Agenda
Lane Cove Local Planning Panel Meeting
25 November 2025

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 25 November 2025 commencing at 5pm. The business to be transacted at the meeting is included in this business paper.

Yours faithfully

Louise Kerr
General Manager

Lane Cove Local Planning Panel Meeting Procedures

The Lane Cove Local Planning Panel (LCLPP) meeting is chaired by Ms Jan Murrell or alternate Chairs. The meetings and other procedures of the Panel will be undertaken in accordance with 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. All persons wishing to address the Panel must register prior to the meeting by contacting Council's Office Manager – Environmental Services on 9911 3611. 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.

Minutes of LCLPP meetings are published on Council's website www.lanecove.nsw.gov.au as soon as possible 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 audio of members of the public that speak during the meeting. 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

Item No: LPP22/25

Subject: 104 Burns Bay Road, Lane Cove

Record No: DA25/113-01 - 77596/25

Division: **Error! No document variable supplied.**

Author(s): Eugene Sarich

Property:	104 Burns Bay Road, Lane Cove
DA No:	DA 113/2025
Date Lodged:	27/10/2025
Cost of Work:	$180,000 + GST
Owner:	The Secretary, Strata Plan 32261
Applicant:	Sam Chen

Description of the proposal to appear on determination	Partial demolition of an existing boundary retaining wall and construct new reinforced concrete block retaining wall.
Zone	R4 High Density Residential
Is the proposal permissible within the zone	Yes
Is the property a heritage item	No
Is the property within a conservation area	No
Does the property adjoin bushland	No
BCA Classification	Class 10b
Stop the Clock used	No
Notification	The application was notified in accordance with Council's Neighbour Notification policy and two (2) submissions were received.

SITE

Property	SP. 32261
Area	704m^2
Site location	Southern side of Burns Bay Road, Lane Cove.
Existing improvements	Two storey residential flat building and landscaping.
Shape	Predominantly rectangular.
Dimensions	Width: 18.07m Depth: Average 35.56m
Adjoining properties	East: Residential flat building. West: Residential flat building. North: N/A South: Residential flat building.

SITE APPLICATION HISTORY

DA	No recent application history.

PROPOSAL

Demolition of an existing boundary retaining wall and construction of a new reinforced concrete block boundary retaining wall.

The subject and adjoining sites support 2-3 storey residential flat buildings and associated landscaping.

The common boundary with No. 102 Burns Bay Road has an informal random rock retaining wall which appears to be part of the original site landscaping however its condition has deteriorated over time and requires replacement. The wall lies across the common boundary and is approximately 1m high at the highest point along the neighbouring driveway. This wall will be replaced by a new reinforced concrete block retaining wall up to 1.77m above the level of the driveway and will be located inside the boundary of the subject site.

The rear portion of the common boundary with No. 102, supports a short reinforced block retaining wall which extends around to the common boundary with No. 2-4 Grace Street at the rear. This wall will be retained. The proposed new retaining wall will continue along the No. 2-4 Grace Street common boundary and be set inside the existing block wall. This portion of the wall will be 1m in height above the existing wall which is 600mm high. Refer to Section 2 of the architectural/engineering plan set.

The works also include ancillary works being the underpinning of the structure of the residential flat building where indicated on the plans. Once the walls are completed, the area between the building and the new walls will be filled, levelled and landscaped. Subsoil drainage will be provided in accordance with good engineering practice. Hydraulic details have been provided which are supported by Council's Development Engineer.

Seven low value trees and shrubs will require removal to accommodate the work, five of which are exempt under Council's Tree Preservation guidelines. The plants removed will be replaced on a 1:1 basis which will restore the privacy screening benefits currently enjoyed between the two adjoining properties.

The proposal is supported subject to conditions as provided in this assessment report.

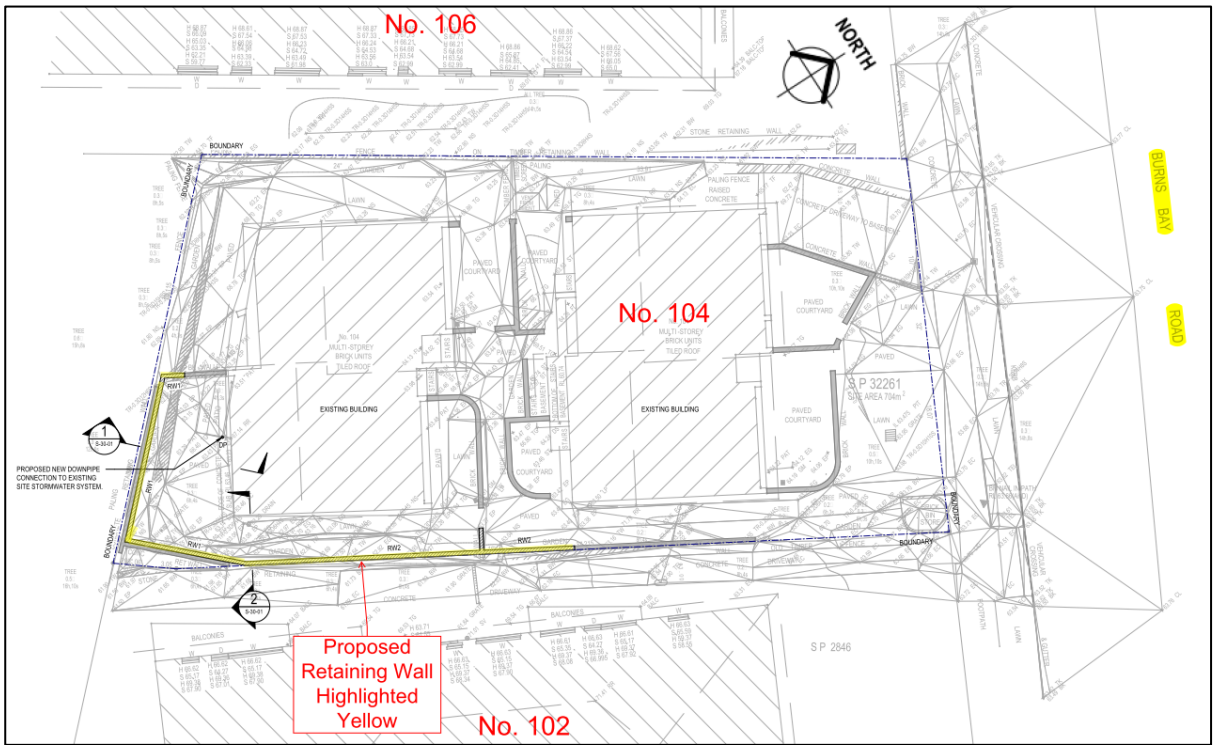

Figure 1: Annotated extract from the architectural plans showing the location of the proposed new retaining wall highlighted in yellow.

Figure 2: View of the driveway of No. 102 looking south west from the street. The retaining wall to be replaced is approximately represented by the red line.

Figure 3: The condition of the existing rock wall.

Figure 4: The remainder of the existing rock wall towards the rear of the site.

PROPOSAL DATA/POLICY COMPLIANCE

Local Environmental Plan 2009

Zoning: R4 High Density **Site Area: 704m²**

LEP table			
	Development Standard	**Proposal**	**Complies**
Floor Space Ratio (max)	0.8:1	The FSR is not affected by the proposal.	N/A
Height of Buildings (max)	12m	1m to 1.77m	Yes

Comprehensive Development Control Plan assessment

DCP table			
	Provision	**Proposal**	**Complies**
Front setback (min)	Consistent with area or 7.5m	This control applies to the setback of the principal building (however it is noted that the retaining wall is setback approximately 20m from the front boundary).	N/A
Secondary street setback (min) (corner lots)	2m	The site is not a corner lot.	N/A
Side setback (min)	1.2m single storey 1.5m two storey	This control applies to the setback of the principal building and is not directly relevant to a boundary retaining wall.	N/A
Rear setback (min)	<1000m²: 8m or 25% >1000m²: 10m or 35%	This control applies to the setback of the principal building (however it is noted that the new retaining wall setback is governed by the existing retaining wall which is well inside the common boundary with No. 2-4 Grace Street).	N/A
Wall height (max)	7m + 600mm parapet for flat roof structures	This control applies to the principal building.	N/A
Ridge height (max)	9.5m	The proposal is for a retaining wall.	N/A
Subfloor height (max)	1m	The proposal is for a retaining wall.	N/A
Number of storeys (max)	2	The proposal is for a retaining wall.	N/A
Landscaped area (min) (Minimum	35%	The proposal does change the existing landscaped	N/A

