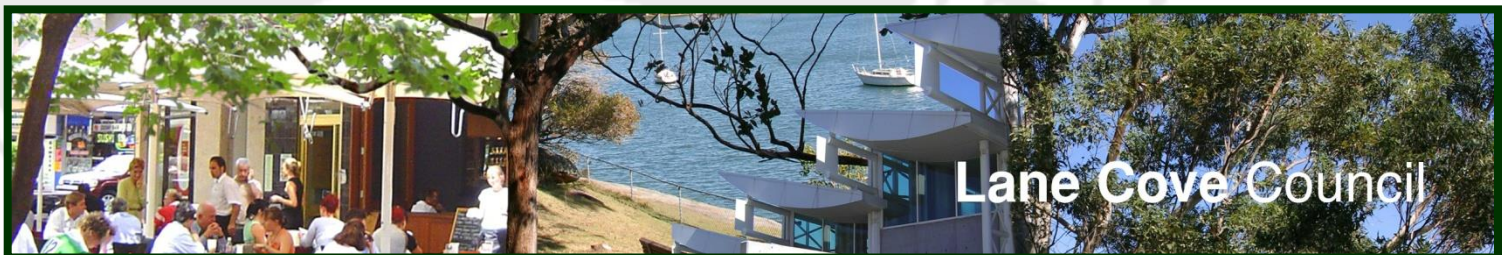




Minutes
Lane Cove Local Planning Panel Meeting
27 March 2024



**Lane Cove Local Planning Panel 27 March 2024
MINUTES**

PRESENT: Mr Mark Gifford, Chair, Mr Mike Ryan, Planning Expert, Mr Jason Perica, Planning Expert and Mr Ian Longbottom, Community Representative

ALSO PRESENT: Mr Mark Brisby, Director Planning and Sustainability, Mr Chris Shortt, Senior Town Planner, Mr Andrew Bland, Senior Town Planner, Mr Robert Montgomery (Independent Planning Consultant) and Ms Angela Panich, Panel Secretary

DECLARATIONS OF INTEREST: Nil

APOLOGIES

Nil

LANE COVE LOCAL PLANNING PANEL REPORTS

2 MANNS AVENUE GREENWICH

DETERMINATION

That pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act, 1979 the Lane Cove Local Planning Panel (the Panel) at its meeting of 27 March 2024, approves Development Application DA93/2023 for the proposed demolition of an existing dwelling house and construction of a 2-storey dwelling with sub-level garage on land known as No. 2 Manns Avenue Greenwich subject to the following conditions as amended by the Panel:

PART A – GENERAL CONDITIONS

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	Revision	Plan Title	Drawn By	Dated
A00	M	3D Views	AGC Architects	18/02/24
A01	M	Compliance Table	AGC Architects	18/02/24
A05	M	Roof Plan / Site Plan / Site Analysis	AGC Architects	18/02/24
A06	M	Basement Plan	AGC Architects	18/02/24
A07	M	Ground Floor Plan	AGC Architects	18/02/24
A08	M	1 st Floor Plan	AGC Architects	18/02/24
A09	M	Sections	AGC Architects	18/02/24
A10	M	East & North Elevations	AGC Architects	18/02/24
A11	M	South & West Elevations	AGC Architects	18/02/24
A12	M	Fence Elevations	AGC Architects	18/02/24

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.

A.2 - Design amendments and further information

Prior to the issue of a Construction Certificate, the documentation below detailing the required amendments to the approved plans must be submitted to Council for approval:

