

<b>JRPP No:</b>	2011SYE030
<b>DA No:</b>	DA11/25
<b>PROPOSED DEVELOPMENT:</b>	Demolition of existing industrial building and the erection of a 6 storey residential flat building over basement parking with 38 dwellings. - 290 Burns Bay Road, Lane Cove
<b>APPLICANT:</b>	Gridcorp Pty Ltd
<b>REPORT BY:</b>	Rajiv Shankar, Lane Cove Council

## Assessment Report and Recommendation

### Environmental Services Division Report 7 Sydney East Joint Regional Planning Panel meeting of 1 June 2011 2011SYE030 - 290 Burns Bay Road, Lane Cove

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Property:	290 Burns Bay Road, Lane Cove
DA No:	D25/11
Date Lodged:	1 March 2011
Cost of Work:	\$11,125,070.00
Owner:	Gridcorp Pty Ltd
Applicant:	Gridcorp Pty Ltd
Author:	Rajiv Shankar

<b>DESCRIPTION OF PROPOSAL TO APPEAR ON DETERMINATION</b>	Demolition of existing building and construction of a six storey residential flat building with 38 dwellings and associated basement parking.
<b>ZONE</b>	R4 High Density Residential
<b>IS THE PROPOSAL PERMISSIBLE WITHIN THE ZONE?</b>	Yes
<b>IS THE PROPERTY A HERITAGE ITEM?</b>	No
<b>IS THE PROPERTY WITHIN A CONSERVATION AREA?</b>	No
<b>DOES DCP 1- BUSHLAND APPLY TO THE PROPERTY?</b>	No
<b>BCA CLASSIFICATION</b>	Class 2
<b>STOP THE CLOCK USED</b>	No

<b>NOTIFICATION</b>	Neighbours	1 Caroline Chisholm Lane, 278, 289, 288, 291, 292-298, 293, 296, 299, 300, 301, 303, 303A, 305, 307, Burns Bay Road,
	Ward Councillors	Clr W Gaffney, Clr I Longbottom, Clr K McIlroy.
	Association	Riverview Community Association
	Others	S Bashford

### REASON FOR REFERRAL:

This application has been referred to the Sydney East Joint Regional Planning Panel as per clause 13B of State Environmental Planning Policy (Major Development) 2005 because the proposed development has a capital investment value of greater than \$10 million.

### EXECUTIVE SUMMARY:

- The subject site is rectangular in shape, with a frontage of 38.4m and an area of 2005m<sup>2</sup>. The site is located on the eastern side of Burns Bay Road and falls from north to south by approximately 5.5m.
- The proposal is for the demolition of the existing building and construction of a six storey residential flat building containing 38 dwellings and associated basement parking.
- The proposal meets the requirements of Council's Local Environmental Plan 2009 with regard to maximum permissible floor space ratio and maximum permissible height limit.
- The proposal meets the requirements of Council's Development Control Plan. The non compliance with regard to setbacks has been conditioned to comply.
- The proposed dwellings would have adequate amenity with regard to solar access and privacy.
- The proposed development meets the objectives of all the 10 planning principles of SEPP 65.
- Three submissions have been received from the neighbours following the notification.
- On 12 May 2011, the JRPP was briefed on the proposal.
- The proposal is supported and recommended for approval subject to draft conditions included in this report.

### SITE:

The site is located on the eastern side of Burns Bay Road. The site is described as Lot A DP 316439. The site is rectangular in shape, has a frontage of 38.4m and a depth of 52.3m. The site has an area of 2005m<sup>2</sup>. The site falls from north to south by approximately 5.5m.

The site features a part two, part three storey commercial/warehouse building. The site is partly excavated and levelled to accommodate the existing building and a car parking level. Vehicular and pedestrian access to the site is from a driveway towards the west of the site. There is a rock outcrop towards the north-eastern corner of the site.

Neighbouring towards the north is a two storey commercial building. This site, which is towards the north of the subject site, is zoned R4 High Density Residential. A six to seven storey residential flat building has recently been approved on this site by the Joint Regional Planning Panel.

Further towards the north is a town house development and a residential flat building, beyond which is Caroline Chisholm aged care and retirement village.

Towards the south is the access road to residential flat buildings and a commercial building located on the eastern side of the site. There are a number of trees located along the edge of the access road. Further towards the south is an open space area which is the public open space (disused bowling green) and additional land zoned R4 High Density Residential.

