

Agenda  
Lane Cove Local Planning Panel Meeting  
9 April 2025




Lane Cove Council

## Notice of Meeting

Dear Panel Members,

Notice is given of the Lane Cove Local Planning Panel Meeting, to be held in the Council Chambers on Wednesday 9 April 2025 commencing at 5pm. The business to be transacted at the meeting is included in this business paper.

Yours faithfully



Steve Kludass  
Acting General Manager

## Lane Cove Local Planning Panel Meeting Procedures

The Lane Cove Local Planning Panel (LCLPP) meeting is chaired by 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](http://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**

**1. 88 CARLOTTA STREET, GREENWICH..... 4**

**Lane Cove Local Planning Panel Meeting 09 April 2025  
88 CARLOTTA STREET, GREENWICH.**

**Item No:** LPP6/25  
**Subject:** 88 Carlotta Street, Greenwich.  
**Record No:** DA25/21-01 - 15237/25  
**Division:** Planning and Sustainability Division  
**Author(s):** Andrew Bland

Property:	88 Carlotta Street, Greenwich.
DA No:	DA21/2025
Date Lodged:	10/03/2025
Cost of Work:	\$48,000.00
Owner:	Ravi Singh
Applicant:	Ravi Singh

Description of the proposal to appear on determination	Installation of a passenger lift to service the dwelling house.
Zone	R2 Low Density Residential
Is the proposal permissible within the zone	Yes
Is the property a heritage item	No, however adjoins a heritage property known as 1 Bay Street, Greenwich. Refer to heritage section later in this report.
Is the property within a conservation area	No
Is the property adjacent to bushland	No
BCA Classification	Class 10b
Stop the Clock used	No
Notification	Notified in accordance with Council's policy and 2 submissions were received.

### REASON FOR REFERRAL TO LANE COVE PLANNING PANEL

Referral to the Lane Cove Planning Panel is required as the development includes a contravention of more than 10% from the Lane Cove LEP 2009 height development standard.

The proposed development would achieve a height of 10.57m which is a variation of 11.3%.

### EXECUTIVE SUMMARY

- Development application DA14/2023 was previously approved by the Lane Cove Planning Panel which included the same lift structure contained within the current proposal. The history of this application has been detailed in the next section of this report.
- On 10 March 2025 Council received the subject development application which seeks consent for the installation of a passenger lift to service the dwelling house and is accompanied by a Clause 4.6 request relating to the height of building development standard.

- The application was notified in accordance with Council policy and 2 submissions were received, the matters raised are addressed later in this report.
- The Clause 4.6 is considered to be well founded and provides reasonable planning grounds to support the contravention.
- The development application satisfies Section 4.15 of the Environmental Planning and Assessment Act 1979, including consideration against the Council's LEP, Council's DCP and the other relevant planning instruments.
- The proposed development would be reasonable and therefore, it is recommended that the Lane Cove Planning Panel support the Clause 4.6 request and support the development application subject the recommendation of this report.

### **PREVIOUS APPROVALS/HISTORY**

Development Application 14/2023 was lodged for alterations and additions to a dwelling house including the lift which is proposed within the subject application. The proposed lift was amongst other various changes to the existing building.

The Lane Cove Local Planning Panel at its meeting on 15 August 2023, exercising the function of Council as the consent authority issued a part approval and part refusal of Development Application 14/2023. The lift structure was amongst the portion of the application which was supported.

A third party appeal was lodged against the approval seeking declarations that the development consent was invalid on grounds, including but not limited to, that Council and the Panel had not complied with the requirements of Section 2.48 of the SEPP (Transport and Infrastructure) 2021.

This required that the application be referred to Ausgrid as part of the development was identified as development within 5m of an exposed overhead electricity power line (even though these works weren't identified by the Applicant to Council or supported in the Panel's decision). There was no determination by the Court on the issue as ultimately the Applicant surrendered the Consent and the Class 4 proceedings were discontinued, on terms.

The proposed development reduces the scope of works to the provision of a lift which would be over 6.2m from the boundary and any overhead electricity power lines. Therefore, referral to Ausgrid is not required for the subject development application.