1. The 1st floor projecting non-trafficable slab is to be reduced to extend no greater than 500m beyond the external wall facing the front boundary.
2. The southern perimeter of the ground floor balcony/BBQ area include 1.8m high solid privacy screen above finished floor level constructed with opaque materials.
3. The existing garden stone walls are to be retained and protected during the demolition and construction phases and throughout the life of the development.
4. An updated landscaping plan is to be submitted to align with the amended architectural plans.
5. An updated Heritage Impact Statement (HIS) with expanded historical documentation of 2 Manns Avenue is to be submitted to Council prior to the issue of a Construction Certificate which details an archival record and full history post 1972 on the dwelling house and its occupants.
6. The garage door and the associated driveway be reduced to a maximum width of 6 metres, with the resulting surrounding area from the reduction being deep soil landscaping, included in a revised landscaped plan.
7. The plans for the basement nominate an RL of 19.66 for all of the “under building” area (also matching the RL for that area in Section B). This area may be used for re-use of excavated material from the site, as appropriate, to reach this RL.
8. The north-eastern corner of the site (to Gother Avenue) include a 1m x 1m splay to be dedicated to Council at no cost (to improve safety and sight-lines at the corner).
9. The sandstone cladding to the fence to Gother Avenue shall be detailed and be a minimum thickness of 30mm.
10. The plans and all supporting documentation with the Construction Certificate shall ensure no roof top structures are above RL 27.1.
11. The non-trafficable roofed areas above the ground and first floors shall be covered in pebbles of a neutral colour and finish, and shall be labelled “non-trafficable” on the plans.

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

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 payment(s) to Council and provide written evidence of these payments to the Certifier:

Security deposit	Amount
Inspection Fee (2)	\$420.00
Infrastructure damage bond	\$4000.00
Council owned Trees	\$5000.00

**Lane Cove Local Planning Panel 27 March 2024
MINUTES**

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 connection to existing Council pit (see condition A.10.E) in the street;
- any adjustment works in Council's Road reserve.

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

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

Before the issue of a construction certificate, the applicant is to ensure that the person liable pays the long service levy of \$5,620 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 principal certifier.

Reason: To ensure the long service levy is paid.

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.

**Lane Cove Local Planning Panel 27 March 2024
MINUTES**

The following trees shall be retained:

Tree No.	Species	Location	Dimension (m)
1	<i>Eucalyptus scoparis</i>	4 Manns Ave	24 x 20
2	<i>Photinia robusta</i>	4 Manns Ave	1 x 3
4	<i>Callistemon viminalis</i>	Front of property	8 x 5
5	<i>Callistemon viminalis</i>	Council verge, Manns Ave	10 x 10
6	<i>Schefflera actinophylla</i>	Council verge, Manns Ave	11 x 6
7	<i>Glochideon ferdinandi</i>	Council verge, Manns Ave	6 x 10
8	<i>Glochideon ferdinandi</i>	Council verge, Manns Ave	9 x 13
9	<i>Callistemon viminalis</i>	Council verge, Manns Ave	2 x 1
10	<i>Banksia serrata</i>	Council verge, Manns Ave	2 x 2
11	<i>Banksia serrata</i>	Council verge, Manns Ave	3 x 2
12 a and b	<i>Callistemon viminalis</i>	Council verge, Manns Ave	2 x 1
14	<i>Callistemon viminalis</i>	Council verge, Gother Ave	5 x 4
15	<i>Callistemon viminalis</i>	Council verge, Gother Ave	5 x 4
16	<i>Callistemon viminalis</i>	Council verge, Gother Ave	5 x 4
17	<i>Callistemon viminalis</i>	Council verge, Gother Ave	5 x 4

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

Tree No.	Species	Location	Dimension (m)
3	<i>Senna pendula</i>	Front boundary	6 x 5
18	<i>Camellia sasanqua</i>	Rear of property	5 x 5

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

Tree No.	Species	Location	Permitted works in TPZ
2	<i>Photinia robusta</i>	4 Manns Ave	Construction of boundary fence
4	<i>Callistemon viminalis</i>	Front of property	Construction of front pathway and fence
5	<i>Callistemon viminalis</i>	Council verge, Manns Ave	Construction of boundary fence
6	<i>Schefflera actinophylla</i>	Council verge, Manns Ave	Construction of boundary fence
7	<i>Glochideon ferdinandi</i>	Council verge, Manns Ave	Construction of boundary fence
8	<i>Glochideon ferdinandi</i>	Council verge, Manns Ave	Construction of boundary fence

