes a development standard unless a written request to justify the contravention of the development standard.

Aims of Lane Cove Local Environmental Plan 2009:

2. *The proposed development does not meet the aims of Lane Cove Local Environmental Plan 2009.*

Particulars:

- (a) *The proposed development would not preserve and improve the existing character, amenity and environmental quality of the land and the expectations of the community.*
- (b) *The proposed development does not meet the aims which are outlined in Clause 1.2(c) of the LEP 2009 as it would not provide a housing mix and density that would be compatible with the existing environmental character of the locality, and does not have a sympathetic and harmonious relationship with adjoining properties.*

Density:

3. *The development application is recommended for refusal because the subject site does not meet the minimum site area required for 17 multi-dwelling units.*

Particulars:

- (a) *Section 2.2(c) in Part C2 of LCDCP 2010 sets out the provision for density as follows: "An average site area 250m² per attached dwelling or multi-dwelling unit (including common areas) is required".*
- (b) *The average site area of each townhouse is 217m². The area is 33m² below from the required minimum site area for multi-dwelling units.*
- (c) *The overall density of the proposed development is not considered to be consistent with the desired built form for the site.*

Trees, Landscaping and Deep Soil:

4. *The development application is recommended for refusal because the subject site does not meet the minimum area requirements for landscaping and deep soil and includes excessive tree removal.*

Particulars:

- (a) Section 2.6 (b) in Part C2 of the LCDCP 2010 requires minimum of 35% (unencumbered deep soil) of the site is to be landscaped area with a minimum width of 3.0m. For attached dwellings, this refers to each allotment individually.
- (b) Section 1.6 in Part J of the LCDCP 2010 defines that 35% of the landscaped area to be deep soil.
- (c) Section 2.2.1 Tree Preservation Objective of the Part J LCDCP 2010 requires the retention of the maximum possible number of existing trees,
- (d) The application proposes the removal of 46 trees and is considered to have a detrimental environmental impact. The proposal does not provide adequate deep soil to accommodate replacement canopy trees at a 1:1 ratio.

Amenity:

5. The proposed development does not achieve acceptable amenity in terms of building separation, solar access, and private open space.

Particulars:

- (a) The proposed development does not comply with section Part C.2 section 2.9.2 Solar Access of LCDCP2010:
 - (i) 7 of the proposed town houses do not achieve 3 hours minimum solar access to habitable room windows or ground floor POS at mid-winter; and
 - (ii) Windows to habitable rooms of the neighbouring property at No. 5 Austin Street do not receive 3 hours minimum solar access at mid-winter.
- (b) The proposal does not comply with Part C.2 section 2.9.3 (a) and (d) of LCDCP 2010. The majority of townhouses have less than 50m² of private open space that is directly accessible from the living area. (i.e. rear yards off living room at ground floor).
- (c) The proposal does not comply with Part C.2 section 2.9.1(c) and (d) of the LCDCP 2010 relating to building separation. A number of townhouses do not achieve adequate separation distance between habitable rooms resulting in adverse visual and acoustic privacy impacts.

Building Design:

6. The proposed retaining walls on the southern façade facing No. 5 Austin Crescent includes retaining walls adjacent to the boundary which are up to 2.6m higher than the boundary fence line.

Accessibility:

7. The proposed adaptable apartments do not comply.

Particulars:

The three (3) proposed adaptable units (TH13, TH14 and TH15) do not have lift access to their primary outdoor private open space areas.

Zone Objectives:

8. *The proposal fails to satisfy the following objectives of the R3 Median Density Residential zone:*
- *Design in response to the characteristics of the site and locality;*
 - *Maximise residential amenity of medium density housing in the area;*
 - *Provide a suitable visual transition between high density housing and lower density residential areas;*
 - *Ensure landscaping is maintained and enhanced as a major element in the residential environment.*

6. SECTION 8.2 APPLICATION

Pursuant to Section 8.2(1)(b) the applicant has requested that the Council review its determination of Development Application DA131/2021.

The Section 8.2 Review Application as lodged was accompanied by the following additional documentation:

- Summary of Changes;
- Architectural Plans;
- Stormwater Plans;
- Traffic Assessment;
- BCA Report;
- Arboricultural Impact Assessment;
- Access Report;
- BASIX Certificate;
- NatHers Certificate
- Amended architectural plans prepared by Brewster Murray

The submitted documentation included amendments to the architectural plans. The applicant can seek to modify a design under Section 8.2 of the Act as long as it is substantially the same development. The proposed amendments are considered substantially the same development and include the following:

- Reduction in total number of townhouses from 17 to 15;
- Reconfiguration of built structures (parking, driveway) to increase total deep soil from 17.6% to 27.8%;
- Deletion of roof top elements which breached the 9.5m height control;
- Amendment of western wall basement garage to be further setback from TPZ of trees fronting Sera Street;
- Amendment to orientation/alignment of townhouses fronting Austin Street to improve solar access;
- Reduction of accessible roof area; and
- Dwellings to match existing ground levels to minimize fill and reduced retaining walls on southern elevation.

Subsequent to the public notification of the Section 8.2 Application, further changes were requested by Council and documentation was submitted on 14th October 2022 by the applicant including of note:

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- Further amended architectural plans prepared by Brewster Murray Architects
- Amended arborist report by Treehaven Enviroscapes;
- Amended landscaping plans prepared by Site Design + Studios;
- Amended traffic and parking report and swept path diagrams by Genesis Traffic; and
- A written response to submissions prepared by GYDE Consulting.

The amendments made post public notification do not warrant re-notification due to the amendments relating to a reduction in overall impacts. Changes include:

- Increased rear setback from 1m to 2m to accommodate a less than 10% encroachment to Tree 46, Tree 13 and Tree 14;
- Increased southern side setback to increase amount of deep soil planting and to provide a visual buffer into the adjoining property;
- Reconfigured the driveway to accommodate a 1.5m – 3m setback along the southern boundary to ensure sufficient deep soil and privacy measures for replacement planting;
- Further increased amount of deep soil and landscaping opportunities on site (now achieve 35.1%);
- Reconfigured internal layout and orientation of the driveway and the basement parking to enable greater deep soil opportunities;
- Included a total of 60 native trees as replacement species;
- Deleted five (5) rooftop terraces from Townhouses 1, 5, 6, 9 & 15; and
- Reduced the size of seven (7) rooftop terraces from Townhouses 7, 8, 10, 11, 12, 13 & 14.
- Reduction in trees to be removed to 41.

7. SECTION 8.2 ASSESSMENT

The following Section 8.2 Assessment is limited to considering the reasons for refusal given in the determination of Development Application DA 131/2021.

Local Environmental Plan 2009

	Proposed	Control	Complies
Floor Space Ratio	0.7:1 (2574sqm)	0.7:1 (2575sqm)	Yes
Height of Buildings	9.4m	9.5m	Yes

Heritage

The site is not a heritage item or within a heritage conservation area. The site does not directly adjoin a heritage item. The closest heritage items at 1 Austin Crescent (item 151) and 3 Austin (item 152) Crescent are separated by 5 Austin Crescent. The closest townhouses (TH7 and TH8) are separated by approximately 30m to the closest heritage item at 3 Austin Crescent. In this regard a Heritage Impacts Statement is not required in this instance.

The heritage listed building at Lane Cove Public School (item 178) fronts Longueville Road. The heritage listed building is setback significantly from the Austin Street frontage and is not impacted by the proposal.