### **SITE**

Lot and DP	1/-/DP322594 and D/-/DP76934
Area	278sqm
Site location	The site is located on the high northeast side of Carlotta Street. Pedestrian access is also provided via a passageway from Greenwich Road. Vehicular access and further pedestrian access is located off Carlotta Street.
Existing improvements	Existing improvements include a part 4 storey dwelling house with an integrated garage and a swimming pool.
Shape	Irregular
Adjoining properties	Adjoining properties include 2, 3 and 4 storey dwelling houses and of note is the heritage item at 153 Greenwich Road located east of the subject site.





Figure 1: Frontage view from Carlotta Street (Source: Architectural plans)



Figure 2: Subject site highlighted in orange. (Source: Nearmaps)





**Figure 3: The subject dwelling can be identified by its orange terracotta roof with solar panels. (Source: Nearmaps)**

**PROPOSAL**

The development application seeks consent for the following:

- Installation of a lift that would service 3 of the 4 levels including the garage level, ground level and level 1. A permanent void would be generated at the lower ground level as the carriage would not stop at this level.

A Clause 4.6 request for the associated contravention of the height development standard has been submitted, albeit the proposed structure is within the footprint and envelope of the existing dwelling house.

**PROPOSAL DATA/POLICY COMPLIANCE**

**Local Environmental Plan 2009**

**Zoning: R2 Low Density**

**Site Area: 278m<sup>2</sup>**

	<b>Proposed</b>	<b>Control</b>	<b>Complies</b>
Floor Space Ratio	The proposed lift would travel from the basement level, past the lower ground floor (void) and then service the ground floor and first floor.	0.6:1	Yes - no changes to the existing / negligible decrease.

Council refutes the Applicant's exclusion of GFA in accordance with (d) of the definition as the lift is not a "common" property to multiple properties.

For single dwellings lifts are considered GFA at the place of the carriage and for all other levels is considered to create a void. This is consistent with the approach taken in *Keith v Randwick City Council* [2025] NSWLEC 1011 and *Connoisseur Investments Pty Ltd v Sutherland Shire Council* [2020] NSWLEC 1181.

This follows the same logic for internal stairs where they are calculated at every level other than the upper most level, which contains the associated void.

Given a portion of the lift travels through the existing basement and lower ground floor this would displace any additional GFA created at the balconies in this instance.

Where the additional GFA of 1.736sqm is generated at the place of the carriage, there are 3 voids present which offset any increase.

**Existing GFA:**

Garage level = 12sqm (52sqm – 40sqm allowance for garages under Council's DCP.  
Lower ground floor = 48sqm  
Ground floor = 84sqm  
First floor = 80sqm

Total existing = 224sqm or **FSR of 0.80:1**

Proposed GFA with carriage at basement level:

Garage level = 12sqm (as existing)  
Lower ground floor = 46.264sqm (lift void subtracted)  
Ground floor = 84sqm (as existing, lift void located on the balcony)  
First floor = 80sqm (as existing, lift void located on the balcony)

Total proposed: 222.264sqm or **FSR of 0.7995:1**

Proposed GFA with carriage at either balcony:



	<p>Garage level = 10.264sqm (lift void subtracted)  Lower ground floor = 46.264sqm (lift void subtracted)  Ground floor = 85.736sqm (addition from the lift carriage)  First floor = 80sqm (as existing, lift void located on the balcony)</p> <p><u>Total proposed 222.264sqm or FSR of 0.7995:1.</u></p>		
<b>Height of Buildings</b>	<p>The lift would be <b>10.57m</b> from ground level.  <b>(11.3% breach)</b></p> <p>No changes to the maximum ridge height of the building.</p>	9.5m	<b>Supported - refer to Clause 4.6 Variation section later in this report.</b>

**Comprehensive DCP**

	<b>Proposed</b>	<b>Control</b>	<b>Complies</b>
Front setback (min)	<p>The lift would be located 6.9m from the front boundary.</p> <p>This would be contained within the footprint of the existing balcony.</p>	<p>Consistent with area or 7.5m</p> <p>84 Carlotta = 5.7m 86 Carlotta = 4m</p>	Yes – consistent with the area.
Side setback (min)	The lift is contained within the existing envelope and thus maintains the existing 1.27m side setback to the east boundary.	<p>1200mm single storey 1500mm two storey</p>	Yes – existing maintained
Rear setback (min)	No changes	<1000m <sup>2</sup> : 8m or 25%	Not applicable.
Wall Height (max) (max parapet of 600mm)	The lift maintains the existing wall height of 8.1m. This structure would be contained within the existing building envelope and the garage level.	7.0m	Yes – existing maintained
Maximum Ridge height	No changes to the maximum ridge height as the lift would be contained within the existing building envelope.	9.5m	Yes
Subfloor height (max)	No changes	1.5m	Not applicable.