DCP table			
	Provision	**Proposal**	**Complies**
dimension of 1m)		area.	
Foreshore setback line	Refer to B.5 Development in Foreshore Areas	The site is not located in a Foreshore Area.	N/A
Cut and fill (max)	1m	The retaining wall does not require any additional cut (other than for footings) however fill is required to level the garden area to make it more useable and functional. The depth of the fill will vary between 0.22m to 1.06m.	Cut: Yes Fill: Minor non-compliance but is supportable as the fill enables a more useable and functional landscaped area.
Solar access (min)	3 hours to north facing habitable windows	The retaining wall has minimal impact on solar access as any shadow will fall on the adjoining driveway only.	Yes
Deck/balcony depth (max)	3m	Not relevant.	N/A
Private open space (min)	24m² and 4m in depth	The proposal does not affect the private open space.	N/A
BASIX Certificate	Required	The proposal is not subject to BASIX.	N/A

Car parking

Car parking table			
	Provision	Proposal	Complies
Off-street spaces	1 minimum	Not relevant.	N/A
Driveway width	3m at the kerb	Not relevant.	N/A
Driveway width (battle-axe lots) (min)	3m	Not relevant.	N/A

Carports within the front setback & garages facing the street

Car parking structure table			
	Provision	**Proposal**	**Complies**
Setback of carport posts (min)	1m from street boundary	Not relevant.	N/A
% of allotment width (garages & carports)	50% of lot width or 6m, whichever is the lesser	Not relevant.	N/A

Private swimming pools

Private swimming pool table			
	Provision	**Proposal**	**Complies**

Private swimming pool table			
	Provision	**Proposal**	**Complies**
Setback to neighbour's house (min)	3m to waterline	Not relevant.	N/A
Setback to boundary (min)	1m to waterline	Not relevant.	N/A
Height (max) (steeply sloping sites)	1m 1.8m	Not relevant.	N/A
Setback from boundary if coping is above ground level (existing) (min)	Coping to be set back at a ratio of 1:1	Not relevant.	N/A

Fences

Fences table			
	Provision	**Proposal**	**Complies**
Front fence height (max)	Solid: 900mm Lightweight: 1.2m	Not relevant.	N/A
Setback from front boundary if the height is over 1.2m (min)	1m	Not relevant.	N/A
Height of side and rear fences (max)	1.8m	The proposed retaining wall is not a dividing fence.	N/A

Outbuildings

Outbuilding table			
	Provision	**Proposal**	**Complies**
Overall height (m) (max)	3.6m	Not relevant.	N/A
External wall height (max)	2.4m	Not relevant.	N/A
Floor space (max)	50m²	Not relevant.	N/A
Number of storeys (max)	1	Not relevant.	N/A
Setback of windows from boundaries (min)	900mm	Not relevant.	N/A

PART S - ASSESSMENT

The proposed works amount to a cost over $250,000 and therefore an assessment against the provisions of Part S Environmental Sustainability is required. However, due to the nature of the proposed development, there are no issues in relation to Part S as indicated in the tables below.

S.2 Achieving Net-Zero			
Provision	**Provision**	**Proposal**	**Complies**
2.1 All Electric Buildings	All new developments are to use electricity for all energy requirements associated with normal operations.	Not relevant.	N/A
2.2 On-site solar	Residential development of three storeys or less will include the installation of a	Not relevant.	N/A

S.2 Achieving Net-Zero			
Provision	**Provision**	**Proposal**	**Complies**
	solar PV system of no less capacity than 25% of the roof area.		
2.3 Refrigerants	Natural or Hydrofluoroolefin (HFO) refrigerants with a GWP (Global warming potential) of less than 10 should be used in all air conditioning, refrigeration and heat pump equipment	Not relevant.	N/A

S.3 Resilience and Health			
Provision	**Provision**	**Proposal**	**Complies**
3.1 Natural Ventilation	a) For all residential accommodation not affected by SEPP 65: i. The natural ventilation requirements of the NCC are to be met with the area of openings to be calculated following the Apartment Design Guide Glossary definition of Effective Open Area (EOA), including necessary allowance for insect screens. ii. Windows are to be located on multiple aspects to promote natural cross ventilation.	Not relevant.	N/A
3.2 Glazing	a) Window-to-wall ratios of each major aspect are to be limited to a maximum of: i. For residential buildings, 30% when measured externally or 50% when measured on the internal façade, whichever is lower. Windows and walls facing onto private open spaces are excluded from the window-to-wall ratio calculation. b) External solar shading should be provided to glazing on the north, east and western facades where it is not significantly over-shadowed by neighbouring buildings or by the inclusion of balconies. The	Not relevant.	N/A

S.3 Resilience and Health			
Provision	**Provision**	**Proposal**	**Complies**
	solar shading should be designed to maximise the protection of the glazing from the summer sun and maximise solar transmission in the winter sun. d) Glazing is to be selected with external solar heat and visible light reflectivity no greater than 20% measured at normal incidence.		
3.3 Urban Heat and Shade	a) For low density residential, at least 75% of the site area must comprise one or a combination of the following when assessed in plan view: i. Vegetation, ii. Green roofs, iii. Roofing materials, including shade structures, with a minimum solar reflectivity index (SRI) of 82 if a horizontal surface or a minimum SRI of 39 for sloped surfaces greater than 15 degrees, iv. Hardscaping elements shaded by overhanging vegetation or roof structures, v. Water bodies and/or watercourses.	Not relevant.	N/A
3.4 Sustainable Materials	a) All newly sourced timber used in construction is to be FSC certified. b) Alternatives products are to be preferenced to replace materials that cause environmental harm or health risks in manufacture, including materials containing formaldehyde, chlorinated polymers, hydrochlorofluorocarbons and Halogenated flame retardants. c) Engineered stone products	Not relevant.	N/A

S.3 Resilience and Health			
Provision	**Provision**	**Proposal**	**Complies**
	must be handled in accordance with the appropriate standards.		

S.4 Integrated Urban Water Management			
Provision	**Provision**	**Proposal**	**Complies**
4.1 Water Efficiency	a) All development must demonstrate the prioritisation of water conservation measures to minimise water consumption.	Not relevant.	N/A
4.2 Stormwater Management	a) Peak stormwater flows are to be reduced with a stormwater detention system. Other measures can include green roofs, stormwater harvesting, rain gardens, bio-retention basins and passive filtration measures. Other water sensitive urban design measures are described in Part J – Landscaping and Tree Preservation. b) The use of porous surfaces is to be maximised. c) Where required, Gross Pollutant Traps and filtration are to meet Sydney Water Best Practice guidelines for reducing stormwater pollutants.	Not relevant.	N/A

PART R - Traffic, Transport and Parking

Part R – R.2 Parking			
Provision	**Provision**	**Proposal**	**Complies**
2.2 Electric vehicle infrastructure	c) All low and medium density residential dwellings are to be provided with a minimum of one 15A circuit and socket adjacent to the car parking facilities. This is to be shown on the carport / garage plan.	Not relevant.	N/A

PART J - Landscaping and Tree Preservation

Part J – J.3 Urban Landscape Guidelines			
Provision	**Provision**	**Proposal**	**Complies**
3.5 Urban Tree Canopy	a) All new developments shall achieve no net canopy loss, if	Not relevant.	N/A

Part J – J.3 Urban Landscape Guidelines			
Provision	**Provision**	**Proposal**	**Complies**
	any trees are proposed to be removed. The landscaping plan should demonstrate how canopy area is 100% replaced.		

PART O - Stormwater Management

Part O – O.7 On-site Stormwater Detention Systems			
Provision	**Provision**	**Proposal**	**Complies**
7.3 Exemption from OSD by installing rain water tanks for dwellings houses and dual occupancies	e) The rainwater reuse tanks are to be connected to all toilets, at least one outside tap and the cold water washing machine tap. The BASIX certificate is to confirm the rainwater tank connection. This is to be shown on the stormwater plan or a statement of adequacy is to be provided by a suitably qualified engineer.	Not relevant.	N/A

REFERRALS

Development Engineer – Part O – Stormwater Management

No objections subject to draft conditions.

The recommended draft engineering conditions are incorporated in the proposed consent conditions.