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Part C2 – Attached Dwellings and Multi Dwelling Housing

Comprehensive DCP

Clause	Requirement	Proposed	Complies/ Comment
2.1 General objectives	<p>To be compatible & complementary to the visual and environmental character of surrounding residential area.</p> <p>The protection of significant natural landscape features.</p>	<p>The proposed building would have a 2-storey appearance viewed from the street level which in the context of the site zoning and emerging character is appropriate.</p> <p>The tree investigation report confirmed that a proposed 41 trees are proposed</p>	<p>Yes</p> <p>The amended design includes a greater setback from the rear boundary to allow a greater buffer to protect retained species of significant trees including Lemon Scented Gum and Blue Gum trees.</p> <p>A total of 7 large trees and 36 medium to mid-storey specimens will be planted to provide replacement canopy.</p> <p>Of the 41 specimens proposed for removal 17 are exempt species. This is due to them being either less than 4m in height, weed species or dead trees.</p>

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Clause	Requirement	Proposed	Complies/ Comment
2.2 Site area & frontage	<p>A minimum site area of 1000m²</p> <p>A minimum site width at the front building line of 20m</p> <p>An average site area 250m² per multi dwelling unit.</p>	<p>3679m²</p> <p>Non-linear, approximately 37m²</p> <p>Average site area is 245.26m² which is 4.74m² non-compliance with the minimum requirement.</p>	<p>Yes</p> <p>Yes</p> <p>Refer to variations section.</p> <p>An average area of 245.26m² per townhouse is proposed. (2% non-compliance)</p>
2.3 Streetscape	<p>New buildings are to recognise and respond to the lot pattern & rhythm of dwellings within the street.</p> <p>Dwellings are not to be position over driveway to basement car park</p> <p>Carports or garages are not permitted within the street setback</p>	<p>6 townhouses to a street frontage width of approximately 61m responds to R3 character of the street. No townhouses positioned over driveway.</p> <p>No carports or garages are proposed within the front setback area</p>	<p>Yes</p> <p>Yes</p>
2.4 Setback			
Street setback	Minimum 6m	6.0m	Refer to variations section.
Front setback	Exceptions are awnings, balconies, blade walls, bay windows and other articulation elements up to a maximum of 500mm (5.5m)		The front private open spaces are proposed to be setback a minimum of 4m – 5.5m from the front boundary.
Side	Minimum 2m within the development		N/A
	Minimum of 1.5m for two storey dwelling	1.5m to north 7.5m to south	Yes
Rear	A minimum of 3m	3.0m ground and first	Yes

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		floor	
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Clause	Requirement	Proposed	Complies/ Comment
2.5 Fence	Up to 1.2m for part solid and predominantly see through fences	Austin Street front fence 1m see-through palisade fence above 0.2m solid masonry base.	Capable of complying
2.6 Landscaped Area	A minimum of 35% of the site is required to be deep soil landscaping.	<p>The amended proposal has 35.1 % or 1291.5m² of landscaping.</p> <p>However, Part J - Landscaping Section 1.6 defines landscape area as deep soil (unencumbered by basement carparking etc.)</p>	<p>Yes</p> <p>The proposal has been amended twice to accommodate several changes to provide additional deep soil including:</p> <p>Reduction of length of driveway along southern boundary by approximately. 17m.</p> <p>-Increase the setback of townhouses from rear boundary from</p> <p>Reconfigure basement car parking to increase the size of centrally located communal space and associate deep soil.</p> <p>The expansion of deep soil allows dimensions to accommodate replacement significant trees. The application proposes to remove 41 trees. There would be insufficient capacity of deep soil to accommodate for 1 to 1 replacement of canopy trees.</p>

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Clause	Requirement	Proposed	Complies/ Comment
2.7 Cut & Fill	Maximum depth of excavation or fill of 1m at any point of the site	6.2m cut	Refer to variations section Excavation has been consolidated since the previous design to allow for increased deep soil on site. Cut and Fill is considered satisfactory on merit given excavation is proposed for the construction of basement garages and has been minimised in proximity to the property boundaries in the amended design.
2.8 Building Design	the architectural design of development must be sympathetic to the adjoining and surrounding buildings in terms of height, materials, roof pitch, and overall building character.		Yes The ramp leading from Austin Street into the upper basement level is no longer covered. This has reduced the necessity for a retaining wall adjacent to the boundary and overall bulk.
	Minimum dwelling width is 5m	All dwellings are greater than 5m in width measured from outer face of walls.	Yes
	Maximum 2 storeys in R3 zone.	2-storeys proposed. (open trafficable roofs do not count as a storey)	Yes

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Clause	Requirement	Proposed	Complies/ Comment
<p>2.9 Amenity 2.9.1. Privacy</p> <p>Within development</p>	<p>Building elements to minimise overlooking.</p> <p>Separation within development site.</p> <ul style="list-style-type: none"> • 12m between habitable rooms • 9m habitable rooms and non-habitable rooms/blank walls • 3m between non-habitable rooms/ blank walls 	<p>The amended design reduced the total number of townhouses from 17 to 15. The changes allowed sufficient space to resolve previous issues with building separation.</p> <p>The windows of habitable rooms of townhouses only directly face blank walls of other townhouses.</p> <p>Front and rear rows of townhouses would have significant separation through a larger central communal open space area with vegetation and differences in ground levels. The amended design would allow compliant privacy and amenity between all townhouses.</p> <p>External moveable and fixed screens provided to windows of habitable rooms would provide additional privacy between townhouses.</p>	<p>Yes</p>

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Clause	Requirement	Proposed	Complies/ Comment
2.9.1 Privacy Neighboring properties		<p>Amended three townhouses closest to the boundary with No. 19 Austin Street (TH15 and TH6 and TH5) had roof terraces deleted.</p> <p>Trafficable roofs of Townhouses 07 and 08 has an increased setback of at least 12m from the property boundary with No. 5 Austin Crescent.</p> <p>Townhouse 01 is adjacent to the front yard of No. 5 Austin Crescent had its trafficable roof deleted ensuring an increased separation of approx. 14.5m.</p> <p>The trafficable roof of TH9 was deleted resulting in a minimum 9.5m separation from the nearest roof terrace to 7 Austin Crescent.</p> <p>(Refer to figure 5 alter in this report)</p> <p>All remaining roof top terraces were reduced in size to ensure they would not result in adverse acoustic impacts. This has been confirmed in an acoustic report which measured acoustic impacts of nearest receivers from private open space.</p>	Yes

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Clause	Requirement	Proposed	Complies/ Comment
2.9.2 Solar Access Proposed dwellings	<p>A minimum of 3 hours sunlight to habitable rooms & to at least 50% of the private open space between 9am – 3pm on 21 June.</p> <p>Where existing development currently receives less light than this requirement, this should not be unreasonably reduced.</p>	The shadow impact diagrams demonstrate that habitable rooms and private open space at ground level areas achieve compliant solar access in mid-winter.	Yes
2.9.2 Solar Access Neighboring Dwellings	<p>A minimum of 3 hours sunlight to habitable rooms & to at least 50% of the private open space between 9am – 3pm on 21 June.</p> <p>Where existing development currently receives less light than this requirement, this should not be unreasonably reduced.</p>	<p>The proposal as amended includes changes to building bulk at adjacent to southern boundary including:</p> <p>Greater setback of the proposed townhouses from the southern boundary. TH7 and TH8 previously setback 6.7m – this has been increased by 0.5m.</p> <p>Roof top structures of the southern-most were either deleted or structure to be deleted or setback a minimum 12m from the southern boundary.</p> <p>The roof structure above the proposed driveway was also deleted to reduce bulk. As a result, the property to the south at 5 Austin Crescent would receive solar access between midday at 3.00pm during mid-winter.</p>	Yes