	<b>Proposed</b>	<b>Control</b>	<b>Complies</b>
Number of Storeys (max)	No changes	2	Not applicable.
Landscaped area (min) (Minimum width of 1m required to be included in area)	No changes to the landscaped area.	35%	Not applicable.
Cut and Fill (max)	No excavation required.	1m	Yes
Solar Access	There would be no changes to the solar access compliance given the lift is contained within the existing envelope.	3 hrs. to north-facing windows	Yes
Provide for view sharing	The proposed development satisfies the tenacity principle and the impacts on views would be reasonable – refer to the B.4 View Sharing section later in this report.	B.4 View Sharing – tenacity principle.	Yes – refer to the B.4 View Sharing section later in this report.
Heritage Conservation	There would be negligible impacts on heritage as discussed in the heritage referral section later in this report.	5.10 Heritage conservation LEP B.9 DCP	Yes – refer to the heritage referral section later in this report.
Balcony depth (max)	No changes to the balcony depths.	3m	Yes
Private open space	Minimums exceeded.	24 m <sup>2</sup> (min) 4m minimum depth	Yes
Basix Certificate	Basix not required as the \$50,000 threshold has not been achieved.		Not applicable.

**ASSESSMENT - ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979  
PROVISIONS OF ANY LEP, DCP, SEPP OR REGULATION (Section 4.15(1)(a))**

**Clause 4.6 Request – Clause 4.3 Height of Buildings**

Clause 4.6 of LCLEP 2009 allows exceptions to development standards to provide flexibility and achieve better outcomes for and from development as a result of this flexibility. Consent must not be granted for development that contravenes a development standard unless the consent authority has considered and agrees with the request from the applicant that seeks to justify the contravention of the development standard. This request must demonstrate compliance with the relevant provisions of Clause 4.6 of LCLEP 2009.

Request provided by the applicant

The applicant has provided a request from Metro Planning dated February 2025 which seeks to contravene the building height development standard. The proposed lift would start in the existing garage level and extend to the top level of the dwelling. The lift would be 10.57m when measured from the finished floor level of the existing garage. This would result in a contravention of 1.07m or 11.3%. The resultant exceedance is largely due to the existing basement level having been cut

significantly below the prior natural ground level. The lift would be fully contained within the existing building envelope and does not exceed the existing maximum ridge height of the building.

**Clause 4.6 – Exceptions to Development Standards**

(1) *The objectives of this clause are as follows:*

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

(3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that:*

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

(4) *The consent authority must keep a record of its assessment carried out under subclause (3).*

**Clause 4.6 (3) (a) & (b) the applicant is required to demonstrate:**

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

The applicant's Clause 4.6 request states that it is unreasonable and unnecessary to require strict compliance with the development standard in this instance, and, that there are sufficient environmental planning grounds to justify contravening the development standard for the following reasons (which have been summarised):

- The proposed lift would not result in any overshadowing of neighbours or public areas.
- The proposed lift would not result in significant visual impacts to surrounding residents.
- The proposal would be contained within the existing built form.
- The proposal would be commensurate with the existing neighbourhood character.
- The proposed lift has been located with regards to visual and acoustic privacy.
- The proposal complements the existing architectural style.

- The proposal includes materials and colours which are consistent with the local character.
- The proposed variation is minor (1.07m) and would not exceed the existing building height which was a principle acknowledged in the *Fastbucks v Byron Shire Council* (1999) NSWCA 19 proceeding.