**Lane Cove Local Planning Panel 27 March 2024
MINUTES**

14	<i>Callistemon viminalis</i>	Council verge, Gother Ave	Construction of boundary fence, Stormwater services
15	<i>Callistemon viminalis</i>	Council verge, Gother Ave	Construction of boundary fence, Stormwater services
16	<i>Callistemon viminalis</i>	Council verge, Gother Ave	Construction of boundary fence, Stormwater services
17	<i>Callistemon viminalis</i>	Council verge, Gother Ave	Construction of boundary fence, Stormwater services

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.

A.9.T - Works on Council land

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

Reason: To manage impacts to Council's assets.

A.10.E - Drainage plan amendments

Before the issue of a construction certificate, the certifier must ensure the approved construction certificate plans (and specifications) detail the following required amendments to the approved stormwater drainage plans prepared by ADC Design Group Pty Ltd, reference No: C233847, issue: A and dated in 12/06/23. This amended plan shall satisfy part O of the Council's stormwater DCP.

- The proposed kerb connection of stormwater is not permissible because of the inclusion of pump out system. Council requires stormwater to be connected to existing pit in Gother Avenue. The location of existing Council's stormwater pit and pipe system in Gother Avenue shall be located and shown in the plan.
- Proposed drainage system should show pipe sizes and invert levels up to connection point; confirming pipe system satisfies part O of Council' storm water DCP.
- Clean out pits are required at all low points of charged drainage line if charged pipe system is proposed.
- The stormwater requirements shown in Basix certificate shall be included in stormwater management plan and satisfied.
- Sediment control fence shall be placed around the construction site and shown in plan
- Subsoil seepage agg-line drainage is required around proposed retaining wall, dwelling, basement or as it is necessary and connected to proposed drainage system
- A pollution control pit (as shown in section 3.4.1 in part O of Council's stormwater DCP) with mesh (RH3030) and sump(300mm minimum) is required within the site, at start of the connection pipe to the Council pit. These details shall be shown in plan.

**Lane Cove Local Planning Panel 27 March 2024
MINUTES**

- The stormwater runoff from driveway shall be collected by grated driveway pit and connected to pump out and/or stormwater system.
- Driveway grated strip pit shall have minimum 200mm of depth and 1% fall inside.
- Minimum of 1.8m height difference is required between start and end of the charged pipe system as per section 5.1 in Council DCP if charged system is used. The details of design level difference shall be shown in plan.
- The connection pipe from site to pit shall be designed for gravity discharge only and no charged pipe line allowed.
- Bends on discharge pipe from site to Council pit are not allowed.
- Council will not support any pit where the flow direction changes more than 90 degree.
- The proposed rainwater reuse system with a minimum effective capacity of 10,000 litres to be installed in accordance with Section 7.3 in Council's Stormwater DCP and relevant Australian standards. This tank shall have 100mm air gap on top and 100mm sludge zone at the bottom and installed satisfying Australian standards. The detailed design for this proposed system is required.
- The entire roof area to be connected to Rainwater tank as per section 7.3 in Council DCP.
- Only roof water shall be connected to rainwater tank.
- The proposed pump out system for the basement is required and 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 and submitted to Council.
- The proposed basement shall be constructed with water-proof walls around the basement.
- Installation of the pipe system near the Council's and protected trees must be assessed and approved by Council Tree Officer.

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

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

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

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

A.12 – Construction Certificate

The submission of a Construction Certificate and its issue by Council or Principal Certifier is required PRIOR TO CONSTRUCTION WORK commencing.

Reason: To ensure 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

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.

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.

B.3.EH - Compliance with demolition standard

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

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

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

- Details of hazardous materials (including asbestos).
- Method/s of demolition (including removal of any asbestos).

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

Reason: To ensure health and safety.