Adjoining towards the east is a car parking area associated with the residential flat building towards the east.

## **PROPOSAL:**

### Proposed Development:

- Demolition of the existing building and removal of a number of trees, and
- Construction of a six storey residential flat building with 2 basement car-parking levels.

### Dwellings:

The residential flat building contains a total of 38 dwellings:

- 6 X 1 bedroom dwellings.
- 31 X 2 bedroom dwellings.
- 1 X 3 bedroom dwellings.

The amended plans indicate that out of the above a total of eight (8) dwellings would be adaptable dwellings. The number of adaptable dwellings complies with Council's requirement.

### Vehicular Access, Parking and Loading:

The parking arrangements have been modified in the amended plans.

- Vehicular access is from the public road using the existing driveway crossing off Burns Bay Road.
- The car parking entrance is at the same grade as the access road.
- A total of 64 car parking spaces over two levels have been provided.
- Of the 64 car spaces, ten (10) car spaces are visitor car parking spaces and eight (8) car spaces are accessible car parking spaces associated with the adaptable dwellings.

Private Open Space and Landscaping:

- The north eastern corner of the site with the rock outcrop is proposed to be retained as landscaped area.
- A total of 25 trees are proposed for removal.

Waste Management:

- Each level would have a garbage room with a garbage chute terminating in a garbage room in the ground level car park.
- The bins would be transferred from the garbage room to a collection point located within the front setback to the south of the driveway entrance.
- The plans indicate that the garbage truck would enter the site in a forward direction and reverse in the turning bay provided within the front setback. After collecting the garbage, the truck would exit in a forward direction.

**PREVIOUS APPROVALS/HISTORY:**

DA148/10- Demolition of existing industrial building and the erection of a six storey residential flat building containing 36 dwellings over basement parking. This was refused by the Sydney East Joint Regional Planning Panel in its meeting held at Lane Cove Council on Wednesday 6 October 2010.

**PROPOSAL DATA/POLICY COMPLIANCE:**

**Lane Cove Local Environmental Plan 2009**

Site area - 2005m<sup>2</sup>.

<b>Clause</b>	<b>LEP</b>	<b>Proposed</b>	<b>Complies/ Comment</b>
Clause 2.2- Zoning	R4 – High Density Residential	Proposed Residential Flat Building.	Yes
Clause 4.3 - Height of Buildings	21.0m	21.0m	Yes
Clause 4.4 - Floor Space Ratio	1.7:1	1.69:1 (3384 m <sup>2</sup> )	Yes

**Lane Cove Development Control Plan**

Part B – General Controls

Clause	DCP	Proposed	Complies/ Comment
B7 – Development near busy Roads and Rail Corridors	LAeq levels: (i) In any bedroom 35dB(A) 10.00pm to 7.00am. (ii) anywhere else 40dB(A)	Acoustic report provided. The report provides recommendation to achieve the recommended levels.	Yes The recommendations of the report shall be adopted as a condition. (Condition 66)
B8 – Safety & security	Required	Crime Prevention Through Environmental Design (CPTED) principles considered and satisfactory.	Yes
B10- Cut & fill	1m maximum. Additional acceptable for parking for Residential Flat Buildings	More than 1m. However the extent of excavation has been minimized and generally within the footprint of the proposed building.	Yes

Part C3 – Residential Flat Buildings

Clause	DCP	Proposed	Complies/ Comment
3.2 Density	Minimum site area 1500m <sup>2</sup>	Area of site 2005 m <sup>2</sup>	Yes
3.3 Building depth	18m exclusive of balcony	23m at the south western corner of the Building	NO
3.4 Building width	40m maximum fronting the street	26m	Yes
3.5 Setback	Awnings, balconies, bay windows and other articulation elements up to a maximum of 600mm	600mm balcony and bay window projection have been provided for articulation.	Yes
<u>Front Building</u>	7.5m	7.5m (living rooms of dwellings 9, 16, 23, 30 & 35 encroach by 600mm)	Yes* Conditioned to comply.
	6.0m up to 4 storeys		