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Clause	Requirement	Proposed	Complies/ Comment																																
2.9.3 Private Open Space	<p>Private Open Space is to be:</p> <ul style="list-style-type: none">• Directly accessible from the living area of the dwelling.• A minimum of 4.0m in any direction.• A minimum of unbuilt upon area of 50m² per 2- or 3- bedroom dwelling• Private open space will not be permitted in front the setback area	<table><tr><td>TH1a</td><td>58.05 sqm</td></tr><tr><td>TH2a</td><td>40.30 sqm</td></tr><tr><td>TH3a</td><td>28.50 sqm</td></tr><tr><td>TH4a</td><td>22 sqm</td></tr><tr><td>TH5a</td><td>25.5 sqm</td></tr><tr><td>TH6a</td><td>41.50 sqm</td></tr><tr><td>TH7a</td><td>73.5 sqm</td></tr><tr><td>TH8a</td><td>108.6 sqm</td></tr><tr><td>TH9a</td><td>92.5 sqm</td></tr><tr><td>TH10a</td><td>62.5 sqm</td></tr><tr><td>TH11a</td><td>45 sqm</td></tr><tr><td>TH12a</td><td>53.7 sqm</td></tr><tr><td>TH13a</td><td>53.9 sqm</td></tr><tr><td>TH14a</td><td>47.7 sqm</td></tr><tr><td>TH15a</td><td>48.4 sqm</td></tr><tr><td>Average</td><td>53.4sqm</td></tr></table>	TH1a	58.05 sqm	TH2a	40.30 sqm	TH3a	28.50 sqm	TH4a	22 sqm	TH5a	25.5 sqm	TH6a	41.50 sqm	TH7a	73.5 sqm	TH8a	108.6 sqm	TH9a	92.5 sqm	TH10a	62.5 sqm	TH11a	45 sqm	TH12a	53.7 sqm	TH13a	53.9 sqm	TH14a	47.7 sqm	TH15a	48.4 sqm	Average	53.4sqm	<p>Yes. (Based on average)</p> <p>Overall Average rear GF POS space areas per townhouse is 53.4sqm and complies.</p> <p>A total of 7 of the 14 townhouses (50%) have greater than 50sqm of POS off rear and comply with DCP requirements.</p> <p>A further 5 townhouses have a between 40.3sqm – 48.4sqm. (81% to 97%) of POS required minimum area. Which complies with objectives of the DCP.</p>
TH1a	58.05 sqm																																		
TH2a	40.30 sqm																																		
TH3a	28.50 sqm																																		
TH4a	22 sqm																																		
TH5a	25.5 sqm																																		
TH6a	41.50 sqm																																		
TH7a	73.5 sqm																																		
TH8a	108.6 sqm																																		
TH9a	92.5 sqm																																		
TH10a	62.5 sqm																																		
TH11a	45 sqm																																		
TH12a	53.7 sqm																																		
TH13a	53.9 sqm																																		
TH14a	47.7 sqm																																		
TH15a	48.4 sqm																																		
Average	53.4sqm																																		
2.9.3 Communal Open Space	A minimum of communal space encompassing 10% of the site area.	<p>The previous scheme proposed had 389 sqm (10.6%) communal open space</p> <p>The amended design increased this by 100 sqm 489m² or 13.3% communal open space.</p>	Yes																																

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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 below tables of compliance.

Part B – General Controls

Clause	DCP	Proposed	Complies/ Comment
B3 – Site Amalgamation & Isolated site	To encourage site consolidation of allotments for development in order to promote the desired urban design outcomes and the efficient use of land and to avoid the creation of isolated sites.	The proposed site is within R3 zone and does not isolate any adjoining property. There are 3 dwelling house properties to the south of the site.	Yes
B8 – Safety & security	Ground floor dwellings have direct access or entries from the street and at least one habitable room with windows facing the street.	The building has pedestrian entries from Austin Street with habitable rooms facing the street permitting passive surveillance.	Yes
Part B9 – General Controls. Heritage	Development in proximity to heritage items requires a Heritage Impact Statement (HIS).	<p>A Heritage Impact Statement (HIS) is not required in this instance. The site is not adjacent to a heritage item and does not adjoin a heritage item. The two nearest heritage items at 1 Austin Crescent Austin (item 151) and 3 Austin (item 152) Crescent are separated by of 5 Austin Crescent dwelling house and yard. The closest proposed townhouse would be approximately 30m away.</p> <p>The proposed height and bulk would be consistent with other two-storey residences in the vicinity.</p> <p>The heritage items which front Austin Crescent would not be visually impacted by the proposed townhouse development which fronts Austin Street.</p>	Yes

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Part J Landscaping

Clause	Requirement	Proposed	Complies/comment
1.6 How much landscaped area is required	<p>Development type Attached dwellings, townhouses and villas</p> <p>Minimum 35% of site to be landscaped area (i.e. deep soil)</p>	<p>The previous design proposed 17.6% of site as deep soil.</p> <p>The proposal has been amended twice to provide additional deep soil for the site. The amended design proposes a total of 35.1% or 1291.5sqm of deep soil.</p> <p>On top of this a total landscaped area of 1617sqm (43.95%) of site.</p> <p>(Refer to section 2.6 of Part C Landscaping for multi-dwelling housing earlier in this report)</p>	Yes
2.2.1 Tree Preservation Objective	The retention of the maximum possible number of existing trees, particularly native trees, within the Municipality in healthy condition and natural form and shape.	<p>The amended design would retain significant trees including Lemon Scented Gum and Blue Gum trees.</p> <p>A total of 7 large trees and 36 medium to mid-storey trees will be planted to provide replacement canopy. Of the 41 specimens proposed for removal 17 are exempt species. Either less than 4m in height, weed species or dead trees.</p>	Yes

Other sections of Lane Cove Development Control Plan 2009 have been addressed through **referrals** as outlined in the following table:

Referral	DCP	Comment
Accessibility	Part F – Access and Mobility	In the refused development the rear GF Private open space areas for the adaptable dwellings were TH13, TH14 and TH15 were 36sqm.

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Referral	DCP	Comment
		<p>The proposed townhouses were redesigned, and an updated accessibility report was submitted.</p> <p>The 3 adaptable units had their main private open space at rear yard of ground floors increased to:</p> <p>TH10 = 62.5 sqm TH11 = 45 sqm TH12 = 53.70 sqm</p> <p>The enlarged ground accessible courtyards would receive compliant solar access and are considered a significant improvement to the amenity of the adaptable units.</p> <p>The amended design for units TH10, TH11 and TH12 have direct lift access from basement carpark adaptable car spaces to ground floor of each adaptable townhouse. The central communal open space area is accessible by a communal lift.</p>
Landscaping	Part J – Landscaping	Acceptable subject to conditions. Condition are still being drafted at time of writing of report but will be finalised and made publicly available prior to the date of the Local Planning Panel meeting.
Tree Preservation	Part J – Landscaping	The modified proposal accommodates compliant deep soil to accommodate acceptable 1:1 tree replacement ratio required. Acceptable subject to conditions. Condition are still being drafted at time of writing of report but will be finalised and made publicly available prior to the date of the Local Planning Panel meeting.
Engineering	Part O – Stormwater Management	Engineer review and considered acceptable subject to conditions.
Waste Management	Part Q – Waste Management and Minimisation	An amended Waste Management Plan was submitted and supported by Council's environmental health officer.
Traffic, Transport and Parking	Part R – Traffic, Transport and Parking	No objection on the basis of revised plans and traffic report.
Building Surveyor	N/A	No objection including the provision of draft conditions.
Environmental Health	Part B – General Controls (Part B6/B7)	Applicant has submitted an Acoustic Report, an amended Waste Management Plan (WMP), Preliminary Site Investigation (PSI). See attached environmental health conditions.