Tree Assessment Officer – Part J – Landscaping and Tree Preservation

No objections subject to recommended draft conditions. Specifically, the following comments have been provided:-

- *Removal of 7 low value trees/shrubs, partial demolition of an existing boundary retaining wall, construction of replacement boundary retaining wall and installation of new stormwater services.*
- *It is noted that 5 of the 7 trees/shrubs are exempt under Section 4.2(a)(i), Part J.4 – Tree Preservation Guidelines the provisions of the Lane Cove DCP 2010 due to not meeting the dimension requirements for height, canopy spread or trunk diameter and that the 2 additional trees proposed to be removed have been assessed as having low landscape significance and retention value.*
- *1:1 replacement planting will be conditioned to replace the privacy screening benefits currently provided by the vegetation.*
- *Tree protection conditions have been applied to ensure tree canopy and root sensitive construction techniques and methodology are employed to mitigate any potential negative impacts to 5 neighbouring trees/shrubs.*

ASSESSMENT - ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

PROVISIONS OF ANY LEP, DCP, SEPP OR REGULATION (Section 4.15(1)(a))

The proposal is permissible and does not raise any issues in regard to the Lane Cove Local Environmental Plan 2009.

Clause 6.1A Earthworks

Clause 6.1A(3) provides as follows:-

Before granting development consent for earthworks, the consent authority must consider the following matters—
(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,
(b) the effect of the proposed development on the likely future use or redevelopment of the land,
(c) the quality of the fill or the soil to be excavated, or both,
(d) the effect of the proposed development on the existing and likely amenity of adjoining properties,
(e) the source of any fill material and the destination of any excavated material,
(f) the likelihood of disturbing relics,
(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.

Comments: The proposed works are considered not to conflict with any of the above matters for consideration for reasons that:-

1. The works are relatively minor and do not require additional cut,
2. The works will replace an existing but dilapidated retaining wall,
3. There will be a beneficial impact in that the new wall will be provided with subsoil drainage and stormwater management which was previously absent and caused the existing wall to fail over time.

There are no other clauses in the Lane Cove Local Environmental Plan 2009 that are directly relevant to the proposal.

OTHER PLANNING INSTRUMENTS

SEPP (Resilience and Hazards) 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.

SEPP (Biodiversity and Conservation) 2021

The two relevant chapters are addressed under the following subheadings.

Chapter 2 Vegetation in non-rural areas

The aims of Chapter 2 have been satisfied as the proposed development would have a reasonable impact on the biodiversity value of trees and other vegetation.

Chapter 6 Water catchments

The aims of Chapter 6 have been satisfied as the proposed development would not adversely impact the quality of water entering the *Sydney Harbour Catchment.* This has been ensured by the proposed stormwater and subsoil management system.

APPLICABLE REGULATIONS

The Environmental Planning and Assessment Regulation 2021 indicates that the standards for demolition and removal of materials should meet with AS 2601-2001 and therefore any consent would require the application of a relevant condition seeking compliance with this Standard.

VARIATIONS TO COUNCIL'S CODES/POLICIES

There are no variations or departures from Council's codes or policies triggered by the proposal other than the very minor exceedance of the fill control previously mentioned.

IMPACTS OF DEVELOPMENT (Section 4.15(1)(b))

The proposed development does not present any impacts on neighbouring properties or the public domain in terms of overshadowing, acoustic privacy, traffic and parking. In respect of visual privacy, replacement plantings as required by the conditions will ameliorate impacts.

The proposal will have a visual impact on No. 102 Burns Bay Road as the new retaining wall will have the function and appearance of a dividing fence which is currently absent.

Subject to conditions, the proposal presents a development outcome that is consistent with the objectives of the relevant planning controls.

SUITABILITY OF SITE (Section 4.15(1)(c))

The subject site is suitable for the proposed development as the use is permissible within the R4 Zone as ancillary development. The proposal is necessary to avoid any future environmental or physical harm caused by the dilapidation of the existing retaining wall. Positive outcomes include rectification of any encroachment on the adjoining property and the provision of a stormwater management system. The new wall will improve the amenity of the site and adjoining site and would not constrain the development of the neighbouring sites.

RESPONSE TO NOTIFICATION (Section 4.15(1)(d))

Concern	Comment
How long approximately will the works take?	The applicant advises that the works will take approximately between 2-3 months.
Will our driveway be obstructed for the entire works period meaning we won't be able to park our cars in our designated uncover garages? If not for the entire time, how long should we anticipate, we won't be able to access our driveway?	The applicant advises that once the contractor has been selected for the project, the contractor will work with the neighbouring property to ensure access is maintained during the work. This will be undertaken through consultation with the neighbouring property.
Is 104 covering the cost of all	The applicant advises that the Owners Corporation of 104 Burns

works included in the DA?	Bay Road, Lane Cove will be responsible for the cost of the works
What materials will be used to construct the retaining all? What will it look like?	The applicant advises the retaining wall will be constructed of reinforced core-fill block wall. A painted and/or rendered finish can be applied to the retaining wall. The exact finish and colour can be confirmed during the works with consultation with the neighbouring property. Refer Condition 2.
There has been no communication between adjoining Strata Plans in respect of the proposal.	While this is regrettable, it is a matter between the relevant Strata Plans.
Arrangements for access and parking during construction.	It is recognised that parking is difficult in Burns Bay Road however this is not a ground upon which the application can be refused. It is up to the subject Strata Plan to communicate with the adjoining Strata Plan. It is however appropriate to request a Construction Management Plan detailing how the works will be carried out and how traffic and parking will be managed. An appropriate condition has been included. See Condition 12.
Access arrangements for the actual construction works.	The retaining wall will require construction access to 102 Burns Bay Road and 2-4 Grace Street. Council cannot grant access rights through a development consent. It is up to the applicant to negotiate construction access with the adjoining properties. In this regard, if an agreement is not reached, the applicant may avail themselves of the Access to Neighbouring Land Act 2000. The Act provides a legal pathway for property owners to access neighbouring land when necessary to carry out work on their own property. The legislation is designed to resolve disputes where access is refused or unclear. The Court may grant an access order if:- • The work is reasonably necessary, • Access cannot be achieved without entering the neighbour's land, • The impact on the neighbour is minor or manageable, • The applicant has made reasonable efforts to obtain consent.
How will the wall look	The wall will be a conventional reinforced concrete block wall as described in the plans. A condition of consent will require external rendering and painting in a muted colour. See Condition 2.
Is there any financial commitment required from SP2846	This is not a matter for Council's consideration under a development application.

PUBLIC INTEREST (Section 4.15(1)(e))

The proposed development would have reasonable impacts on neighbouring properties and the public domain with regard to the Lane Cove LEP 2009, Lane Cove DCP 2009 and the relevant environmental planning instruments. Therefore, approval of this application would not be contrary to the public interest.

CONCLUSION

The matters in relation to Section 4.15 of the Environmental Planning and Assessment Act 1979 have been satisfied.
The application does not engage the Floor Space Ratio development standard of the Lane Cove LEP 2009. The proposal complies with the Height development standard of the Lane Cove LEP 2009.

The application generally meets with the Part C Residential Development Objectives of the Lane Cove Development Control Plan 2009.

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

RECOMMENDATION

That pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979, the Lane Cove Local Planning Panel at it's meeting of 25 November 2025, exercising the functions of Council as the Consent Authority, grants development consent to:

- Development Application DA 113/2025,
- for the demolition of an existing boundary retaining wall and the construction of a new reinforced concrete block boundary retaining wall,
- at 104 Burns Bay Road, Lane Cove

subject to the following conditions:

PART A – GENERAL CONDITIONS

1. **A.1 - Approved plans**

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

Plan No	Rev	Plan Title	Drawn By	Dated
SY240080 Sheets S-00-00 S-10-01 S-10-02 S-30-01	2	Architectural / Engineering Plans.	Leo & Associates	26/03/2025
SW25011 Sheets SW001 SW010 ER001	1	Stormwater Management Plan	Leo & Associates and Capital Engineering Consultants	10/03/2025

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

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

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

The proposed retaining wall is to be rendered and painted externally in a muted colour and this is to be confirmed on the plans issued with the construction certificate.

Reason: To ensure the colour of the retaining wall does not have an adverse impact on the residents.

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

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

Security deposit	**Amount**
Infrastructure damage bond	$5000
Council-owned trees	$2000

To make this payment please contact Lane Cove Customer Service team.

The mode of payment shall be Non-cash payments only (Credit card, Bank cheques, EFT) or Bank Guarantee.

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; and
- making good any damage caused to any Council-owned street trees including remedial pruning, tree removal and tree replacement as a consequence of carrying out the works to which the consent relates.

The deposit shall be lodged with Council to cover the satisfactory construction of the above requirements.

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

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

The protection of trees in Lane Cove is regulated under the State Environmental Planning Policy (Biodiversity and Conservation) 2021 (SEPP) parts 2.2 and 2.3 which prohibits the clearing of vegetation without the authority conferred by a permit granted by Council. Clearing under the SEPP is defined as:

a) cut down, fell, uproot, kill, poison, ringbark, burn or otherwise destroy the vegetation, or

b) lop or otherwise remove a substantial part of the vegetation.