Clause	DCP	Proposed	Complies/ Comment
<u>Side</u> Northern side         Southern side         Rear	9.0m for 5-8 storeys  6.0m up to 4 storeys 9.0m for 5-8 storeys  6.0m up to 4 storeys 9.0m for 5-8 storeys	6.0m (living rooms of dwellings 1, 7, 14 & 21 encroach by 600mm)  9.0m  6.0m  9.0m  6.0m  9.0m (bedrooms, living and dining of dwelling 38 encroach by 600mm)	Yes* Conditioned to comply  Yes  Yes  Yes  Yes* Conditioned to comply
3.5.3 Encroachment into setback zone.  Front boundary  Northern boundary  southern boundary  eastern boundary	Maximum 1.2m above ground up to 2m.	NA  NA  2m  2m	NA  NA  Yes  Yes
3.8 Size of dwellings	Minimum 40m <sup>2</sup>	> 40m <sup>2</sup>	Yes
3.9 Private open space	Primary balconies - 10m <sup>2</sup> with minimum depth 2m  Primary terrace- 16m <sup>2</sup> with minimum depth 4m	All balconies and terraces meet or exceed the minimum area and depth requirements	Yes  Yes
3.10 Car parking, motorcycle and bicycle spaces	Car parking –  6 x 1 bedroom	Total 64 car spaces.	Yes

Clause	DCP	Proposed	Complies/ Comment
	<p>(6x1) = 6 spaces</p> <p>31 x 2 bedroom (31x1.5) = 46.5 spaces</p> <p>1x 3 bedroom (1 X 2.0)= 2spaces</p> <p>Visitors - 1 per 4 dwellings (38÷4) = 9.5 spaces</p> <p><b>Total 64 car spaces.</b></p> <p>Motor cycle @ 1 per 25 cars - 3spaces</p> <p>Bike Lockers.- 4 (1 per 10 dwellings)</p> <p>Bike rails – 3 (1 per 12 dwellings)</p>	<p>3</p> <p>4</p> <p>3</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
3.11 Ceiling heights	Minimum 2.7m	> 2.7m	Yes
3.12 Storage	<p>1 bed 6m<sup>3</sup></p> <p>2 bed 8m<sup>3</sup></p> <p>3 bed 10m<sup>3</sup></p>	All dwellings have the required storage volumes	Yes
3.13 Solar access	<p>Living rooms and private open spaces of 70% of the units to receive 3 hours of direct sunlight.</p> <p>Single aspect dwellings with southerly aspect to 10% (4 dwellings)</p>	<p>71% (29 dwellings)</p> <p>10% (4 dwellings) Apartment 32 is two storeys and is roof ventilated.</p>	<p>Yes</p> <p>Yes</p>
3.14 Natural ventilation	<p>60% of the dwellings should have cross ventilation.</p> <p>25% of the kitchen to have access to natural ventilation</p>	<p>82% (31 dwellings)</p> <p>31.5% (12 kitchens)</p>	<p>Yes</p> <p>Yes</p>
3.15 Visual	Provide visual	Privacy issues across	Yes

<b>Clause</b>	<b>DCP</b>	<b>Proposed</b>	<b>Complies/ Comment</b>
privacy	privacy between balconies internally and externally	internal courtyard and dwellings addressed.	
3.16 Communal open space	Minimum 25%	44%	Yes
3.17 Landscaped area	25% provided at ground level and up to 15% on structures	256.9% + 14.5% Total = 41.4%	Yes
3.18	Planting on structures	Provided	Yes

#### Part F - Access and Mobility

<b>Clause</b>	<b>DCP</b>	<b>Proposed</b>	<b>Complies/ Comment</b>
3.3 Public spaces and link to private properties	Development on public and private properties must provide and maintain accessible links and path of travel between class 2 to Class 10 buildings and to adjacent public spaces or pedestrian networks	Accessible links from the proposed open spaces to public footpath has been provided	Yes
3.5 Parking Provide 1 space for each adaptable housing unit.	DCP requires 8 adaptable dwellings and therefore 8 disabled car spaces.	8 disabled car spaces have been provided.	Yes
3.6 Adaptable and Visitable housing	Adaptable housing to be provided at the rate of 1 dwelling per 5 dwellings which would be 8 dwellings.	8 adaptable dwellings have been provided	Yes
	Adaptable housing to be equitably distributed throughout all types and sizes of dwellings.	One bed and two bed room dwellings are provided as adaptable and distributed.	Yes
	80% of the dwellings are to be visitable	81% (31 dwellings)	Yes
3.7 Access to and	Access is required to	Access to	Yes



Clause	DCP	Proposed	Complies/ Comment
within buildings	common areas and all dwellings.	common areas and all dwellings has been provided.	