8. OTHER PLANNING INSTRUMENTS

SEPP Hazards and resilience 2021

The subject site and adjoining sites are zoned for residential purposes. Given the types of uses permissible within the residential zones, it is unlikely that the site would be contaminated. A Preliminary Site Investigation Report (PSI) was submitted with the original DA and is considered acceptable.

Section 7.11 Developer Contribution

Medium density developments (including attached dual occupancy and duplexes):				Total Contribution
No. Bedrooms	Average Occupancy	Amount contribution per person	No. of dwellings	
3 bedrooms	2.4 persons	\$11,529.18 x 2.4 = \$27, 670 per dwelling. *Capped Rate \$20,000 per dwelling.	15 x \$20,000	\$300,000

The development site has six (6) 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 \$120,000.00. The required Section 7.11 contribution is calculated at: \$300,000.00 – \$120,000.00 = **\$180,000.00.**

9. 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 will require the application of a relevant condition seeking compliance with the Standard.

VARIATIONS TO COUNCIL'S CODES/POLICIES (SECTIONS 79C(1)(a), (1)(b), and (1)(c))

The preceding policy assessment table identifies those controls that the proposal does not comply with. Each of the departures is discussed below.

Section 1.6 Cut and Fill (d) of the Lane Cove DCP 2009 requires:

(d) Development is limited to a maximum depth of excavation or fill of 1m at any point on the site unless it is demonstrated that the site's slope is too steep to reasonably construct a 2 storey dwelling with this extent of excavation.

Although excavation of up to 5.8m for the basement level would exceed the maximum provision of 1m under Clause 1.6 (d) the non-compliance is supported because:

- in relation to the objectives for *Cut (and Fill)*:
- elsewhere on the site natural ground level complies with maximum 1m cut and fill or would otherwise be retained;
- cut is limited to a small basement carpark area which is located within the footprint of the building;

- cut (and fill) is otherwise minimised, including along the site's side boundaries; and the relationship between the proposed development and the street would be considered acceptable;
- the proposed fill would not otherwise result in unreasonable impacts on the amenity of neighbouring dwelling houses;
- the level of excavation is necessary to reduce the overall height and bulk of the building as to minimise shadows;
- there would be no unreasonable impacts to the site's water run-off patterns from its rear boundary to its front boundary; and
- the level of excavation is not anticipated to result in adverse impacts on the stability or amenity of adjoining properties or the public domain. Council's Stormwater Engineer considered the proposal acceptable subject to recommended draft conditions including the submission of a geotechnical report, a geotechnical monitoring program, a construction methodology report, and dilapidation report for all excavation greater than 1m in depth.

Section C.2.2 (c) Site Area and Frontage of the Lane Cove DCP 2009 requires:

(c) An average site area 250sqm per attached dwelling or multi-dwelling unit (including common areas) is required.

The application section 8.2 Application proposes an average site area per townhouse is 245.26m² which is 2% non-compliance with the minimum requirement.

The proposed non-compliance is considered acceptable on merit in this instance because.

- The amended design reduced the overall number of townhouses from 17 to 15, and reduced the size of the remaining proposed townhouses to reduce the overall built density on site;
- The amended design although not meeting the numerical requirements is compliant with the objectives of the clause;
- The proposal would provide a greater variety of housing stock to the area with the R3 zone;
- The proposal complies with the Height and FSR of the site and is of a bulk and scale appropriate for the site;
- The amended design complies with the required deep soil for the site, private and communal open space has been amended to retain the most significant trees remaining on the site. The proposed density would result in acceptable amenity to the proposed dwellings and neighbouring properties.

Section C.2.4.1 Street Setbacks of the Lane Cove DCP 2009 requires:

This is also the front setback for the dwelling addressing the street.

(a) It is to be a minimum of 6.0m...

(b) In general, no part of a building or above ground structure may encroach into a setback zone. Exceptions are awnings, balconies, blade walls, bay windows and other articulation elements up to a maximum of 500mm.

The building line (external walls) of the proposed 6 townhouses fronting Austin Street comply with the 6m setback. As per the amended plans, the front entry, dividing walls and terraced permeable areas would have a minimum front setback of 4m from the street frontage. The non-compliance with the street setback control is considered acceptable on this instance based on the following:

- Although not being 100% compliant with the numerical controls the proposal would comply with the objectives for the setback controls.

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- The building envelopes of the townhouses comply with the 6m setback resulting in an appropriate built form to the streetscape (refer to figure 4 below);
- The proposed external walls of all townhouses would be set back further than the dwelling house at 23 Austin Street is setback 4m from the street frontage.
- The entry structures which encroach into the 6m front setback are considered minor and do not significantly add to the bulk to the structure;
- The original design included front balconies into the street setback. The amended plans modified the balconies into permeable pavers which can accommodate additional landscaping;
- Each townhouse fronting the street would provide deep soil areas for a landscaping buffer; and
- The elements within the setback step-down from street level to reinforce the existing topography of the site.

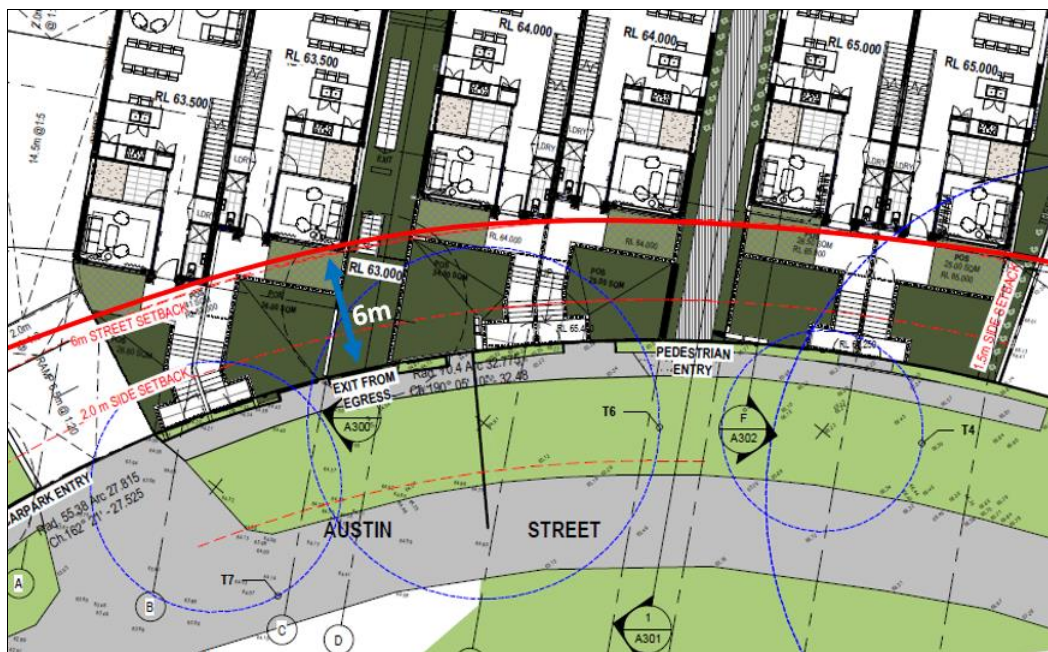


Figure 4: External walls of building complying with 6m setback from Austin street

Section 2.9.3 Private and Communal Open Space (i) and (iv) of the Lane Cove DCP 2009 requires:

A minimum unbuilt upon area of 50sqm per 2- or 3-bedroom dwelling which is directly accessible from the living area of the dwelling.