The clearing of trees or vegetation protected by the regulation is an offence against the Environmental Planning and Assessment Act 1979 (NSW).

The maximum penalty that may be imposed in respect to any such offence is $1,100,000 per individual and $5,500,000 per corporation.

The following trees shall be retained:

Tree No.	Species	Location	Dimensions
1	*Pittosporum tenuifolium*	Neighbouring Property	8m x 6m
2	*Murraya paniculata*	Neighbouring Property	4m x 4m
5	*Murraya paniculata*	Neighbouring Property	5m x 4m
6	*Cupressus sp.*	Neighbouring Property	11m x 7m
12	*Camellia sasanqua*	Neighbouring Property	3m x1m

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

Tree No.	Species	Location	Dimensions
3	*Camellia japonica*	Subject Site	3m x 2m
4	*Camellia japonica*	Subject Site	3m x 2m
7	*Murraya paniculata*	Subject Site	2m x 2m
8	*Callistemon citrinus*	Subject Site	3m x 3m
9	*Murraya paniculata*	Subject Site	5 mx 4m
10	*Camellia japonica*	Subject Site	5m x 5m
11	*Murraya paniculata*	Subject Site	4m x 4m

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

Tree No.	Species	Location	Permitted works in TPZ
1	*Pittosporum tenuifolium*	Neighbouring Property	Tree sensitive demolition, excavation, and construction under project arborist supervision
2	*Murraya paniculata*	Neighbouring Property	Tree sensitive demolition, excavation, and construction under project arborist supervision
5	*Murraya paniculata*	Neighbouring Property	Tree sensitive demolition, excavation, and construction under project arborist supervision
6	*Cupressus sp.*	Neighbouring Property	Tree sensitive demolition, excavation, and construction under project arborist supervision
12	*Camellia sasanqua*	Neighbouring Property	Tree sensitive demolition,

			excavation, and construction under project arborist supervision

No tree pruning is permitted as part of this consent unless otherwise conditioned. Any tree pruning requires a formal Tree Works Authority Application to be made to Council.

Tree removal may only occur upon issue of a Construction Certificate.

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

5. **A.9.T - Works on Council land**

A separate application shall be made to Council's Open Space and Infrastructure Division for any associated works on Council property. Written approval is to be obtained prior to the start of any works on Council property.

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 2 working days for approval.

Reason: To manage impacts to Council's assets.

6. **A.10.E - Drainage plan amendments**

Before the issue of a construction certificate, the principal certifier must ensure the approved construction certificate plans (and specifications) detail the following required amendments to the submitted stormwater drainage plans being Drg no. SW001 & SW010, Rev1, prepared by Capital Engineering Consultants and Leo & Associates, under reference no. SW25011, dated 10/03/25. The amended plans shall satisfy *Part O - Stormwater Management* of the Lane Cove Council Development Control Plan 2009 (the DCP).

1. All new downpipes shall be connected to an appropriate pipe system.
2. The proposed drainage system should show pipe sizes and invert levels up to the connection point and confirm the pipe system satisfies *Part O - Stormwater Management* of the DCP.
3. Clean out pits are required at all low points of a charged drainage line.
4. A minimum height difference of 1.8m is required between the start and the end of the charged pipe system as per section 5.1 in Council's DCP if a charged system is used. The details of the difference in the design level must be shown in plan.
5. Subsoil seepage agg-line drainage system shall satisfy the relevant Australian standard.
6. The pump out system shall satisfy section 5.4 of Part O of Council's DCP. The full details of the hydraulic calculation for the pump out system shall be included in the stormwater management plan.

Certification from a suitably qualified engineer as to the matters below is to be provided to the principal certifier, prior to the issue of any construction certificate:

a) compliance with the amendments detailed in this condition; and
b) compliance with *Part O - Stormwater Management* of the Lane Cove Council Development Control Plan 2009.

Where a variation is sought, written approval is to be obtained from Council's Open Space and Infrastructure Division.

Reason: To ensure adequate stormwater management in accordance with *Part O - Stormwater Management* of the Lane Cove Development Control Plan 2009.

7. **A.12 – Construction Certificate**

The submission of a construction certificate and its issue by Council or principal certifier PRIOR TO CONSTRUCTION WORK commencing.

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

PART B – PRIOR TO DEMOLITION WORKS

8. **B.2.E - Asbestos removal, handling and disposal**

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

Reason: To ensure worker and public health and safety.

9. **B.3.EH - Compliance with demolition standard**

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

Reason: Prescribed condition under the Environment Planning and Assessment Regulation 2021 (the Regulations).

10. **B.13.L - Project Arborist**

Prior to the commencement of any works including demolition, a Project Arborist of minimum Australian Qualification Framework (AQF) Level 5 Arboriculture qualification is to be appointed to oversee/monitor trees/condition compliance during the construction process. A letter of engagement from the Project Arborist must be provided to Council **prior to issue of a construction certificate** for certification. Compliance certificates must be available upon request, submitted to the principal certifier within five days of site attendance and must be available to Council immediately upon request **prior to the issue of an occupation certificate**; failure to produce the latest certificate will be considered a breach of conditions**.** Each compliance certificate must contain photographic evidence to confirm site attendance. A compliance certificate is required for each of the following phases.

The Project Arborist shall:

- certify all tree protection measures listed within this consent prior to demolition

works;

- clearly identify and tag trees (where appropriate) which are to be removed, and which trees are to be retained as part of this consent;
- oversee the excavation for piers/footings and stormwater services within NRZ/SRZ of retained trees and any subsequent root pruning of roots up to 40mm in diameter; and
- provide a statement upon completion for the development that provides details relating to the health and condition of retained trees. The statement must also recommend remedial advice for trees post construction to mitigate and long-term construction impacts.

Reason: To ensure trees are protected and retained on the site.

11. **B.14 Tree Protection Measures Fencing/Trunk Protection**

Tree protection measures must be in place prior to demolition works as determined necessary by the Project Arborist.

- Where tree protection fencing is specified, the fencing must consist of a 1.8m high chain mesh fence held in place with concrete block footings and fastened together. An example of fencing is shown under figure 4 on page 18 of the Australian Standard 4970-2025 *Protection of trees on development sites.*

- The fenced area shall not be used for the storage of building materials, machinery, site sheds, or for advertising and the soil levels within the fenced area shall remain undisturbed.

- Where trunk protection is specified, the trunks of the trees must be protected during the construction period by a trunk guard that consists of the following:

  - timber planks (50mm x 100mm, or similar) shall be placed at 100mm intervals and must be fixed by wire ties or strapping to a height of 2m; and
  - hessian cloth is to be placed between the trunk and the planks to minimise damage.

  The timber planks are not to be fixed directly to the tree in any way.

  An example of suitable trunk protection can be found under Figure 5 on page 20 within the Australian Standard 4970-2025 *Protection of trees on development sites.*

- A waterproof sign must be placed on every second panel stating, 'NO ENTRY TREE PROTECTION AREA – this fence and sign are not to be removed or relocated for the work duration.' Minimum size of the sign is to be A3 portrait with NO ENTRY TREE PROTECTION ZONE in capital Arial Font size 100, and the rest of the text in Arial font size 65.
- Tree Protection fencing/trunk protection and signage must be erected **prior to demolition** including site preparation and remain in place for the duration of the construction work.
- Any movement of the *Tree Protection Fencing* must be overseen and approved by the Project Arborist.

Please note: Where tree protection measures deemed necessary by the Project Arborist for trees located on the neighbouring property, the tree owner's consent is required prior to entering the property and installing any tree protection.

Reason: To protect the natural environment.

PART C - BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

12. 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 principal certifier. The plan must include the following matters:

- a copy of access agreements with the adjoining Strata Plans at 102 Burns Bay Road and 2-4 Grace Street Lane Cove; if no access agreements exist, then evidence of any Court Order for access under the Access to Neighbouring Land Act 2000 must be provided;
- before the commencement of any works, a safety barrier or temporary fencing is to be provided covering the work area; this fence is for the safety of people around the site;
- the location and materials for protective fencing to the perimeter of the site;
- provisions for public safety;
- 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';*
- pedestrian and vehicular site access points and construction activity zones;
- the location of site storage areas and sheds;
- equipment used to carry out all work;
- a garbage container with a tight-fitting lid;
- prior to any excavation works, the location and depth of all services must be ascertained; all costs associated with adjustment of the public utility will be borne by the applicant; and
- the 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 approval

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

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

13. 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 principal certifier:

a) the Lane Cove Development Control Plan 2009,
b) the guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book), and
c) 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.

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

The approved plans must be submitted to Sydney Water's online approval portal "Sydney Water Tap In" for approval.

Reason: To comply with the requirements of Sydney Water.