B.13.L - Project Arborist

Prior to the commencement of any works, including demolition, a Project Arborist of minimum Australian qualitative framework (AQF) Level 5 qualification, is to be appointed to oversee/monitor trees/condition compliance during the construction process. A letter of engagement must be provided to Council prior to issue of a construction certificate. 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 prior to demolition works
- Clearly identify which are to be removed and which trees are to be retained as part of this consent
- Oversee the excavation of the boundary fence piers and footings
- Oversee the excavation and installation of stormwater services within the TPZ of protected trees
- Oversee the excavation and construction of the front pathway
- Provide quarterly health and condition assessments on protected trees
- Provide a statement upon completion for the development that all retained trees have been maintained in a healthy, viable condition and replacement planting has been undertaken. The statement must also recommend remedial advice for trees post construction to mitigate any long-term construction impacts.

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

B.14 Special Condition - Tree Protection Measures Fencing

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

Tree Protection Fencing must be installed within the following locations:

1. Along the area marked within the tree protection plan on page 22 of the supplied Arborist report by McArdle Consultancy dated 15/05/23.
2. Encompassing trees 14 – 17 on the Council verge bordering Gother Avenue.

The fencing must consist of a 1.8 m high chain mesh fence held in place with concrete block footings and fastened together. An example of fencing is shown

under figure 3 on page 16 of the Australian Standard 4970-2009 *The Protection of Trees on Development*. The fenced area shall not be used for the storage of building materials, machinery, site sheds, or for advertising and the soil levels within the fenced area shall remain undisturbed.

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

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

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

Reason: To protect the natural environment

PART C - BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

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 provided to and approved by the principal 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.
- Any construction plant on the public road reservation requires an approved "Application for standing plant *permit*".

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

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

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:

- 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.

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 electricity supplier Ausgrid 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.

C.23.B - Sydney Water requirements

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

Reason: To comply Sydney Water requirements.

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.

PART D - BEFORE THE COMMENCEMENT OF BUILDING WORK

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 site).

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

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:

- showing the name, address and telephone number of the principal certifier for the work; and

- 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
- 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.

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

Reason: Prescribed condition under section 70 of the EP&A Regulation 2021.

D.4 - Compliance with the Home Building Act

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

Reason: Prescribed condition under section 69 of the EP&A Regulation 2021.

D.5 - Home Building Act requirements

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

- 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,
- In the case of work to be done by an owner-builder—
- the name of the owner-builder, and
- if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

Reason: Prescribed condition under section 71 EP&A Regulation 2021.

PART E - WHILE BUILDING WORK IS BEING CARRIED OUT

E.1 - Hours of work

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

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

With NO high noise generating activities, to be undertaken after 12 Noon on Saturday.

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.

Reason: To protect the amenity of the surrounding area.

E.2 - Compliance with the Building Code of Australia

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

Reason: Prescribed condition under section 69 of the EP&A 2021.

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.

E.5 - Implementation of BASIX commitments

While building work is being carried out, the applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate submitted under this application.

Reason: To ensure BASIX commitments are fulfilled in accordance with the BASIX certificate (prescribed condition under section 75 of the EP&A Regulation 2021.

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 —

- All footings/ foundations
- 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

E.7 - Construction noise

While building work is being carried out where no noise and vibration management plan is approved under this consent, the applicant is to ensure that any noise caused by demolition, vegetation removal or 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.

E.8 - Tree protection

While site or building work is being carried out, the applicant must maintain all required tree protection measures in good condition in accordance with the construction site management plan required under this consent, the relevant requirements of *AS 4970-2009 Protection Of Trees on Development Sites* and any Arborist's report approved under this consent and Part B. This includes maintaining

adequate soil grades and ensuring all machinery, builder's refuse, spoil and materials remain outside tree protection zones.

Reason: To protect trees during construction.

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.