A total of 7 of the 14 townhouses (50%) have greater than 50sqm of POS off rear and comply with DCP requirements.

A further 5 townhouses have a between 40.3sqm – 48.4sqm. (81% to 97%) of POS required minimum area. Which complies with objectives of the DCP

Three townhouses TH3, TH4 and TH5 would have 22sqm – 28sqm (48% - 56%) of POS required minimum area.

Although not strictly comply with the numerical POS requirements for all 15 townhouses, the proposal is considered acceptable for the following reasons:

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- The townhouses with between 22sqm and 28sqm of POS at their rear ground floor have secondary private open space at roof top which would high quality good solar amenity.
- The development would include a centrally located compliant communal open space area as an alternate source of open space which is approximately 13% of the total site area.
- The dwellings with non-compliant POS are offset by townhouses that greatly exceed the requirement including TH7 (73.5sqm), TH8 (106.8sqm) and TH9 (92.5sqm).
- The average size of POS at ground floor for all 15 Townhouses is 53.4sqm and complies.

RESPONSE TO NOTIFICATION (Section 79C(1)(d))

The Section 8.2 Review received five (5) submissions, including 1 submission on behalf of Nos 9, 11, 13, 19 Austin Street and No 5 Austin Crescent. The submissions are summarised and addressed as follows:

Issue raised:	Comment:
Concerns that the proposal does not comply with solar access controls.	The amended solar access diagrams demonstrate compliance. The property to the south at 5 Austin Crescent would receive solar access between midday at 3.00pm during mid-winter. All town houses would receive compliant levels of solar access to their living spaces during mid-winter.
Concerns that the townhouses do not comply with the minimum size requirements of 250sqm per attached dwelling.	As discussed earlier in this report, the average dwelling size is 245.26sqm. Although a numerical non-compliance, the proposal as amended meets the objectives of the clause and is appropriate for the site.
Concerns in relation to the removal of Tree #54 the Lemon Scented Gum.	The proposal was modified to allow sufficient deep soil around Tree #54 minor encroachments into the tree protection zone would not impacts of the tree being retained and protected.
Concerns in relation to privacy impacts from south facing windows of townhouses adjacent to the driveway.	The south facing windows at 1 st floor of Town House 1 are at a height of RL 68.000 which is 1.5m above finished floor level. The separation distance of the town house from the southern boundary.
Concerns of the impacts to heritage items at 1 and 3 Austin Crescent.	The proposal would not result in adverse impacts to the nearest heritage listed building at 1 and 3 Austin Crescent. The minimum building separation of the proposed development (Townhouse 7 and Townhouse 8) would be approximately 30m away including the full width of the site at 5 Austin Crescent. The heritage items which front Austin Crescent would not be visually impacted by the proposed townhouse development which front Austin Street.
Privacy concerns due to impacts of rooftop terraces to 19 Austin Street	At the request of Council, the roof top terraces of 5 townhouses have been deleted. The roof top terraces of all remaining townhouses were set further back from all side boundaries. The amended design is considered to result in

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compliant separation for acceptable visual and acoustic privacy. Refer to Figure 5 below.



Figure 5: Rooftop terraces deleted/reduced (in red) in proximity to neighbours

Concerns that proposal will be perceived as 4 storeys	The proposal relates to 2-storey townhouses. The basement level is predominantly below natural ground level on a sloping site. The roof top terraces which have been removed in proximity to all boundaries or have been reduced in size are not counted as a storey.
Concerns with non-compliance with deep soil controls.	The plans were amended after lodgment and the basement carparking and driveway footprint were reduced allowing a compliant deep soil greater than 35%.
Concerns with lack of planting in proximity to boundary with 5 Austin Crescent.	The length of driveway along southern boundary with the rear yard of 5 Austin Crescent was reduced by approximately 17m. This area can accommodate significant replacement planting to provide a green buffer.
Concerns how proposed development interfaces with neighbouring property at 19 Austin Street	The townhouse development is permitted in the R3 Zone, the front yard areas allow for passive surveillance of the street. The landscaping plans would ensure the front yard areas are appropriately vegetated behind the existing street trees. The proposed setbacks would be similar to existing setback of the dwelling house at 23 Austin Street.

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Concerns in relation to impacts on Bluegum Trees (T#13, T#14 and T#46)	The basement and structures were setback further away from the rear boundary from 1m to 2m to accommodate a less than 10% encroachment to TPZ to ensure trees 13, 14 and 46 can be retained and protected.
Concerns with location of driveway resulting in pedestrian and vehicle safety.	The proposal was reviewed by Council's traffic engineer who considered the driveway and parking arrangements acceptable. Draft Conditions have been recommended including a Demolition Traffic Management Plan, basement carpark safety and functionality including details of the proposed signalised system to ensure pedestrian safety during construction and once the development is occupied.
Concerns in relation to trees previously removed without Council approval on site.	The assessment relates to the works associated with the current proposal. Historically removed trees have been dealt with separately by Council's compliance officers.
Concerns that an acoustic report was not submitted.	The acoustic report submitted with the previous DA for 17 townhouses can be applied to the current proposal with 15 townhouses. The acoustic report was considered acceptable. Environmental. A draft condition has been recommended requiring verification of compliance with the acoustic report prior to OC.

CONCLUSION

The Section 8.2 Application has been assessed having regard to the applicant's additional information and the original determination of the application. The amended plans have sought to resolve each of the reasons for refusal and the resulting design is one which is in keeping with the envisaged scale and character of R3 medium density zone development for the locality. The amended proposal has also sought to address the amenity impacts within the site and to adjoining properties where possible and the resulting design is one which is more sympathetic to the amenity of adjoining properties with regard to privacy, trees and vegetation, and overall density. The Section 8.2 Application, based on the redesign submitted as part of the Review, is considered acceptable. It is recommended that the amended design be approved subject to draft conditions which further refine the design in response to submissions received.

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RECOMMENDATION

That pursuant to the provisions of Section 8.2 of the Environmental Planning and Assessment Act, 1979 (as amended), the Lane Cove Local Planning Panel at its meeting of 1 November 2022, exercising the functions of Council as the consent authority, grant consent to the Section 8.2 application to Development Application DA131/21 for the demolition of existing structures and construction of a multi-dwelling development with basement carparking on Lots 1 and 2 of DP 872498, Lots 11 and 12 of DP 734969, and Lots A and B of DP 362786 known as 21 – 25 Austin Street Lane Cove.