**Comment:** The proposed lift would have reasonable impacts on the amenity of neighbours and provides improved amenity to the existing dwelling house. This structure would not protrude the existing building envelope and would not exceed the existing building height. The principles of the *Bettar V City of Sydney Council NSWLEC 1070* proceeding can be applied to illustrate that when measured from a perceived natural ground level the proposed structure would attain a height of approximately 8.1m. This would be well below the height development standard from the ground level prior to any improvements of the site. The historic excavation utilised to provide the garage level is primarily the reason for the proposed height variation in this instance.

The proposed lift satisfies the relevant zone and development standard objectives. The lift would not result in adverse overshadowing or privacy impacts. The proposal maintains the existing residential amenity of the area and there would be no changes to the bulk and scale of the development. The proposal would improve the accessibility of the dwelling house which increases the longevity of the development. Compliance with the relevant objectives ensure that the development is consistent with the public interest. As such, there are sufficient planning grounds to justify contravening the building height development standard.

**The Clause 4.6 request satisfies Clause 4.6(3) (a) & (b) of Lane Cove Local Environmental Plan 2009.**

#### **Conclusion Clause 4.6 Height of Buildings**

The objectives of Clause 4.6 are to provide an appropriate degree of flexibility in applying certain development standards and to achieve better outcomes for and from development by allowing flexibility in particular circumstances. The variation to the height development standard of LCLP 2009 is considered well-justified in this instance. There are sufficient environmental planning grounds to support the proposed lift, and the objectives of the development standard have been met. The development satisfies the objectives and criteria outlined in Clause 4.6 and as such, the building height breach and request is supported.

**The Development Application satisfies Clause 4.6 of the LEP 2009**

#### **REFERRALS**

##### Development Engineer

No objections subject to recommended draft conditions.

##### Ausgrid – SEPP (Transport and Infrastructure) 2021, S2.48

The original application was required to be referred to Ausgrid under Section 2.48 of the SEPP (Transport and Infrastructure) 2021, given the enclosure of the balcony works were within 5m of overhead power lines. These works are not included in this application and the proposed lift would be located over 6m from any overhead power line. The subject development application was referred to Ausgrid as a precautionary measure to ensure that if any works were perceived as within the 5m then



they could be considered by Ausgrid. Council received a letter in response which provided the following comments:

*"This letter is Ausgrid's response under section 2.48 of the State Environmental Planning Policy (Transport and Infrastructure) 2021.*

**Ausgrid does not object to the proposed development.**

*The applicant/developer should note the following comments below regarding any proposal within the proximity of existing electrical network assets. Ausgrid Overhead Powerlines are in the vicinity of the development. The developer should refer to SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase. Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected to be entering and leaving the site. The "as constructed" minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website at [www.ausgrid.com.au](http://www.ausgrid.com.au).*

*It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer's cost. Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances "Working Near Ausgrid Assets - Clearances". This document can be found by visiting the following Ausgrid website: [www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries](http://www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries)*

*For new connections or to alter the existing electrical connection to the property from the Ausgrid network, the proponent should engage an Accredited Service Provider and submit a connection application to Ausgrid as soon as practicable. Visit the Ausgrid website for further details: <https://www.ausgrid.com.au/Connections/Get-connected>*

*Should you have any enquiries, please contact Ausgrid at [development@ausgrid.com.au](mailto:development@ausgrid.com.au)*

*Regards,  
Ausgrid Development Team"*

Condition 3 has been included to ensure the relevant requirements are complied with.

**Heritage Referral Officer**

The previous development application was referred to Council's Heritage advisor as the subject site adjoins a heritage item and is in proximity to several other items.

No objections were raised, and the following comments were provided:

**"Heritage Items**

*88 Carlotta Street is not a listed heritage item, but is located adjacent to 153 Greenwich Road, a house at the rear of the subject site. Features in Greenwich Road including rock outcrops and kerbs are also listed items.*

***Impact of the proposed extension***

*The proposed development will have minimal impact on the adjacent heritage items. The work is essentially internal, except for the top of the lift shaft and enclosure of the balcony, both of which are located on the opposite side of the building to Greenwich Road.*

***Recommendations***

*The proposed alterations will have minimal impact on any heritage items in the vicinity, therefore I have no objection to the proposed work.”*

**Comment:** Given the proposal has reduced the scope of works and the environmental impacts from the previous development application, it is considered that the proposed development would have negligible impacts in terms of heritage conservation. The proposed development satisfies the objectives of 5.10 Heritage conservation LEP 2009 and B.9 Heritage DCP 2009. This is confirmed in the Heritage report provided by Edwards Heritage Consultants and dated 11 October 2024.