E.15.B - Critical stage inspections

Critical stage inspections are to be carried out in accordance with Section 6.5 of the EP&A Act 1979 and sections 61, 63 and 65 of the *Environmental Planning and Assessment (Development Certification and Fire safety) 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;
- upper level floor and roof framing; and

Reason: EP&A Act requirement.

E.18.B - No obstruction of public way

The public way and Council 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.

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

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

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.

E.25 - Special Condition - Construction of boundary fence, excavation of piers

The new boundary fence along a Gother Avenue and Manns Avenue must be constructed from lightweight materials using the pier and beam method.

Excavation required for pier / post holes within the TPZ and SRZ of retained trees must be undertaken using hand tools only and overseen by the project arborist. Pier locations must be flexible, with a 150mm buffer granted to roots greater than 40mm diameter. Roots less than 40mm diameter that conflict with pier locations may be cleanly severed with a sharp implement and documented by the project arborist within a compliance certificate. Pier / post holes within a TPZ or SRZ that require concrete footings must be lined with a heavy-duty polyethylene film (builders Plastic) prior to pouring to prevent leaching. Exposed roots must be protected in accordance with section 4.5.4 of AS4970/2009 *The Protection of Trees on Development sites*.

Reason: To minimise damage to protected trees.

E.26 - Special condition – Stockpiling of Materials

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

Reason: To mitigate damage to Council land.

E.27 - Special Condition – Construction of the entrance pathway

The new pathway within the Tree Protection Zone of tree #4 is to be constructed on or above grade. Permeable fill consisting of 20mm angular stone is to be required to level any undulating ground. A geotextile fabric should then be used to separate the fill from a sand bedding layer. Permeable paving may then be placed on the layer of sand bedding. Level depths of subbase are to be determined by the landscape company. Pathway is to be overseen by the project arborist, no roots >40mm diameter are to be damaged/severed during installation of the pathway. Roots <40mm diameter that conflict with the pathway must be documented by the project arborist and cleanly severed using a sharp implement. Exposed roots must be protected in accordance with section 4.5.4 of AS4970/2009 *The Protection of Trees on Development sites*.

Reason: To minimise damage to protected trees.

E.28 - Special Condition – Excavation for stormwater services

Excavation and installation of stormwater services within the TPZ of protected 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 that 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 150mm diameter buffer allowed to roots greater than 40mm diameter to allow for future growth. Exposed roots must be treated and protected in accordance with provisions outlined within section 4.5.4 of AS4970-2009 *The 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

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:

- All stormwater drainage systems and storage systems
- The following matters that Council requires to be documented:
- Compliance with *Part O - Stormwater Management* of Lane Cove DCP 2010. Where a variation is sought, written approval shall be obtained from Council's Urban Services Division.
- Compliance with the requirements for waste and recycling, and bulky waste storage room(s) set out in *Part Q – Waste Management and Minimisation* of Lane Cove DCP 2010.
- Compliance with AS-3500.1 *Plumbing and Drainage Standards*
- Certification from a suitably qualified engineer that the approved stormwater pipe system and on-site stormwater detention (OSD) system has been constructed in accordance with the approved plans.
- Where relevant, registration of any positive covenants over the OSD system and basement pump out system.
- Signed plans by a registered surveyor clearly showing the surveyor's details and date of signature.
- Evidence of removal of all redundant gutter and footpath crossings and reinstatement of all kerb, gutter and footpaths to the satisfaction of Council's Urban Services Division.

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

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

F.2 - Completion of public utility services

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

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

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

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:

- no existing survey mark(s) have been removed, damaged, destroyed, obliterated or defaced, or
- 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.

F.5 - Repair of infrastructure

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

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

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

F.6 - Removal of waste upon completion

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

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

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

F.7 Tree Replacement

Trees that are removed must be replaced on a 1:1 ratio to comply with provisions outlined within Part J Landscaping of the Lane Cove Council Development Control Plan 2010.

Replacement planting is to be done in accordance with landscape plan L01 by Michael Siu dated 18th May 2023.