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

Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No	Revision	Plan Title	Drawn By	Dated
A005	D	Site Analysis Plan	Brewster Murray	19.10.2022
A006	D	Site Roof Plan	Brewster Murray	19.10.2022
A007	C	Construction Management Plan	Brewster Murray	19.10.2022
A008	C	Sediment and Erosion Control Plan	Brewster Murray	19.10.2022
A100	D	Excavation Plan	Brewster Murray	19.10.2022
A101	D	Basement Plan	Brewster Murray	19.10.2022
A102	E	Lower Ground Floor Plan	Brewster Murray	19.10.2022
A103	F	Lower Level 1 / Upper Ground Floor Plan	Brewster Murray	19.10.2022
A104	D	Lower Roof / Upper 1 Plan	Brewster Murray	19.10.2022
A105	D	Upper level Roof Plan	Brewster Murray	19.10.2022
A201	D	Austin Street Elevation (TH01 – TH06) & Boundary Elevation (TH06 -TH15)	Brewster Murray	19.10.2022
A202	D	Internal Elevation (TH06 – TH01) & (TH02) & Boundary Elevation (TH01)	Brewster Murray	19.10.2022
A203	D	Rear Boundary Elevation (TH15 – TH9) Boundary Elevation (TH09), Internal Elevation (TH03)	Brewster Murray	19.10.2022
A204	D	Internal Elevation (TH9 – TH15), (TH07) and TH07 – TH08) (TH05) & (TH04)	Brewster Murray	19.10.2022
A205	D	Internal Elevation (TH08) & (TH01, TH07 – TH09) & (TH05)	Brewster Murray	06.10.2022
A300	D	Section 01 and 02	Brewster Murray	19.10.2022
A301	D	Section 03 and 04	Brewster	19.10.2022

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			Murray	
A302	C	Section E and F	Brewster Murray	19.10.2022
A303	D	Drive Way Sections	Brewster Murray	19.10.2022
A502	E	Communal and Landscaped diagrams	Brewster Murray	19.10.2022
A701	B	Material Board	Brewster Murray	20.07.2022
A801	B	Adaptable Townhouses	Brewster Murray	20.07.2022
L-01		Lower Ground Landscape Plan	Site Design + Studios	18.10.2022
L-02		Lower Level 1 /Upper Ground Landscape Plan	Site Design + Studios	18.10.2022
L-03		Existing Tree Removal and Replenishment Plan	Site Design + Studios	18.10.2022
L-04		Planting Schedule	Site Design + Studios	18.10.2022
L-05		Planting Details	Site Design + Studios	18.10.2022
L-06		Landscape Specification	Site Design + Studios	18.10.2022
L-08		Deep Soil and Native Planting Area	Site Design + Studios	18.10.2022

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

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

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

2. **A.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 as calculated at the date of this consent to the Long Service Corporation or Council under section 34 of the *Building and Construction Industry Long Service Payments Act 1986* and provides proof of this payment to the certifier.

Reason: To ensure the long service levy is paid.

3. **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
Inspection Fee	\$205
Infrastructure damage bond	\$40,000.00

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Civil reconstruction work	\$80,000.00
Positive Covenant bond	\$2000.00

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 completed.

4. **SECTION 7.11 CONTRIBUTION**

The payment of a contribution for additional person/s in accordance with Council's Section 7.11 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 **\$180,000.00** at the current rate of \$11,529.18 per person (2022/2023) is required to be paid. **NOTE: PAYMENT MUST BE IN BANK CHEQUE. PERSONAL CHEQUES WILL NOT BE ACCEPTED.**

This contribution is for Community facilities, Open Space/Recreation and Roads under the Lane Cove Section 7.11 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:

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Medium density developments (including attached dual occupancy and duplexes): No. Bedrooms	Average Occupancy	Amount contribution per person	No. of dwellings	Total Contribution
3 bedrooms	2.4 persons	\$11,529.18 x 2.4 = \$27,670 per dwelling. *Capped Rate \$20,000 per dwelling.	15 dwellings x \$20,000 = \$300,000.00	\$300,000.00
			TOTAL	\$300,000.00

*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 six (6) 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 120,000.00. The required S7.11 contribution is calculated at: \$300,000 – \$120,000 = **\$180,000.00**

Reason: Statutory requirement

5. B.1.T Demolition Traffic Management Plan

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

The DTMP must:-

- Make provision for all construction materials to be stored on site, at all times.
- Specify construction truck 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 an RMS 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”.

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

6. Additional carpark requirements

- Install wheel stops on all car parking spaces to prevent any collision with structures or objects.
- Provision for electrical vehicle including cabling to be provided for all car parking spaces.

Reason: Safety and amenity.

7. 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.

8. 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.

9. 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

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

Additional Council Requirements

- 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.
- 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. 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).

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

10. C.2 - Erosion and sediment control plan

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

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

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

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

11. 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:

- Council's Development Control Plan (Part Q: *Waste Management and Minimisation*).
- 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.
- 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.

12. 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 letter of consent from the relevant Electricity supply authority demonstrating that satisfactory arrangements can be made for the installation and supply of electricity.
- a response from Water NSW as to whether the plans proposed to accompany the application for a construction certificate would affect any Water NSW infrastructure, and whether further requirements need to be met.
- 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.

13. 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.

14. **C.6 - Adaptable units (if applicable)**

Before the issue of the relevant construction certificate, the applicant must ensure a report from a suitably qualified consultant is prepared and demonstrates, to the certifier's satisfaction, that any adaptable dwellings specified in the approved plans or supporting documentation comply with the provisions of *AS 4299-1995 Adaptable Housing Standards*.

Reason: To ensure adaptable units are designed in accordance with the Australian Standard.

15. **C.7 - Car parking details**

Before the issue of the relevant construction certificate, a suitably qualified engineer must review the plans which relate to parking facilities and provide written evidence, to the certifier's satisfaction, that it complies with the relevant parts of *AS 2890 Parking Facilities-Off-Street Carparking* and Council's development control plan.

Reason: To ensure parking facilities are designed in accordance with the Australian Standard and Council's DCP.

16. **C.8.T - Car parking details and additional Council requirements**

Additional Council car parking requirements are set out below:

- The proposed car park design and access shall comply with AS 2890.1. This includes all parking spaces, ramps and aisles.
- All accessible car parking spaces are to be adequately signposted and line marked and provided in accordance with AS2890.6: 2009 including the adjacent shared space and height clearance.
- All other aspects of the car parking areas are required to comply with AS 2890.2-2002 for Loading Facilities and Services Vehicles.
- All vehicles must front in/ front out to/ from the development.
- Small car spaces must form no more than 10% of the overall parking provision in public car parks.
- Small car parking, car share, car wash bay, motorcycle parking, retail parking, tenant parking, and resident parking to be sign posted and adequately line marked.
- The garbage collection and holding area is to be clearly signposted and line marked and provided in accordance with AS2890.2: 2002. On site garbage collection must be provided for with sufficient headroom and allow the vehicle to enter and exit in a forward direction.

Reason: To comply with Council car parking requirements.

17. **C.9.T - Car parking allocation and restrictions on excess spaces**

Car parking spaces shall be allocated as per the established minimum car parking rates (rounded up to the nearest whole number) in Table 1 of Part R: Traffic, Transport, and Planning of the LCDCP 2010.

The subdivision and sale of excess car parking spaces is prohibited.

Reason: To comply with Council's car parking requirements

18. **C.10.T – Pedestrians / cycling**

- All bicycle racks and secure bicycle parking provided on-site shall comply with the minimum standards as outlined in Section 4.3 of Part R: Traffic, Transport and Parking of Lane Cove DCP 2010 and designed in accordance with AS 2890.3: 2015 Bicycle Parking Facilities. Alternative designs that exceed the Australian Standards will also be considered appropriate.
- Basement bicycle parking is to be located as close as possible to the car park entrance, clearly labelled, and easily identifiable through appropriate way finding signage.
- Line markings are to be provided to guide pedestrians to the lift in public car parking areas.