**B.4 View Sharing – Tenacity Principle**

The sharing of all views is part of the character of the Lane Cove area and should be maintained where possible subject to how the view is obtained and whether the maintenance of such a view creates an unreasonable impost on adjoining landowners. Views gained across other privately-owned land are not “as of right”, as some may depend on the property that is overviewed maintaining a lower scale that is achievable under the LCLEP 2009.

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

The four steps of the Tenacity principle area as follows:

- **Step 1.** Assessing the types views to be affected. Water views are valued more highly than land views. Iconic views are valued more highly than views without icons. Whole views are valued more highly than partial views.
- **Step 2.** Assessing what part of the property the views are obtained. Side views are harder to protect than rear or front views and seated views are harder to protect than standing views and living rooms and kitchens are more valuable than bedrooms.
- **Step 3.** Assessing the extent of the impact. This should be done for the whole of the property, not just the view that is affected.
- **Step 4.** Assessing the reasonableness of the proposal. A proposal which is fully compliant is more reasonable than one which doesn't comply, and, proposals which have been skilfully designed are considered more reasonable.





**Figure 4: Aerial photo identifying the neighbouring properties. (Source: Nearthmaps)**

The following table provide a summarised view loss analysis against the tenacity principle.


<b>View analysis</b>	
<b>Property location</b>	<b>View Analysis</b>
<p><b>145 Greenwich Road, Greenwich.</b></p>	<p><b>No impacts</b> – There would be no impacts on the water views of the Lane Cove River or the views of Cockatoo Island. See figure 5.</p>
<p><b>Figure 5: View obtained from the first floor balcony and living areas, overlooking the rear of the subject site and the external balcony which is proposed to be enclosed. (Source: Council Planner)</b></p>	



<b>View analysis</b>	
<b>Property location</b>	<b>View Analysis</b>
<p><b>147 Greenwich Road, Greenwich.</b></p>  <p><b>Figure 6: View obtained from the first floor kitchen area and balcony which overlooks the northeast corner of the subject dwelling house. (Source: Council planner)</b></p>	<p><b>Satisfactory</b> – There would be negligible impacts on the water views of the Lane Cove River. The subject view is obtained from the kitchen and over multiple side boundaries. The lift would obstruct a negligible portion of the view which is obtained through the balustrade and support beams of the first floor balcony of the subject site. See figure 6.</p>
<p><b>151 Greenwich Road, Greenwich.</b></p>  <p><b>Figure 7: View obtained from the first floor living area and balcony which overlooks the front yard and front facing balcony of the subject site. (Source: Council planner)</b></p>	<p><b>Satisfactory</b> – The proposed development maintains expansive views which are virtually uninterrupted, the impacts of the proposal would be minor.</p> <ol style="list-style-type: none"> <li>1. There would be minor impacts on the oblique water views of the Lane Cove River away from the primary aspect of the view towards Cockatoo Island.</li> <li>2. The subject view is obtained from the first floor balcony and living area, over multiple side boundaries and lots.</li> <li>3. The lift would be located in a small portion of the total view which is already partially obstructed by existing foliage and physical structures. The view is obtained through the first floor balcony of the subject site. This can be seen in figure 7 and figure 7A.</li> <li>4. The development application includes a Clause 4.6 which is considered satisfactory as discussed earlier in this report. The lift would be contained within the existing footprint of the dwelling and is a result of historic excavation for the garage level. Given the minor extent of</li> </ol>



<b>View analysis</b>	
<b>Property location</b>	<b>View Analysis</b>
 <p><b>Figure 7A: Alternate view provided from submission showing the impacts when the existing foliage has been trimmed.</b> (Source: Metro Planning submission)</p>  <p><b>Figure 8: View obtained from the ground floor balcony.</b> (Source: Council planner)</p>	<p>the impacts to the total view, it is considered unreasonable to require amendment of the lift location.</p> <p>The Applicant has provided the following consideration of relocating the lift:</p> <ul style="list-style-type: none"> <li>• Reduces the operable portion of the garage,</li> <li>• Reduces existing storage areas adjacent to the toilet at the lower ground floor,</li> <li>• Requires the relocation of aircon services,</li> <li>• The application has been proposed with the opinion that the Clause 4.6 is supportable and the Tenacity Principle has been satisfied.</li> </ul> <p>Figure 8 below shows the view to Lane Cove River and Cockatoo Island from the ground floor balcony which would not be affected.</p>