15. **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;
- any structural steelwork.

Reason: To ensure structural adequacy.

PART D - BEFORE THE COMMENCEMENT OF BUILDING WORK

16. **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 is achieved over any bare ground on the site).

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

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

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

a) showing the name, address and telephone number of the principal certifier for the work; and
b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while any demolition or building work is being carried out but must be removed when these works have been completed.

Reason: Prescribed condition under section 70 of the Regulations.

18. **D.4 - Compliance with the Home Building Act 1989**

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

Reason: Prescribed condition under section 69 of the Regulations.

19. **D.5 - Home Building Act 1989 requirements**

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

a) In the case of work for which a principal contractor is required to be appointed -

the name and licence number of the principal contractor, and
the name of the insurer by which the work is insured under Part 6 of that Act,

b) In the case of work to be done by an owner-builder—
   i) the name of the owner-builder, and

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

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

Reason: Prescribed condition under section 71 of the Regulations.

PART E - WHILE BUILDING WORK IS BEING CARRIED OUT

20. **E.1.B - Hours of Work - Residential Flat Buildings**

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, project manager's or the site foreman's phone number, 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.

Reason: To protect the amenity of the surrounding area.

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

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

In particular, **a 1m high handrail is to be attached to the top of any part of the proposed retaining wall that is more than 1m high.**

Reason: Prescribed condition under section 69 of the Regulations.

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

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

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

23. **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 are 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.

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

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

a) all footings/foundations; and
b) at other stages of construction – any marks that are required by the principal certifier.

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

25. **E.7 - Construction noise**

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

Reason: To protect the amenity of the neighbourhood.

26. **E.8 - Tree protection**

While site or building work is being carried out, the applicant must maintain all required tree protection measures in good condition in accordance with:

- the relevant conditions of this consent;
- the relevant requirements of *AS 4970-2025 Protection of trees on development sites;* and
- any arborist's report approved under this consent (where applicable).

This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.

Reason: To protect trees during construction.

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

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

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

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

Critical stage inspections are to be carried out in accordance with Section 6.5 of the *Environmental Planning and Assessment Act 1979* and sections 61, 63 and 65 of the *Environmental Planning and Assessment Regulation 2021*.

Where Lane Cove Council is appointed as the principal certifier, an inspection is to be booked for each of the following relevant stages during the construction process:

- underpinning;
- retaining walls;
- footings;
- reinforced concrete work;
- structural steelwork.

Reason: A requirement of the Environmental Planning and Assessment Act 1979.

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

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

Reason: To ensure public safety.

30. **E.19.B – Encroachments**

No portion of the proposed structure shall encroach onto adjoining properties.

The proposed construction shall not encroach onto any existing Council drainage pipe or easement unless approved by Council. If a Council stormwater pipe is located on the site

during construction, Council is to be immediately notified. Where necessary the drainage line is to be reconstructed or relocated to be clear of the proposed building works. The applicant must lodge a Stormwater Inspection Application form to Council. All costs associated with the reconstruction or relocation of the drainage pipe are to be borne by the applicant. The applicant is not permitted to carry out any works on existing Council and private stormwater pipelines without Council's approval.

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

31. **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.

No stockpiling of materials, building equipment or additional activities listed in section 4.2 of *AS4970-2025 Protection of trees on development sites* is to occur within designated tree protection areas or on the Council owned nature strip. All building materials must be delivered and stored within the subject site.

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

32. **E.21.- Installation of retaining walls within the TPZ of retained trees**

The installation of any retaining walls within any of the Tree Protection Zones of retained trees:

- must be done so using an isolated pier and beam method or using existing footings under the supervision of the project arborist;
- no roots greater than 40mm diameter are to be severed to facilitate the installation of the piers; a 200mm buffer must be given to roots greater than 40mm diameter;
- roots >40mm diameter must be incorporated into the wall;
- roots >40mm diameter must be bridged using a lentil.;
- roots less than 40mm diameter that conflict with the location of piers must be documented by the project arborist, pruned with a sharp implement and recorded for compliance;
- exposed roots shall be protected in accordance with section 4.5.4 of AS4970-2025 *Protection of trees on development sites;* and
- the excavated area adjoining the wall must be backfilled using a coarse (>20mm) aggregate and site soil; an Ag line must be installed at the base of the wall to ensure adequate drainage.

Reason: To mitigate damage to retained trees.

33. **E.22. - Excavation for stormwater services**

The excavation and installation of stormwater services within the Tree Protection Zone/Structural Root Zone of retained trees must be overseen by the project arborist.

- Excavation is to be undertaken using non-destructive methods (Hand tools, Hydrovac, Directional Drilling).
- No roots greater than 40mm diameter are to be damaged/severed as part of works.
- Roots less than 40mm diameter than conflict with services must be documented by the project arborist within a compliance certificate and pruned using a sharp implement.
- Service location must be flexible, with a 200mm diameter buffer allowed to roots greater than 40mm diameter to allowed for future growth.
- Exposed roots must be treated and protected in accordance with provisions outlined within section 4.5.4 of AS4970-2025 *Protection of trees on development sites.*

Reason: To minimise damage to the root system of protected trees.

PART F - BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE

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

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

(a) all stormwater drainage systems and storage systems; and
(b) the following matters that Council requires to be documented:

- compliance with *Part O - Stormwater Management* of the Lane Cove Council Development Control Plan 2009; where a variation is sought, written approval shall be obtained from Council's Open Space and Infrastructure Division;
- compliance with AS-3500;
- certification from a suitably qualified hydraulic engineer that the approved stormwater pipe system and pump out system have been constructed in accordance with the approved plans;
- certification from suitable licenced contractor that all works have been constructed satisfying relevant Australian standards; and
- certification from a qualified structural engineer that the proposed construction has been completed according to the approved plans and is structurally satisfactory.

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

Reason: To confirm that the proposed works have been constructed satisfactorily as per the approved plans.

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

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

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

Reason: To protect the State's survey infrastructure.

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

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

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

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

37. **F19 – Post-Construction Dilapidation report: trees to be retained**

Before the issue of an occupation certificate, the principal certifier must review the post-construction Arboricultural report prepared by the appointed Project Arborist. The report is to outline the current health and condition of all retained trees, document any remedial actions that have been undertaken during the construction period and certify that any replacement planting required has been completed.

The principal certifier is to provide a copy of the post-construction Arboricultural report to Council (where Council is not the principal certifier) and to the relevant adjoining property owner(s).

Reason: To ensure retained trees have been protected during construction.

38. **F20- Replacement Planting**

To provided adequate privacy screening, the trees that are removed must be replaced on a minimum 1:1 ratio to comply with provisions outlined within Part J Landscaping of the Lane Cove Council Development Control Plan 2009 (the DCP) unless otherwise stated within this consent.

- Tree planting is to achieve canopy targets as outlined in sections 3.5 & 3.6 under Part J Landscaping and Tree Preservation of the DCP.
- Any 7 x small - medium sized Indigenous tree species suitable for providing privacy screening may be selected from Appendix 1, or any tree species from within Appendix 4, under Part J of the DCP.
- Trees must be a minimum 75 litre pot size and achieve 1.6m in height at the time of planting.
- Trees selected must be from a registered nursery and comply with provisions outlined within AS2303:2018 *Tree Stock for Landscape Use.*
- Trees must be installed and signed off by the Project Arborist **prior to the issue of an occupation certificate**.

Reason: To achieve canopy targets as outlined in sections 3.5 & 3.6 under Part J of the DCP.

PART H - OCCUPATION AND ON-GOING USE

39. **H.1 - Release of securities/bonds**

When Council receives an occupation certificate from the principal certifier, the

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

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

40. **H.4** - **Maintenance of stormwater system**

The applicant must ensure that at all times wastewater and stormwater treatment devices on the site (including drainage systems and pollution control pit) are regularly maintained to remain effective. This is to be done in accordance with any positive covenant, if applicable.

Reason: To satisfy Council's Engineering requirements and ensure the protection of sewerage and stormwater systems.

Mark Brisby
Director - Planning and Sustainability
Planning and Sustainability Division

ATTACHMENTS:
There are no supporting documents for this report.

Item No: LPP23/25

Subject: Planning Proposal 46 - Heritage amendment - 94 Northwood Road, Northwood

Record No: SU10845 - 65610/25

Division: Planning and Sustainability Division

Author(s): Christopher Pelcz

Property:	94 Northwood Road, Northwood
PP No:	Planning Proposal No. 46
Legal Description:	Lot 30, DP 4424
Date Lodged:	12/08/2025 – was previously included in Council's LEP review, but is now a separate Planning Proposal
Applicant:	Corona Projects Pty Ltd
Site Area:	1,031 m^2
Description of Proposal:	Amend Schedule 5 of the Local Environmental Plan to remove 94 Northwood Road as a heritage item.
Planning Proposal documents	Links to all the proponent's documents are provided in Attachments at the end of this report (**AT-1** to **AT-8**).
Relevant Strategic Planning documents	*Greater Sydney Region Plan – dated March 2018* *North District Plan – dated March 2018* *Section 9.1 Ministerial Directions* *Local Environmental Plan 2009*
Recommendation	That Planning Proposal No. 46 not be supported.