Reason: To ensure pedestrian safety and that bicycle parking facilities satisfy Council's requirements.

19. **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.

20. **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.

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

- The proposed vehicular crossing shall be constructed to the specifications and levels issued by Council.
- The driveway opening width along at the face of kerb must be as shown in the architectural drawing.
- The driveway shall be setback a minimum 300mm away from any existing power pole and stormwater pit.
- Certification is to be provided by a suitably qualified engineer demonstrating compliance with AS 2890 Series including AS 2890.1.2004 "Off Street, Car Parking", and Council's standards and specifications.
- The following plans shall be prepared and certified by a suitably qualified engineer: Longitudinal sections along the extreme wheel paths of the driveway/access ramp at a scale of 1:20 demonstrating compliance with the scraping provisions of AS2890.1. The sections shall include details of all levels

and grades, including those levels stipulated at boundary levels, both existing and proposed from the centre line of the roadway through to the parking area clearly demonstrating that the driveway complies with Australian Standards 2890.1-2004 - Off Street Car Parking.

- Transitional grades in accordance with AS2890. If a gradient in excess of 25% is proposed, the engineer must certify that this design is safe and environmentally sustainable.
- Sections showing the clearance to the underside of any overhead structure complies with the clearance provisions of AS2890.1.

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

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

22. **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:

- 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 adjoining properties resulting from building work on the development site.

23. **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.

24. **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.

25. **B.4.EH Demolition work plan**

A demolition work plan must be prepared for the development in accordance with Australian Standard AS2601-2001 by a licensed demolisher who is registered with the NSW WorkCover. The demolition work plan must be submitted to the Principal Certifying Authority (PCA), not less than seven working days before commencing any demolition work. A copy

of the demolition work plan must be maintained on site and be made available to Council officers upon request. The Demolition Work Plan must include the following information (as applicable):

- The name, address, contact details and license 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.

26. B.5.EH Construction environmental management plan

Prior to the commencement of any demolition and remedial works, a construction environmental management plan (CEMP) must be prepared for the site and submitted to Council for written approval prior to the commencement of work. The CEMP 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 CEMP.

Reason: To ensure health and safety

27. 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.

28. C.2 - Erosion and sediment control plan

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

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

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

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

29. **C.11.T - Basement car park safety and functionality**

Prior to the issue of the relevant construction certificate, a Traffic Report demonstrating the safety and functionality of the basement car park, including details of the proposed signalised system is to be submitted to and approved by Council's Traffic Department. Certification of the internal traffic signal system that it complies with relevant standards and is safe and functional is to be provided by an independent Traffic Consultant.

Reason: To ensure safety and functionality of the basement car park.

30. **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.

31. **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:

- Work Health and Safety Act 2011;
- The Occupational Health and Safety (Hazardous Substances) Regulation 2001;
- The Occupational Health and Safety (Asbestos Removal Work) Regulation 2001;
- Protection of the Environment Operations Act 1997 (NSW);
- Protection of the Environment Operations (Waste) Regulation 2005;
- Waste Avoidance and Resource Recovery Act 2001; and
- 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.

32. **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.

33. **C.18.EH - Waste and recycling, and bulky waste storage room(s)** The construction certificate drawings shall detail compliance with the requirements of Part Q of Lane Cove DCP 2010 for all waste and recycling, and bulky waste storage room(s). As a minimum this shall include the following:
- 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
 - Floors finished to a smooth even surface, coved at the intersection of walls and floor.
 - Walls constructed of solid impervious material and cement rendered internally to a smooth even surface coved at all intersections.
 - Provision of 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.
 - Constructed to prevent the entry of vermin.
 - Provision of artificial light controlled by switches located both outside and inside the rooms.
 - Clearly printed "No Standing" signs affixed to the external face of each waste/recycling and bulky waste storage room.

Reason: To ensure adequate waste and recycling storage and management in accordance with Councils DCP.

34. **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.

35. **D.3 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

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

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

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

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

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

38. **E.7 - While building 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.**

39. **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
- 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.

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.

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.

40. **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.

41. **E.21.EH - Storage and assessment of potentially contaminated soils**

- a) All stockpiles of potentially contaminated soil must be stored in an environmentally acceptable manner in a secure area on the site.
- b) All stockpiles of potentially contaminated soils must be assessed in accordance with relevant NSW Environment Protection Authority guidelines, including NSW EPA Waste Classification Guidelines (2014).

Reason: To mitigate adverse environmental impacts on the surrounding area.

42. **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.

43. **E.23.EH - Compliance tracking and reporting**

The Applicant must provide regular (6 monthly) reporting on any environmental performance required by the development consent for the development on its project website, in accordance with the reporting arrangements in any plans or other documents approved under the conditions of this consent.

Reason: To protect the environment.

44. **F.11.EH - Compliance with acoustic report**

At completion of the construction works and prior to the issue of any occupation certificate for stage 1, a validation certificate is to be submitted to the Principal Certifier confirming that the development has been constructed in accordance with the acoustic report prepared by Acoustic Logic and dated 21/12/21, and that the internal noise levels have been achieved.

Reason: To ensure adequate internal acoustic amenity.

45. **F.13.EH - Outdoor lighting**

Outdoor lighting shall comply with Australian Standard AS 4282-1997 – *Control of the obtrusive effects of outdoor lighting*.

Where sites adjoin bushland, all outside lighting must be appropriately baffled to minimise light pollution into the bushland area. Native plantings may be used to absorb lighting.

Reason: To protect the amenity of nearby residential properties

46. **F.10.E 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

47. **F.11 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

48. **F.11.A 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

49. **F.11.B 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

50. **F.11.C 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

51. **F.12 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

52. **F.13 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 pipelines without Council's approval.

Reason: To protect public infrastructure

53. **F.14 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

54. **F.15 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

55. **F.16.T 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 TfNSW 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**.

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 a Works Zone is required, the developer must give the Council at least six (6) weeks

written notice prior to the date upon which use of the Works Zone will commence. The duration of the Works Zone approval shall be taken to commence from that date. All vehicular unloading/loading activities on a public roadway/footway are to be undertaken within an approved Works Zone.

Reason: To ensure pedestrian and traffic safety.

56. **G.1 Council Infrastructure Damage Bond:** The applicant shall lodge with Council a **\$40000.00** 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

57. **G.2 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

58. **G.3 Drainage Plans Amendments:** The stormwater drainage plan prepared by Greenview Consulting, reference No: 200722DA CO01 1 to C05 1, revision 3 and dated on 21/07/22 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 require OSD system. The detailed design for a proposed system is required
 2. Proposed drainage system should show pipe sizes and invert levels up to connection