Trees selected must be from a registered nursery and comply with provisions outlined within AS2303:2018 *Tree Stock for Landscape Use*.

All landscaped areas must have an automatic irrigation system on a timer that provides adequate water for the ongoing health and vitality of the plants.

Trees must be installed and signed off by the project arborist **Prior to the issue of an Occupation Certificate.**

Reason: Council replacement policy.

PART H - OCCUPATION AND ONGOING USE

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 A.3**. Council may use part, or all of the securities held to complete the works to its satisfaction if the works do not meet Council's requirements.

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

Panel Reasons:

The Panel considered the Report prepared by the Council officers, associated plans, drawings and reports from the applicant and submissions from commentators. The Panel

**Lane Cove Local Planning Panel 27 March 2024
MINUTES**

inspected the site and attended No. 23 Manns Avenue in consideration of potential view impacts. The Panel also considered matters raised in the public meeting.

The majority of the Panel considers that the design changes previously made by the applicant adequately address the *Tenacity View Sharing Principles* in NSW case law. Accordingly the majority of the Panel accepts the Council recommendation to approve the proposal presented to the meeting on 27 March 2024. A number of additional conditions were imposed, requiring further design changes or details, and some refinements or corrections to other conditions, as outlined in the decision above.

Ian Longbottom, Community Representative on the Panel, had a dissenting view and did not support approval of the Planning Proposal.

The decision of the Panel was 3 For 1 Against

266 LONGUEVILLE ROAD, LANE COVE - S4.55 MODIFICATION OF CONSENT

DETERMINATION

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 27 March 2024, approves the modification to Development Consent DA 117/2017 for construction of a seniors housing development comprising 92 independent living units/self-contained dwellings, with basement car parking, new public park and facilities and landscaped through site link, subject to the following further conditions:

1. The description of the development is amended to read:

“Construction of a seniors housing development comprising 92 independent living units/self-contained dwellings, with basement car parking for 186 vehicles, new public park and facilities, and landscaped through site-link”.

2. Condition 1 is amended to reflect the following amended documentation:

- Access Report dated 13.11.2023
- Architectural Plans dated 5.12.2023 by 3EM Architects
- Basix Certificate dated 11.11.2023
- ESD and BASIX Report dated November 2023
- BCA Report dated 28.8.2023
- Traffic Advice Letter dated 5.12.2023
- Waste Advice Letter dated 11.12.2023

3. Additional condition 169:

“169. An operational management plan shall be in place to ensure that each pair of tandem residential spaces is allocated to a single apartment only.”

Reason: To ensure the proper operation of residents' car parking areas.

Panel Reasons

The Panel considered the Report prepared by Robert Montgomery (Independent Planner on behalf of Council), associated plans, drawings and reports from the applicant and

**Lane Cove Local Planning Panel 27 March 2024
MINUTES**

submissions from commentors. The Panel attended the site as part of its deliberations. The Panel also considered matters raised in the public meeting of 27 March 2024 and the responses to those matters from the applicant's representatives.

The Panel has taken into account the reasons of the consent authority that granted the consent that is sought to be modified. Accordingly, the majority of the Panel is satisfied that the modification is "substantially the same development" as the development for which consent was originally granted, and before that consent was subsequently modified and accepts the recommendation to approve the proposal put to the meeting on 27 March 2024..

Jason Perica had a dissenting view, not regarding the merit or impacts of the current modification application, but regarding the threshold test of "*substantially the same development*" required by Section 4.55 of the Environmental Planning and Assessment Act 1979. Specifically, Mr. Perica could not be satisfied, based on the material and information before him, that the amended proposal, including prior amendments that involved removal of the Residential Aged Care Facility, increased parking, changes to the envelope and building shape and numerous internal and external changes, is substantially the same development as approved in the original DA. Accordingly, Mr Perica could not support approval of the modification application.

The decision of the Panel was 3 For 1 Against

The meeting closed at 6.45 pm

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