PURPOSE

The Lane Cove Local Planning Panel is required to review the proposal with a view to providing Council with advice in relation to the changes requested to the Lane Cove LEP.

REASON FOR REFERRAL

Article I. The Planning Proposal is referred to Council's Local Planning Panel under Section 9.1 of the *Environmental Planning and Assessment Act 1979*. This Section requires referral of any Planning Proposal to the Local Planning Panel for advice with an assessment report which sets out recommendations in relation to the Proposal.
Article II. The Planning Proposal does not meet any of the criteria for an exemption from referral to the Local Planning Panel. This criterion is as follows;
Article III.

a) the correction of an obvious error in a local environmental plan.
b) matters that are of a consequential, transitional, machinery or other minor nature; or
c) matters that Council's General Manager considers will not have any significant adverse impact on the environment or adjoining land.

Article IV.
Therefore, the Planning Proposal must be referred to the Local Planning Panel for advice prior to Council making any determination on the matter.

EXECUTIVE SUMMARY

The purpose of this report is to consider the planning merits and seek the Panel's advice on the proposal to remove 94 Northwood Road, Northwood as a heritage item from Schedule 5 of the Local Environmental Plan (LEP).

Planning Proposal 46 is accompanied by:

- Revised heritage assessment (**AT-2**);
- Independent Heritage Advisor's comments (**AT-3**);
- Assessing Heritage Significance – NSW Heritage criteria (**AT-4**);
- Previous Report to the Local Planning Panel – 9 July 2025 (**AT-5**);
- Previous Advice from the Local Planning Panel – 9 July 2025 (**AT-6**);
- Previous Council report – 24 July 2025 (**AT-7**); and
- Previous Council resolution – 24 July 2025 (**AT-8**).

BACKGROUND

In addition to the above, one of the Section 9.1 Ministerial Directions is relevant to this Planning Proposal.

Direction 3.2 Heritage Conservation applies because the Planning Proposal is seeking to remove 94 Northwood Road, Northwood as a heritage item. The applicants heritage study (**AT-2**) attempts to demonstrate that the property and its surrounds have been altered significantly and retain no further heritage value, either individually or part of a group.

SITE

The site is a listed heritage item (I298) located on the eastern side of Northwood Road, between Cliff Road and Point Road, Northwood. The site runs through to Eva Street, its frontage is 18.22m wide.

It is listed as part of a group in the state heritage inventory, with 88, 90, 94 and 96 Northwood Road. All four listings are for a house and garden.

The listings are for two different types of single storey dwellings, No. 88 is a Federation bungalow, while 94 and 96 are Californian bungalows – with remnant planting. The listing for 90 Northwood simply states that it is a bungalow.

HISTORY

The applicant's heritage study (**AT-2**) and Council's own research revel the following historical timeline for the site is relevant.

According to the applicant's study (**AT-2**), the subject site appears to have been constructed prior to 1928. However, Figure 1 (see below) is aerial image that shows that the small dwelling and tennis court were constructed together in 1929.

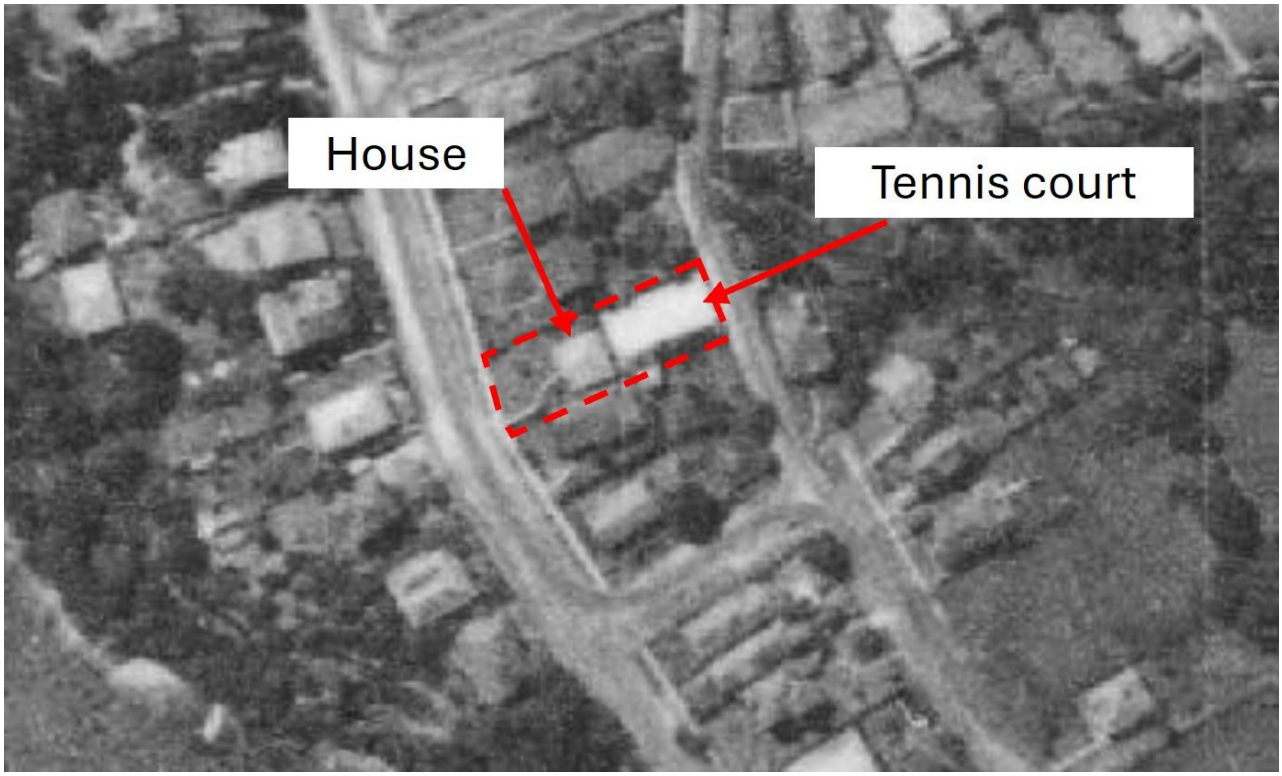

Figure 1: 1929 aerial image of subject site showing a house and tennis court

The house and surrounding areas appear to have barely changed at all from the period of 1929 till 1943 – this is confirmed by Figure 2 which shows the subject site still with the same house and tennis court.