## REFERRALS:

### Manager Community Services and Access Committee

Council's Manager Community Services has reviewed the plans and advised:

- *Accessible parking does not comply with the Australian Standards 2890.6*
- *A footpath is required to promote pedestrian access including for people with a disability to the development from public land.*

*The application is supported in its current form. However, we note that the new development will need access from the Council-owned public land to the boundary of the development. It is suggested that the developer provide equitable access and as far as possible, comply with AS1428, the BCA and DDA in the form of a public path to the main entrance on Burns Bay Road from the existing footpath adjacent to Burns Bay Road.*

Draft conditions have been provided and included in the report. (See draft conditions 43-46).

### Manager Assets

The proposal was referred to Council's Engineer, who has advised:

*The applicant is providing an on site detention system and a rainwater reuse system before discharging directly into Council's stormwater system. The proposed system has been conditioned to include a gross pollutant trap prior to discharging into Council's drainage system.*

*The proposal vehicular access to the site is to be maintained.*

*The proposed bulk excavation has been conditioned to ensure the safety of adjoining structures.*

*The existing footpath along Burns Bay Road has been conditioned to be upgraded to Council's specifications.*

Draft conditions have been provided and included in the report. (See draft conditions 97-134).

### Executive Manager (Environmental Services)

The Executive Manager Environmental Services has advised that the south-west corner of the site would be required for road widening which would be subject to separate negotiations independent of the approval process.

### Tree Assessment Officer & Landscape Architect

Following is the response received from Council's Tree Assessment Officer:

- No objection is raised to the removal of the nominated trees from the site, including the removal and replacement of the paper bark trees adjoining the front boundary with locally indigenous trees.
- If approved, two tree protection zones are required, one located on the nature strip outside the property and the other on top of the rock out crop in the north-eastern corner of the site.
- The proposed landscape plan is satisfactory

Draft conditions have been provided and included in the report. (See draft conditions 82-96).

### Building Surveyor

Council's Building Surveyor has reviewed the proposal and has advised that Fire Stair 1 between basement levels 1 and 2 appears to be connected. This is in contravention of Clause D2.4 where rising and descending flights should have separation. This needs to be confirmed. Otherwise the proposal can readily comply with the Building Code of Australia.

Draft conditions have been provided and included in the report.

### Manager Environmental Health (Waste Management)

Council's Manager Environmental Health has reviewed the Waste Management aspect of the proposal.

Draft conditions have been provided and included in the report. (See draft conditions 47-64).

### Manager Environmental Health (Soil Contamination)

Council's Manager Environmental Health has reviewed the contamination report and advised that the Contamination Assessment (Geotechnique Pty Ltd, June 2010) identifies two separate locations where contaminants exceed the Assessment Criteria. The contamination was with levels of Zinc concentrations and Benzo(a)pyrene. The assessment concludes that removing contamination from the site and/or remediation would render the site suitable for the proposed use.

Draft conditions have been provided, which include a requirement for the applicant to submit a Validation Statement verifying that the site is suitable for residential purposes. This draft condition has been included in the conditions of consent (See draft condition 65).

#### Manager Environmental Health (Acoustic Assessment)

Council's Manager Environmental Health has reviewed the acoustic assessment and advised that the acoustic report submitted covers three main aspects of noise impacts relating to the proposed development (traffic noise impacts on future residents, potential for noise impacts from construction and mechanical plants). It also offers solutions for addressing the potential noise impacts.

A validation report would be required prior to occupation, indicating how the development has addressed and complied with the acoustic report (See draft condition 66).

#### Manager Traffic

Council's Manager Traffic has reviewed the plans, traffic report prepared by McLaren Traffic Engineering and the referral response from RTA with regard to the traffic aspect to the proposal.

Draft conditions have been provided and included in the report. (See draft conditions 67-74).

#### State Environmental Planning Policy 65 – Design Quality of Residential Flat Development

Council's consulting architect has confirmed that the proposed development meets the objectives of all the 10 planning principles of SEPP 65. A copy of the Council's consulting architect's report is contained in **AT1**.

#### Roads and Traffic Authority

The proposed development was referred to the Roads and Traffic Authority, who whilst not objecting to the proposal stated that vehicles must enter and exit the proposed development in a forwards direction.