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- point; confirming pipe system satisfies part O of Council' storm water DCP.
3. A rainwater tank shall be included into storm water management plan as per Basix certificate.
 4. Clean out pits are required at all low points of charged drainage line if charged pipe system is proposed.
 5. Sediment control fence shall be placed around the construction site and shown in plan
 6. As per site location, this is an overland flow path and proposed building is blocking this overland flow. Additional inlet pits and pipe system are required in upstream of the building and connected to Council drainage system.
 7. Subsoil agg-line drainage is required around proposed retaining wall, dwelling, or it is necessary and connected to proposed drainage system
 8. Stormwater runoff from driveway shall be collected by grated driveway pit and connected to stormwater system
 9. 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.
 10. 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.
 11. Flood Study is required for this catchment to find out 1 in 100 flood level. The Council adopted freeboards are 300mm for habitable area and 150mm for non-habitable area.
 12. The recommendation given by Flood Analysis Report must be satisfied
 13. Upstream catchment shall be analysed, and suitable drainage relocation plan shall be provided if the proposed building is within easement
 14. Existing Council pipe system within the site must be accurately located and marked on stormwater management plan with pipe size and invert level at connection point to confirm this connection satisfy Council requirements. As per Council mapping, there is a pipe (450mm) system running across site. This proposed connection shall satisfy section 4.3 in Part O council DCP.
 15. The OSD calculation shall be based on the calculation shown in Appendix 14 in part O of Council stormwater DCP.
 16. The detailed cross section of the OSD is required and shall show levels, sizes, depths and widths.
 17. As per submitted plan, the kerb connection pipe from OSD is running through 5 and/or 7 Austin Crescent. This is not allowed. The applicant has to create a drainage easement through relevant property satisfying Section:12 of Council DCP.
 18. The details of proposed pit and pipe system on Austin Cres prepared by qualified hydraulic engineer, shall be submitted to Council with calculation.
 19. CCTV reports of the existing pipe system within the site are to be submitted to Council prior to the construction starts and after completion of construction work.
 20. Council does not support pipe lines underneath of any part of the buildings including garage and carport except seepage agg-line system.
 21. The pump out system in basement shall satisfy section 5.4 of part O of Council's stormwater DCP. The full details of the hydraulic calculation for pump out system shall be included in stormwater management plan submitted to Council.
 22. The proposed basement shall be constructed with water-proof walls around it since this section is within flood zone.
 23. 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

59. **G.4 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

60. **G.25.E 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 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

61. **G.5 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

62. **G.5A 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 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 Council's drainage infrastructure

63. **G.6 Construction adjacent to or parallel to a drainage Easement / pipeline:** The footings of the proposed structure adjacent to the Council drainage easement/pipe line shall be taken below the zone of influence of the Council stormwater line. The location and depth of the footings in relation to the stormwater line, along with the design of the footings, are to be detailed on engineering plans. The engineering plans are to be completed and certified for construction by a suitably qualified engineer and be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate**.

On completion of the works and **prior to the issue of the Occupation Certificate** the design engineer shall certify that structure has been constructed in accordance with the approved plans and is within acceptable construction tolerances. The certification is to include a Work as Executed plan. The Work-as-Executed must show the location of all structures near the Council drainage easement, indicating that all footings are located below the zone of influence of the Council stormwater line.

Reason: To protect existing pipe system and ensure uninterrupted flow path within the easement

64. **G.7 Overland Flow around Buildings:** To prevent stormwater from entering the building the finished habitable ground floor level of the building must be a minimum of 150mm above the adjacent finished ground level.
65. **G.7A Overland Flow Requirements:** The applicant shall submit a flood study to the Principle Certifying Authority which demonstrates that all proposed structures that are to be built upon the area affected by the overland flow path comply with Part O, Council's DCP- Stormwater Management. The flood study is to be completed by a suitably qualified engineer. Overland flows generated from a 1 in 100-year storm event must be accepted at the upstream boundary and conveyed through the site. Overland flow, which enters the site from upstream properties, should not be redirected in a manner which adversely affects adjoining properties. The report needs to be prepared and certified by the engineer and submitted to the Principle Certifying Authority **prior to the issue of the Construction Certificate**.
66. **G.7B Overland Flow:** Overland flows generated from a 1 in 100-year storm event must be accepted at the upstream boundary and conveyed through the site. A hydraulic evaluation of the overland flow path shall be prepared by a suitably qualified engineer the hydraulic evaluation is to comply with Council's DCP- Stormwater Management.

The hydraulic evaluation and any related documents are to be submitted to and approved by Council prior to the issue of consent.

67. **G.7C Overland Flow path over Council Pipeline:** An overland flow path is to be created above the Council stormwater line within the drainage easement. The flow path shall have sufficient capacity to convey runoff exceeding the pipe capacity during storms up to the 1 in 100 year storm events. Overland flow, which enters the site from upstream properties, should not be redirected in a manner which adversely affects adjoining properties.

An overland flow path shall be designed in accordance with councils DCP Stormwater Management by a suitably qualified engineer

The design of the flow path shall be submitted to and approved by Council prior to the issue of consent.

68. **G.7.E Positive Covenant Bond:** The applicant shall lodge with Council a **\$2000.00** cash bond to cover the registration of a Positive Covenant for the removal of structures over the Council drainage easement. Lodgement of this bond is required **prior to the issue of the Construction Certificate.**

Positive Covenant - Removal of Structures: Documents giving effect to the creation of a Positive Covenant for the removal of all structures located over the Council Drainage Easement shall be registered on the title of the property. The creation of a Positive Covenant under *Section 88E* of the *Conveyancing Act 1919*, burdening the property with the requirement to remove all structures should Council need to gain access to the Easement. The wording of the terms of the Positive Covenant shall be in accordance with those issued by Council. The documents prepared shall be submitted to Council prior to registration with the Land and Property Information and prior to the issue of the Occupation Certificate.

Reason: To protect existing Council pipe within the easement

69. **G.8 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 **Austin Street and 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 movements 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 movements 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

70. **K.1 Council Construction Requirements:** The applicant shall construct / reconstruct the following to Council's satisfaction;
1. New footpath adjacent the entire frontage Austin St to Council's satisfaction
 2. New Kerb and Gutter along the entire frontage of Austin St to Council's satisfaction
 3. Construction of new drainage system within the site
 4. Reinstate all adjustments to the road surfaces.
 5. Reinstate all existing nature-strips with turf and soil on road reserve.
 6. Reinstate all damages identified in dilapidation report
 7. Reinstate all damages identified in CCTV report.

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

71. **K.1.A An \$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

72. **K.2 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

73. **K.3 Council Inspection Requirements:** The following items are to be inspected

- Proposed stormwater pipe relocation work
- Proposed stormwater connection to existing pipe in easement
- 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

74. **O.1 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

75. **O.3 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

76. **O.4 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

77. **R.1 Rainwater Reuse Tanks:** The proposed rainwater tank is required as per BASIX certificate and to be installed in accordance with Council's rainwater tank policy and relevant Australian standards.

Note:

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

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

78. **S.1 Stormwater Requirement:** Stormwater runoff from 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, 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

79. **V.1 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 manoeuvring facilities within the site 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

80. **V.6 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

81. **V.7 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

82. **T.1 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

83. **T.2 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

84. **T.3 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

85. **T.4 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

86. **U.1 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

87. **U.2 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
 - Rainwater tanks

- All repair works identified in Dilapidation reports
- OSD

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

Reason: Statutory requirement

88. **U.3 Engineering Note:** All engineering compliance certificates are to contain the following declarations:

- a. This certificate is supplied in relation to **21-25 Austin Street, Lane Cove**
- b. **[INSERT NAME OF ENGINEER AND COMPANY]** have been responsible for the supervision of all the work nominated in (a) above.
- c. I have carried out all tests and inspections necessary to declare that the work nominated in (a) above has been carried out in accordance with the approved plans, specifications, and the conditions of the development consent.
- d. I have kept a signed record of all inspections and tests undertaken during the works and can supply the Principal Certifying Authority with a copy of such records and test results if and when required.

Reason: Statutory requirement and to protect stormwater infrastructure and confirm future maintenance

89. **U.4 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

90. **U.5 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

91. **U.6 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.

ATTACHMENTS:

AT-1 [View](#) Landscaping conditions

Pages 8 Available
Electronically