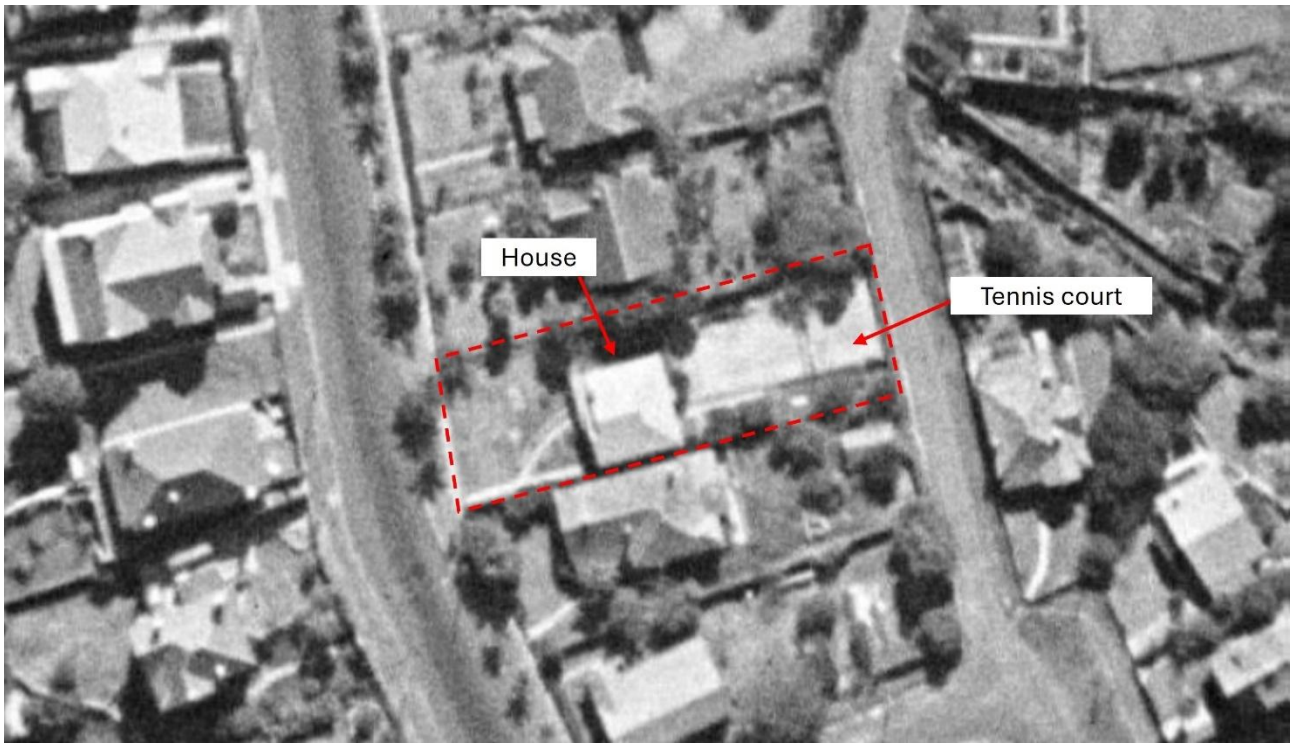

Figure 2: 1943 aerial image of subject site showing a house and tennis court

According to **AT-2**, the timeline of alterations are as follows:

- First alteration – 1971 – Tennis court was removed and replaced with a garage (and possibly driveway) facing the rear lane (of Eva Street), also the Canary Island Palm did not appear in the front garden until this time.
- Second alteration – May 1983 – the rear brick fence (facing Eva Street) was approved in BA165/82.
- Third alteration – January 1983 – a new sunroom with a bay window of timber shingles was approved under BA 527/82.
- Fourth alteration – April 1985 – other rear extensions (including new deck) approved in DA162/85.
- Fifth alteration – February 1990 – a carport was approved in DA72/89.
- Sixth alteration – February 1995 – alterations were approved (BA95/9) to the front of the house, including the addition of the front bay to the master bedroom and the front veranda was rebuilt with modern limestone flags.

All of these changes are shown in Figure 3 – which is a 2025 aerial image of the site.

Figure 3: 2025 aerial image of subject site showing renovations

As part of the 1995 application, a large conifer tree was removed from the front of the house to allow for the additional room to be added onto the front house. The front veranda also appears to have been rebuilt to accommodate this.

While the renovations appeared to be sympathetic, none of the additions contain any original materials. There is also evidence to suggest that a previous carport/garage existed on the site in a different location (shown in Figure 3). This structure was demolished with the carport being moved to its current location.

Based on a review of Council files, a number of other applications were received to prune and remove a number of different trees from the property – most of these were due to death of the tree or damage caused by borers.

By way of comparison, the other heritage properties at 88, 90 and 96 Northwood Road do not appear to have had such extensive renovations.

STRATEGIC MERTS

This section will review and outline the strategic planning documents relevant to this Planning Proposal in order to provide an overall response at the end of the section.

Greater Sydney Region Plan

In relation to this Planning Proposal, the relevant objective and strategy is as follows:

- *Objective 13 – Environmental heritage is identified, conserved and enhanced; and*
- *Strategy 13.1 – Identify, conserve and enhance environmental heritage by…managing and monitoring the cumulative impact of development on the heritage values and character of places.*

North District Plan

In relation to this Planning Proposal, the relevant priority and action from the Plan is as follows:

- *Planning Priority N6 – Creating and renewing great places and local centres, and respecting the District's heritage; and*
- *Action 21.c – Identify, conserve and enhance environmental heritage by…managing and monitoring the cumulative impact of development on the heritage values and character of places.*

The following quote is also relevant to the Planning Proposal and taken from both the Region and District Plan:

> "*Sympathetic built form controls and adaptive reuse of heritage are important ways to manage the conservation of heritage significance. Respectfully combining history and heritage with modern design achieves an urban environment that demonstrates shared values and contributes to a sense of place and identity*" (page 77 of Region Plan and page 50 of District Plan).

Local Strategic Planning Statement

In relation to this Planning Proposal, the relevant priority is as follows:

- *Planning Priority 6 – Create and renew public spaces and facilities to improve our community's quality of life.*

While there is no direct action on heritage per se, this priority includes a section on embracing heritage. It is taken directly from both the Region and District Plan as stated above.

Local Housing Strategy

While the Planning Proposal does not specifically relate to housing, the strategy does include an action relating to heritage as follows:

- *Ensure future character and heritage controls seek to preserve and enhance character while also encouraging innovation and adaptation of the trends of the day*.

The following quote is also relevant to this Planning Proposal:

> "*Routine heritage reviews may also be undertaken, particularly in areas where existing dwellings are anticipated to be demolished to make way for new larger dwellings. These reviews should ensure that the overall character is reflected in new development, without stifling innovation* (page 91 of LHS)".

Response

Based on all the documents mentioned above, it's clear that the cumulative impacts of development need to be considered for this proposed de-listing.

Based on Council and the applicant's research, it's clear that the house and garden remained largely un-altered from 1929-1943. Figures 1 & 2 confirm this and highlight that almost no real garden or trees were present in the front of the house (facing Northwood Road) or the rear of the property (facing Eva Street) at this time. Possibly in 1971, the Canary Island Palm tree appears to have been added to the garden at the front of the house. The trees in the rear portion appear to have been added after this point as well.

However, both the house and garden have been altered since the 1980s as stated in the History section of this report. It is also worth mentioning that the heritage study Council used to justify its heritage items was undertaken and completed in 1987, with the works on this property completed largely after this period.

Notwithstanding this, further works were undertaken which changed the entire front section (facing Northwood Road) of the house. As part of the rear extensions, a new laundry, family room, bathroom, bedroom and deck were added. Aside from the Canary Island Palm being planted in the 1970s, a number of other trees in the garden of the property have either been trimmed or removed to make way for these new developments.

In terms of the group listing, the house and gardens at 88-96 Northwood Road were identified in the Lane Cove Heritage Study as:

> "*Group of single-storey bungalows set well back from the road. The houses of various dates form a homogenous group in scale and character … Nos 96 & 94: single-storey California bungalow style homes with features typical of the style. Remnant planting*."

The group of houses were noted as being significant as a:

"Group of single-storey well-built houses of similar scale and character set on large suburban blocks with remnant planting, on the road leading from the ferry. Indicative of the scale and quality and character of suburban development occurring in Northwood at this time."

In terms of the individual nature of the items:

- 88 Northwood Road – is described as a relatively intact Federation brick bungalow (with garden) which still does not appear to have changed that much from that description.
- 90 Northwood Road – still presents (fronting Northwood Road) as a single storey bungalow with decorative timber to front façade, enclosed veranda and remnant planting.
- 96 Northwood Road – still presents (fronting Northwood Road) as a single storey Californian bungalow with typical features and remnant planting consistent with its listing.

While these properties have also undergone different renovations at some point, they have largely been consistent with their relative listings and appear to have maintained their heritage integrity.

Therefore, preserving this property as a heritage item appears to be consistent with the relevant objectives of the Regional Plan, priorities and actions of the District Plan, and the priority of Council's Local Strategic Planning Statement – particularly when the cumulative impact of development on these items is considered. Council's Local Housing Strategy also encourages reviews of our heritage items and controls with a focus on maintaining the overall character while being reflected in new development.

The next section will examine the site-specific merits of the listing and give consideration to the heritage listing criteria (**AT-4**).

SITE-SPECIFIC MERITS

In order to assist with the site-specific merits of de-listing a heritage item, the NSW Heritage Office has provided guidance on how to assess heritage significance (**AT-4**) against a set of criteria. This criteria also gives guidance as to what constitutes inclusion and/or exclusion of a heritage item at either a local or state level.

Criteria

The criteria for assessing heritage significance is broken up into seven (7) different aspects, as follows:

- Criterion A – Historical Importance;
- Criterion B – Historical Associations;
- Criterion C – Aesthetic Values;
- Criterion D – Cultural Associations;
- Criterion E – Cultural or Natural Research Value;
- Criterion F – Rarity;
- Criterion G – Representativeness;

The applicant has already provided an assessment against each of the seven criteria in **AT-2**. These will be reviewed with additional comments where relevant.