Draft conditions have been provided and included in the report (See draft conditions 75-81).

### **ENVIRONMENTAL PLANNING ASSESSMENT.**

#### **79 (C) (1) (a) the provisions of any Environmental Planning Instrument**

#### **Lane Cove Local Environmental Plan 2009**

#### **Clause 2.2 - Zoning**

The subject site is zoned R4 – High Density Residential under the provisions of Lane Cove Local Environmental Plan 2009. The proposed development meets the zone objectives and is permitted with development consent.

### **Clause 4.3 - Height of Buildings**

The Height of the Building Map sets a maximum building height of 21m for the subject site. The proposed development complies with the maximum building height development standard.

### **Clause 4.4 - Floor Space Ratio**

The Floor Space Ratio Map sets a maximum FSR 1.7:1 for the subject site. The Gross Floor Area of the proposed development is 3384m<sup>2</sup> equating to an FSR of 1.69:1 to comply with the FSR development standard.

### **Lane Cove Development Control Plan**

#### **Variations to Council's Development Control Plan/Policies**

As indicated in the preceding policy compliance table, the proposal does not meet the provisions for Maximum Building Depth, however it is considered satisfactory with respect to each of these on the following grounds:

#### Maximum Building Depth

The proposed development meets the objectives of the building depth control as indicated in Clause 3.3 of the DCP.

Adequate amenity has been provided with regard to solar access and natural ventilation.

The proposed development meets the objectives of all 10 planning principles of SEPP 65.

#### Front setback:

Living rooms of dwellings 9, 16, 23, 30 & 35 have a setback of 6.9m as against a minimum requirement of 7.5m from the western front boundary. The front setback has been conditioned to comply (See draft conditions 2).

#### Side setbacks:

Living rooms of dwellings 1, 7, 14 & 21 have a setback of 5.4m as against a minimum requirement of 6.0m from the northern side boundary. The side boundary setback has been conditioned to comply (See draft conditions 3).

### Rear setback:

Bedrooms, living and dining rooms of dwelling 38 have a setback of 5.4m as against a minimum requirement of 6.0m from the rear eastern boundary. The rear boundary setback has been conditioned to comply (See draft conditions 4).

## **OTHER PLANNING INSTRUMENTS**

### **SEPP 55 – State Environmental Planning policy No.55 – Remediation of Land**

In accordance with Clause 7 of this instrument, Council is required to consider whether land is contaminated prior to granting consent to carrying out of development on this land.

The Contamination Assessment (Geotechnique Pty Ltd, June 2010) identifies two separate locations where contaminant exceeds the Assessment Criteria. The assessment concludes that removing contamination from the site and/or remediation would render the site suitable for the proposed use. Details of this issue are contained in the Referral Section of this report under “Manager Environmental Health (Soil contamination)”.

### **SEPP 65 – Design Quality of Residential Flat Development:**

The assessment of the proposed development has been carried out by Timothy Williams & Associates Pty Ltd. The consulting architect has confirmed that the proposed development meets the objectives of all the 10 planning principles of SEPP 65. A full copy of his report is attached. (AT1)

### **Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (the SREP) and Sydney Harbour Foreshores and Waterways Area Development Control Plan for the SREP (the DCP)**

Under the SREP, Part 3 Division 2 sets out *Matters for consideration* to be considered in assessing new development. In relation to clauses 20-27 listed for consideration, the location of the proposed works would not raise any significant issues.

Under the DCP the proposed works would not raise any significant issues in relation to the two relevant sub-sections, i.e. 5.3 (*Siting of buildings and structures*) and 5.4 (*Built form*).

### **State Environmental Planning Policy (Infrastructure) 2007**

An acoustic report by Renzo Tonin & Associates has been submitted along with the application. A validation report would be required prior to issue of any occupation certificate that all recommendations included in the report have been implemented.

## **Section 94 Contribution Plan**

Lane Cove Section 94 Contribution Plan applies to the proposal for the increase of population in the area as a consequence of the development.

The Section 94 Contribution is calculated in the following manner:

The population of the proposed building:

<b>No. of bedrooms</b>	<b>Average occupancy rate (persons/dwelling)</b>	<b>Population</b>
6 x 1 bedroom	1.2	6 x 1.2 = 7.2
31 X 2 bedroom	1.9	31 x 1.9 = 58.9
1 X 3 bedroom	2.4	1 x 2.4 = 2.4
<b>Total Population</b>		<b>68.5</b>

The Section 94 contribution applicable is for 68.5 persons at a rate of \$8,595.00 per person, therefore \$588, 757.50 (or \$15, 493.62 per dwelling). The required section 94 contribution is less than \$20, 000 per dwelling and it would not exceed the cap of the Reforms of Local Development Contributions.