<b>View analysis</b>	
<b>Property location</b>	<b>View Analysis</b>
<p><b>153 Greenwich Road, Greenwich.</b></p>  <p><b>Figure 9: View obtained from the ground floor balcony.</b> (Source: Council planner)</p>	<p><b>No impacts</b> – There would be no impacts on the water views of the Lane Cove River. The lift would be located behind the large bush in the rear yard. See figure 9.</p> <p>Unobstructed water views are obtained in a 90 degree direction from the stood position referenced in figure 9. This is the same unobstructed view obtained in figure 8 from the adjoining property.</p>

**Comment:** The proposed lift would generally have a negligible impact on the significant views of the Lane Cove River. In some instances, there would be an impact on partially obstructed water views obtained through the developable portion of the site and the existing balcony. In any instance where the lift obstructs views the primary expansive view toward Cockatoo Island is not affected. It is therefore considered that the impacts on views are negligible to minor and it would be unreasonable to require any amendments in order to preserve the insignificant portion of these views.

**The Development Application satisfies the B.4 View Sharing and Tenacity Principle requirements**

#### **OTHER PLANNING INSTRUMENTS**

##### **SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land**

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.

#### **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.

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

The proposal would have reasonable impacts on neighbouring properties and the public domain in terms of overshadowing, visual privacy, acoustic privacy, or traffic and parking. 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 would be suitable for the proposed development as the use is permissible within the Zone. The proposed development would positively contribute to the amenity of the surrounding area and the subject site would not constrain the development or neighbouring sites.

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

The development application was notified in accordance with Council policy and 2 submissions were received. The matters raised have been addressed in the following table. Sections of the second submission have been duplicated from the first submission.

<b>Concern</b>	<b>Comment</b>
<p><b>Impacts on views</b> – concerns that there would be a detrimental impact on significant views as a result of the lift and the application fails to satisfy the Tenacity principle framework.</p> <p>The <i>Furlong v Northern Beaches Council [2022] NSWLEC1208</i> (Furlong) case was referenced in regards to the commissioner’s decision to uphold a refusal where the proposal would result in “severe view loss impacts” to a side view where there was a reasonable design alternative available with reduced impacts.</p>	<p>The impact on views has been assessed against the tenacity principle in the B.4 View Sharing section earlier in this report.</p> <p>The impacts on views would be reasonable and satisfy the tenacity principle requirements.</p> <p>The Furlong appeal dealt with “<b>severe</b> view loss impacts” where the proposed development would have minor/negligible impacts on the total view enjoyed. Thus, it is considered unreasonable to require an alternate design solution for the subject application.</p>
<p><b>Relocation of lift</b> – request that the lift is relocated either within the building or to the north-west corner of the balcony to alleviate view impacts.</p>	<p>The impact on views is considered acceptable as discussed earlier in this report. Notwithstanding this request was put to the Applicant who agreed to explore alternate locations for the lift. Upon consideration the Applicant has not amended the plans as this would result in:</p> <ul style="list-style-type: none"> <li>• Reduction of the operable portion of the garage,</li> <li>• Reduction of the existing storage areas adjacent to the toilet at the lower ground floor, and,</li> <li>• Require the relocation of aircon services.</li> </ul>
<p><b>Lift details</b> – request that the lift details are provided and</p>	<p>The lift details have been provided and were made available on Council’s website. These details confirm that the proposed lift</p>