Criterion A and B

The applicant provides the following in terms of criterion A and B:

> *"The site contains the roof and supporting structure of an early twentieth-century bungalow in a suburban garden setting. The house and its allotment are among many subdivided from Northwood House in the decades after 1900. While the allotment boundaries are intact to the 1904 subdivision, this is not an aspect of significance that would satisfy the heritage criterion.*
>
> *The house is highly altered and so it does not demonstrate inter-war ways of living".*
>
> *"The site history suggests that the house has no known connections with historically important people or events".*

In response, Council can confirm these comments through the various applications for renovations that have occurred to the property and grounds. The garden has also varied over the years with different plantings (including the addition of the Canary Island Palm tree) and removal of dead trees. There is also no credible evidence to suggest any type of historical associations.

Criterion C

The applicant provides the following in terms of criterion C:

> *"The house is highly altered and only retains its original roof and plain brickwork in three walls. The house has no original doors, windows or verandah flooring. The interior has one original door frame, but no other original joinery. The house has no original decorative plasterwork, and no original fittings or fixtures. The house is so lacking in integrity that it only demonstrates an early Inter-War Bungalow roof. The garden is a post-war work and is not distinctive".*

In response, Council reviewed the building applications previously received for this site and the rear portion of the property has been extended and the garage/carport moved to different locations on the site twice. The original tennis court was also removed between 1970-1980.

Criterion D and E

The applicant provides the following in terms of criterion D and E:

> *"The house and its site are not associated with a particular community".*
>
> *"As a highly altered house and garden among many suburban sites that were released for housing around the same time in Northwood, the site does not contain building or landscape fabric likely to be research interest, and the site is not distinctive from other inter-war detached housing sites".*

In response, no particular communities are associated with this site and given the presence of some of the original features that would have some research value.

Criterion F

The applicant provides the following in terms of criterion F:

> *"The house is highly altered the remains of the original house suggest that it was more likely to have been a typical 1920s bungalow, and not rare".*

A review of the building plans shows that the house and garden did not appear to be unique nor is it the only example of the type. The property next to 94 Northwood Road is also a heritage listed

Californian bungalow, in addition the other two heritage properties near the site are also different types of bungalows. However, this is not considered a major reason for de-listing.

Criterion G

The applicant provides the following in terms of criterion G:

> *"The house retains its roof, its pediment of timber shingles, and some plain brickwork in three walls. The house is so altered that it does not represent an early twentieth-century bungalow".*

A review of Council's plans demonstrates that some features are still present. The original garden was also quite sparse to begin with and other trees and plantings were added between 1970-1980. After this period, a number were trimmed or removed entirely.

INDEPENDENT HERITAGE CONSULTANT ADVICE

Council provided all material supplied with this proposal to its independent heritage consultant for review. In response to the heritage assessment and proposal, they provide the following comments (see **AT-3**):

"*A review of that document has identified the following deficiencies*

- *Does not follow the appropriate guidelines, being 'Assessing Heritage Significance - Guidelines for assessing places and objects against the Heritage Council of NSW criteria', NSW Department of Planning and Environment, 2023 (attached)*
- *Does not provide a proper assessment of the significance of the item, based on the Heritage Council criteria and following the steps detailed in the above guidelines.*
- *Does not assess the impacts of the de-listing of the item on the significance or integrity of the group*
- *Does not consider the significance of the garden, which forms part of the listing*
- *Over-states the amount of change to the house and the impacts of the changes on the significance of the item and its group.*
- *Does not provide a comparative analysis of the house against other items of the same type and significance*".

In response to the comments about the house and garden being substantially altered, the consultant comments are:

> *"The basis for the proposal is that the house has been 'highly altered'.* ***This is not concurred with****. The original and significant form and early twentieth century features of the house, as viewed from Northwood Road,* ***remain substantially intact and the house is readily identifiable as a single-storey Inter-war California bungalow****. The changes to the windows and front verandah* ***do not detract from the ability to view the house*** *as part of a 'Group of single-storey well-built houses of similar scale and character set on large suburban blocks with remnant planting, on the road leading from the ferry. Indicative of the scale and quality and character of suburban development occurring in Northwood at this time."* ***The internal changes and changes to the rear do not detract from the identified significance of the house as part of a group"****.*
>
> *"The de-listing of this house* ***would undermine the significance of the group of houses and their gardens from 88 – 98 Northwood Road****, to which this property provides a strong contribution. The level of change that has occurred to the house is consistent across*

the group and aligns with what would be reasonably anticipated by the relevant LEP and DCP heritage controls".

Overall, the advisor is of the opinion that the "*proposal to remove the heritage listed House and Garden at 94 Northwood Road, Northwood, from Schedule 5 of the LLEP,* ***has not been adequately justified. The documentation provided is inadequate to support a de-listing and is based on evidence that is not supported***".

In addition, the recommendation is that the house and garden at 94 Northwood Road, Northwood be retained.

Overall, based on the comments above, there does not appear to sufficient justification for de-listing of this heritage item and the impacts of the proposed de-listing have not been considered or adequately addressed.

RESPONSE TO NOTIFICATION

The Planning Proposal was previously included as one of the items in Council's LEP review which was reviewed by the Panel on 9 July 2025 – and was not publicly exhibited.

This revised Proposal was (informally) publicly exhibited from Friday 26 September to Friday 10 October 2025. Twenty three (23) submissions were received which included one (1) proforma letter signed by thirteen (13) people. One (1) late submission was received 3 weeks after the deadline. These submissions are summarised below.

Comment	Response
A couple of submissions gave their own personal experiences of the streetscape when they first purchased there.	Noted.
Some submissions expressed that the heritage listing that there is a community expectation to maintain character, scale and bulk in any modification.	Noted.
De-listing would cause a significant potential alteration of the streetscape which includes several complying heritage listed properties near to Llyod Rees Park and Northwood waterways.	Council's heritage advisor addresses this in the report (**AT-3**).
Agreed and supported the previous Local Planning Panel decision.	Noted.
If this item is de-listed, it would set a precedent for others to be de-listed.	If Council received any application to de-list a heritage item, they must be assessed and considered on their own merits.
While alterations were made to the property since construction, it retains all essential features which founded its initial heritage listing. Possibility of inappropriate development on the street to change the establishes character by a CDC process with no opportunity for community consultation	These comments are addressed in the Independent Heritage Advisor's comments (**AT-3**). As per the issue of inappropriate development, the CDC process is not a strategic planning consideration.

CONCLUSION

While this is only one heritage item at 94 Northwood Road, a strategic and site-specific approach must be utilised before a de-listing can occur.

In terms of its strategic merits, the planning framework is directly aligned to say that heritage must be identified, preserved and conserved and that any development of these sites must be sympathetic and respectful. Further, overall character and managing the cumulative impacts of development must be considered.

In this case, while the property has changed from its original listing it does not detract from the ability to view the house (individually and as part of a group) as a heritage item. In addition, the internal changes and changes to the rear do not detract from the identified significance. Given this, de-listing of this property as a heritage item is difficult to justify on strategic grounds.

On its site-specific merits, the based on the review conducted by the applicant and through Council's independent heritage consultant the applicant overstates the amount of change to the house and the impacts of these changes on the significance of the item and the group. Notwithstanding this, in terms of the criterion there is little to no evidence to warrant de-listing.

The other houses and gardens in the group properties appear to still be largely consistent with their original listings – this can be seen in Figures 1, 2 and 3 of this report.

On balance as the proposed de-listing would not be considered reasonable it is therefore recommended for refusal.

RECOMMENDATION

Pursuant to Section 9.1 of the Environmental Planning and Assessment Act 1979, the Lane Cove Local Planning Panel at its meeting of 25 November 2025 advises the Council that it does not support Planning Proposal 46, because it does not pass either the strategic and site specific merit test as stated in this report.

It also has not justified or assessed the impacts of the de-listing on the item's group significance or the group.

In any event, Council's heritage consultant is of the opinion that the de-listing would undermine the significance of the group of houses and gardens from 88-98 Northwood Road.

Mark Brisby
Director - Planning and Sustainability
Planning and Sustainability Division

ATTACHMENTS:

AT-1 View	Planning Proposal - September 2025	16 Pages	Available Electronically
AT-2 View	Revised Heritage Assessment	35 Pages	Available Electronically
AT-3 View	Independent Heritage Advisors Comments	58	Available

		Pages	Electronically
AT-4 View	Assessing heritage significance - NSW Heritage criteria	55 Pages	Available Electronically
AT-5 View	Previous Report to Local Planning Panel - 9 July 2025	89 Pages	Available Electronically
AT-6 View	Previous Advice from the Local Planning Panel - 9 July 2025	6 Pages	Available Electronically
AT-7 View	Previous Report to Council - 24 July 2025	5 Pages	Available Electronically
AT-8 View	Previous Council resolution - 24 July 2025	1 Page	Available Electronically