## **State Environmental Planning Policy (Building Sustainability Index) 2004**

A Basix report has been submitted along with the application. No issues were raised with regard to water, thermal comfort and energy targets.

### **79C(1)(b) - The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.**

The proposed development complies with all the LEP requirements. The proposed development complies with all the DCP requirements. The non compliance with setbacks have been conditioned to comply. The impact upon the locality, which has been discussed previously in this report, is considered reasonable.

### **Section 79C (1) (c) - The suitability of the site for the development**

The site was recently rezoned to high density residential from industrial. Given the location of the site and surrounding development, it is considered suitable for a residential use. As noted, contamination of the site is not a major issue and can be adequately dealt with.

### **Section 79C (1) (d) - Any submissions made in accordance with this Act or the Regulations.**

The proposal was advertised in accordance with Council's policy of Community Consultation. A total of 3 submissions have been received. The issues raised in the submission are discussed below:

*The rezoning of the land to R4 High Density Residential is inappropriate.*

**Comment:** This application is considered under the provisions of Lane Cove Council's Local Environmental Plan 2009 and the requirements of Council's Development Control Plan. The rezoning of land is a matter for consideration during the Local Environmental Plan preparation process which has already been completed.

*Excessive height of building*

**Comment:** The maximum permissible height of the proposed building is 21m which would accommodate 6 storeys. The proposed development meets the maximum height requirement.

*The proposed development would overshadow the existing development at 292-298 Burns Bay Road.*

**Comment:** Clause 3.13 (c) of the DCP requires that the "adjoining properties are to receive a minimum 3 hours of sunlight in living rooms and in at least a reasonable portion of the private open space between 9.00am to 3.00pm on 21 June".

The shadow diagrams indicate that the adjoining dwellings would receive 3 hours of sunlight between 9am and 3pm; in this regard it is considered that solar access would be retained in accordance with the requirements of the DCP.

*Impact on privacy of the residential flat buildings towards the east of the proposed development.*

**Comment:** The residential flat buildings towards the east are a significant distance (approximately 75m) from the proposed development and privacy is not considered an issue.

*Impact upon distant views from the residential flat building towards the east and adjoining building*

**Comment:** The residential flat building towards the east is located at a significant distance from the proposed development. The proposed development is not within the line of vision to water view from the existing development towards the east. Therefore it is considered that the proposed development would not adversely impact views from the existing development towards the east.

*Provision of adequate car parking spaces, increase of street parking and lack of parking available. Use of adjoining parking space.*

**Comment:** Car parking, including visitor car spaces has been provided in accordance with the requirements of the Development Control Plan.

*Increase in traffic, process of construction and ongoing traffic would compromise safety of pedestrians and passing cars.*

**Comment:** The transport infrastructure is considered adequate to cater to the increase in traffic because of the proposed development. An onsite reversing bay has been provided in the amended plans. If approved, a Construction Management Plan would be required to address construction parking and vehicle movements.

*Excessive building depth:*

**Comment:** It is acknowledged that the building depth exceeds the maximum permissible depth in some parts of the proposed building. However the proposed development is considered satisfactory on the following grounds. The proposed development meets the objectives of the building depth control as indicated in Clause 3.3 of the DCP.

Adequate amenity has been provided with regard to solar access and natural ventilation. The proposed development meets the objectives of all 10 planning principles of SEPP 65.

### **Section 79C (1) (e) - The public interest.**

The proposed development meets all the requirements of Lane Cove Council's Local Environmental Plan 2009 and the Development Control Plan. The non compliance with regard to setbacks has been conditioned to comply.

The proposed dwellings would have adequate amenity with regard to solar access and privacy.

In view of the above it is considered that the proposed development is in the public interest.

### **CONCLUSION**

The application has been assessed having regard to the relevant Planning Instruments and Council controls, as well as public good and suitability of the site.

The proposed development meets the requirements of the Lane Cove Council's Local Environmental Plan 2009 with regard to maximum permissible Floor Space Ratio and maximum permissible height requirement.