<p>ensure that there is no lift overrun or excavation required for the lift structure.</p>	<p>does not require any lift overrun or require any form of excavation.</p> <p>It is to be noted that if excavation was required Council would not have any concerns and would recommend the standard conditions which deal with excavation.</p>
<p><b>FSR</b> – concerns that the proposal constitutes increased FSR which is already non-compliant. Thus, a Clause 4.6 is required for FSR.</p> <p>The <b><i>Chami V Lane Cove Council [2015] NSWLEC 2003</i></b> (Chami)</p>	<p>The Chami appeal refutes the applicant’s opinion that lifts are totally excluded from the GFA calculation, as the lift is not a “common” property to multiple properties and would only service a single dwelling.</p> <p>Council refutes the Applicant’s exclusion of GFA in accordance with (d) of the definition as the lift is not a “common” property to multiple properties.</p> <p>For single dwellings lifts are considered GFA at the place of the carriage and for all other levels is considered to create a void. This is consistent with the approach taken in <i>Keith v Randwick City Council [2025] NSWLEC 1011</i> and <i>Connoisseur Investments Pty Ltd v Sutherland Shire Council [2020] NSWLEC 1181</i> which subsequently do not follow the approach taken in the Chami appeal.</p>
<p><b>BASIX Certificate</b> – concerns that an updated BASIX Certificate has not been supplied (with reference to the prior application).</p>	<p>A BASIX Certificate is not required in this instance as the proposed works amount to a cost of \$48,000.00, where the threshold is alterations and additions amounting to a cost over \$50,000.00.</p>
<p><b>Impacts of the lift</b> – Concerns that the lift would have unreasonable impacts regarding amenity and would be inconsistent with the streetscape.</p>	<p>The lift is a permissible structure and has been well integrated into the design of the dwelling house. There would be no unreasonable impacts on the streetscape.</p> <p>Acoustic impacts have been mitigated through the recommended <b>Condition 2</b>. This condition requires certification from a qualified acoustic expert to ensure that the noise generated by the lift is reasonable and maintains acoustic amenity.</p> <p>Privacy would be improved as there would be reduced sightlines from the balcony due to the lift.</p> <p>There would be negligible impacts, if any, on ventilation and overshadowing.</p>
<p><b>Other works</b> - Concerns raised for existing works near the pool that are outside the scope of the development application.</p>	<p>This matter does not relate to the assessment of the development application.</p> <p>This structure is a cover for the pool pump and is exempt development.</p>



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

The proposal would have reasonable impacts on neighbouring properties and the public domain and meet the relevant objectives with regard to the Lane Cove LEP 2009, Lane Cove DCP 2009 and any 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 Clause 4.6 Request to vary the building height development standard is well founded and provides reasonable planning grounds to support the contravention. It is recommended that the Lane Cove Planning Panel support the Clause 4.6 request.

The application meets the Part C Residential Development Objectives in the Lane Cove Development Control Plan.

On balance the proposed development would be reasonable and therefore is reported to the Lane Cove Planning Panel for approval subject to the recommendation below.

**RECOMMENDATION**

The applicant has made a request pursuant to Clause 4.6 of the Lane Cove Local Environmental Plan 2009 for the proposed breach of the building height development standard. Council is satisfied that the Clause 4.6 requirements have been met and that there are sufficient planning grounds to support the variation. The proposed development would be in the public interest as the exceedance is consistent with the objectives of the development standard and of the zone in which the development is to be carried out. It is therefore recommended that the Clause 4.6 request for the building height development standard be supported by the Lane Cove Planning Panel.

That pursuant to Section 4.16(a) of the Environmental Planning and Assessment Act, 1979 the Lane Cove Local Planning Panel, at its meeting of 9 April 2025, exercising the functions of Council as the consent authority, approve Development Application DA21/2025 for the installation of a passenger lift to service the dwelling house, at 88 Carlotta Street, Greenwich 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.

<b>Plan No</b>	<b>Revision</b>	<b>Plan Title</b>	<b>Drawn By</b>	<b>Dated</b>
A101	J	Cover Sheet	Siva Projects Pty Ltd	09/10/2024
A102	J	Garage and Lower Ground	Siva Projects Pty Ltd	09/10/2024
A103	J	Ground Floor and Level 1	Siva Projects Pty Ltd	09/10/2024
A104	J	Site Plan	Siva Projects Pty Ltd	09/10/2024
E101	H	Elevations	Siva Projects Pty	04/10/2024

			Ltd	
E102	H	Elevations	Siva Projects Pty Ltd	04/10/2024
E103	H	Section	Siva Projects Pty Ltd	04/10/2024
1 of 7	-	Shaft Drawing	Cibes	2024/12/10
2 of 7	-	Cut out sizes	Cibes	2024/12/10

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 - Acoustic certification of the lift**

A verification certificate from an acoustic consultant is to be prepared. This must confirm that the noise generated by the lift & lift motor (when measured at the site boundaries) does not exceed 5dB(A) above background noise. This verification certificate is to be submitted to the Private Certifier prior to the issue of an Occupation Certificate.