The proposed development meets the requirements of Council's Development Control Plan. The non compliance with regard to setbacks has been conditioned to comply.

The matters under Section 79C of the EP&A Act have been considered and the proposed development is considered to be adequate and satisfactory.



## RECOMMENDATION

That pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act, 1979, as amended, the Sydney East Joint Regional Planning Panel grant development consent to Development Application D25/11 for the demolition of existing building and construction of a six storey residential flat building with 38 dwellings and associated basement parking on Lot A in DP 316439 and known as 290 Burns Bay Road, Lane Cove subject to the following conditions:

### **General Conditions:**

1. That the development be strictly in accordance with the following drawings dated 18/02/11 prepared by Redshift Architecture & Art Pty Ltd except as amended by the following conditions.
  - Basix Commitments, A0.00B, Revision B;
  - Roof Plan, A2.01, Revision E;
  - First Floor Plan, A2.02, Revision F;
  - Second Floor Plan, A2.03, Revision E;
  - Third Floor Plan, A2.04, Revision E;
  - Fourth Floor Plan, A2.05, Revision E;
  - Fifth Floor Plan, A2.06, Revision E;
  - Sixth Floor Plan, A2.07, Revision E;
  - First Basement Plan, A2.08, Revision F;
  - Second Basement Plan, A2.09, Revision F;
  - Western Elevation, A2.21, Revision E;
  - Southern Elevation, A2.22, Revision E;
  - Eastern Elevation, A2.23, Revision E;
  - Northern Elevation, A2.24, Revision E;
  - Section AA, A2.31, Revision C;
  - Section BB, A2.32, Revision C;
  - Adaptable Apartment Plans, A4.01, Revision D;
  - Landscape Plans (Project no. 1007, Dwg # LS01 and LS02 dated 23/02/11)
2. Living rooms of dwellings 9, 16, 23, 30 & 35 shall be setback a minimum of 7.5m from the western front boundary to comply with the front setback requirement. Amended plans shall be submitted **prior to the issue of construction certificate.**
3. Living rooms of dwellings 1, 7, 14 & 21 shall be setback a minimum of 6.0m from the northern side boundary to comply with the side setback requirement. Amended plans shall be submitted **prior to the issue of construction certificate.**
4. Bedrooms, living and dining room of dwelling No. 38 shall be setback a minimum of 9.0m from the eastern rear boundary to comply with the rear setback requirement. Amended plans shall be submitted **prior to the issue of construction certificate.**

5. The Principal Certifying Authority shall certify that the recommendations of the acoustic reported by Renzo Tonin & associates have been adopted prior to issue of Occupancy Certificate.
6. THE PAYMENT OF A CONTRIBUTION FOR AN ADDITIONAL 68.5 PERSONS IN ACCORDANCE WITH COUNCIL'S SECTION 94 CONTRIBUTIONS PLAN. THIS PAYMENT BEING MADE PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE AND IS TO BE AT THE CURRENT RATE AT TIME OF PAYMENT. THE AMOUNT IS \$588, 757.50 AT THE CURRENT RATE OF \$8595.00 PER PERSON. NOTE: PAYMENT MUST BE IN BANK CHEQUE. PERSONAL CHEQUES WILL NOT BE ACCEPTED.

THIS CONTRIBUTION IS FOR COMMUNITY FACILITIES, OPEN SPACE/ RECREATION AND ROAD UNDER THE LANE COVE SECTION 94 CONTRIBUTIONS PLAN WHICH IS AVAILABLE FOR INSPECTION AT THE CUSTOMER SERVICE COUNTER, LANE COVE COUNCIL, 48 LONGUEVILLE ROAD, LANE COVE.

7. The submission of a Construction Certificate and its issue by Council or Private Certifier PRIOR TO CONSTRUCTION WORK commencing.
8. All building works are required to be carried out in accordance with the provisions of the Building Code of Australia. Note: Prior to the issue of Construction Certificate, sufficient information must be forwarded to the certifying authority (whether Council or a Private Accredited Certifier) demonstrating compliance with the relevant requirements of the Building Code of Australia.
9. An Occupation Certificate being obtained from the Principal Certifying Authority before the occupation of the building.
10. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the "Your Business" section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then follow the "e-Developer" icon or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer extensions to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development/release of the plan of subdivision.

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

Monday to Friday (inclusive) 7.00am to 5.30pm

Saturday 7.00am to 4.00pm

No work to be carried out on Sundays or any public holidays.