**Reason: To ensure that the noise generated by the lift is reasonable so that acoustic amenity is maintained.**

3. **A.2a – Ausgrid Condition for any works within 5m of a powerline**

A letter is to be provided to the Private Certifier, prior to the issue of a construction certificate, confirming whether any works or associated structures used for construction would be located within 5m of an overhead powerline.

If these works or structures are present, then a letter is to be provided to the Private Certifier, prior to the issue of Construction Certificate confirming that the SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice has been reviewed and will be complied with as required. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase. Consideration is to be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected to be entering and leaving the site. The “as constructed” minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid’s website at [www.ausgrid.com.au](http://www.ausgrid.com.au).

It is the responsibility of the applicant to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works would be at the applicant’s cost. Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances “Working Near Ausgrid Assets - Clearances”. This document can be found by visiting the following Ausgrid website: [www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries](http://www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries)

For new connections or to alter the existing electrical connection to the property from the Ausgrid network, the applicant is to engage an Accredited Service Provider and submit a connection application to Ausgrid as soon as practicable. Visit the Ausgrid website for further details: <https://www.ausgrid.com.au/Connections/Get-connected>

Should you have any enquiries, please contact Ausgrid at [development@ausgrid.com.au](mailto:development@ausgrid.com.au)

**Reason: To protect the public environment, the safety of any workers and the Ausgrid assets.**

4. **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 to Council and provide written evidence of these payments to the Certifier:

<b>Security deposit</b>	<b>Amount</b>
<b>Infrastructure damage bond</b>	\$5,000.00

The payments will be used for the cost of:

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

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

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.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**

7. **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.**

## **PART C - BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE**

### **8. C.1 - Construction site management plan**

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

- safety barrier or temporary fencing is to be provided along the full frontage of the property. This fence is for the safety of pedestrians on the public footpath and shall be erected before the commencement of any works.
- location and materials for protective fencing and hoardings to the perimeter on 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
- location of site storage areas and sheds
- equipment used to carry out all works
- a garbage container with a tight-fitting lid

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

#### **Council Approvals**

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

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

### **9. 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:

- The Lane Cove Development Control Plan 2009,
- 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.**



10. **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:

- footings;
- structural work; and,
- the lift structure.

**Reason: To ensure structural adequacy.**

**PART D - BEFORE THE COMMENCEMENT OF BUILDING WORK**

11. **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.**

12. **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.

**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.**

13. **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.**

14. **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 —

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

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

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

### **15. 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.**

### **16. 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.**

### **17. 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.**

### **18. 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.**

19. **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.**

20. **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:

- a) footings;
- b) structural work; and,
- c) the lift structure.

**Reason: EP&A Act requirement.**

21. **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.**

22. **E.19.B – Encroachments**

1. No portion of the proposed structure shall encroach onto adjoining properties.
2. 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.**

23. **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.**

**PART F - BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE**

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

Before the issue of the relevant occupation certificate, the applicant must submit, to the

satisfaction of the principal certifier, works-as-executed plans, any compliance certificates and any other evidence confirming the following completed works:

- (a) All stormwater drainage systems and storage systems
- (b) The following matters that Council requires to be documented:
  - Certification from suitable licenced contractor that all works have been constructed in accordance with the Australian standards.
  - Certification from lift manufacturer that the lift installed is satisfying relevant Australian standards.
  - Certification from qualified structural engineer that the proposed construction has been completed according to approved plans and is structurally adequate.

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 approved plans.**

25. **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.**

26. **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.**

27. **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.**

28. **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.**

**PART H - OCCUPATION AND ONGOING USE**

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

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

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

Mark Brisby  
**Director - Planning and Sustainability**  
**Planning and Sustainability Division**

**ATTACHMENTS:**

There are no supporting documents for this report.