12. 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.

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

14. A "Fire Safety Schedule" specifying the fire safety measures that are currently implemented in the building premises and the fire safety measures proposed or required to be implemented in the building premises as required by Clause 168 – Environmental Planning & Assessment Regulation 2000 are to be submitted and approved **PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE.**

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

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

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

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

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

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

18. Where Lane Cove Council is appointed as the Principal Certifying Authority, it will be necessary to book an inspection for each of the following stages during the construction process. Forty eight (48) hours notice must be given prior to the inspection being required:-

- a) All reinforcement prior to filling with concrete.
  - b) Framework including roof and floor members when completed and prior to covering.
  - c) Installation of steel beams and columns prior to covering
  - d) Waterproofing of wet areas
  - e) Stormwater drainage lines prior to backfilling
  - f) Completion.
19. Structural Engineer's details being submitted **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE** for the following:-
- a) Underpinning;
  - b) Retaining walls;
  - c) Footings;
  - d) Reinforced concrete work;
  - e) Structural steelwork;
  - f) Shoring
20. A temporary connection to be made to the sewers of Sydney Water (where available) with an approved toilet structure and toilet fixtures being provided on the site **BEFORE WORK IS COMMENCED**. Where the Sydney Water sewer is not available a "Chemical Closet" type toilet shall be permitted.
21. Any metal deck roofs being of a ribbed metal profile or colourbond corrugated galvanised or zincalume iron, in a mid to dark range colour and having an approved anti-glare finish.
22. A check survey certificate is to be submitted at the completion of:-
- a) Dampcourse level;
  - b) The establishment of all floor level;
  - c) The roof level; and
  - d) The completion of works.
- Note: All levels are to relate to the reduced levels as noted on the approved architectural plans and should be cross-referenced to Australian Height Datum.
23. The removal, handling and disposal of asbestos from building sites being carried out in accordance with the requirements of the Occupational Health and Safety Act and the Regulations. Details of the method of removal to be submitted **PRIOR TO COMMENCING ANY DEMOLITION WORKS**.
24. (a) The use of mechanical rock pick machines on building sites is prohibited due to the potential for damage to adjoining properties.
- (b) Notwithstanding the prohibition under condition (a), the principal certifying authority may approve the use of rock pick machines providing that:-

- (1) A Geotechnical Engineer's Report that indicates that the rock pick machine can be used without causing damage to the adjoining properties.
- (2) The report details the procedure to be followed in the use of the rock pick machine and all precautions to be taken to ensure damage does not occur to adjoining properties.
- (3) With the permission of the adjoining owners and occupiers comprehensive internal and external photographs are to be taken of the adjoining premises for evidence of any cracking and the general state of the premises **PRIOR TO ANY WORK COMMENCING**. Where approval of the owners/occupiers is refused they be advised of their possible diminished ability to seek damages (if any) from the developers and where such permission is still refused Council may exercise its discretion to grant approval.
- (4) The Geotechnical Engineer supervises the work and the work has been carried out in terms of the procedure laid down.

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

25. The demolition works being confined within the boundaries of the site.
26. The site being cleared of all debris and left in a clean and tidy condition at the completion of all works.
27. Compliance with the Waste management Plan submitted with the development application.
28. It should be understood that this consent in no way relieves the owners or applicant from any obligation to obtain any other approval which may be required under any covenant affecting the land or otherwise nor relieve a person from the legal civil consequences of not complying with any such covenant.
29. All demolition works being completed within a period of three (3) months from the date of commencement.
30. Use of explosives is not permitted.
31. All machinery used on the site during demolition shall have a noise emission no greater than 75dB(A) when measured at a radius of 7.0 metres from the specified item.

32. All spillage deposited on the footpaths or roadways to be removed at the completion of each days work.
33. The site being properly fenced to prevent access of unauthorised persons outside of working hours.
34. Compliance with Australian Standard 2601 - The Demolition of Structures.
35. An approved type of hoarding being erected along the street frontage.
36. Pedestrians' portion of footpath to be kept clear and trafficable at all times.
37. All loading and unloading being carried out from within the premises and no loading or unloading of goods, materials, equipment or the like associated with the development to take place on Council's road or footpaths without the prior approval of Council.
38. A copy of Sydney Water's Notice of Requirements must be submitted to the Principal Certifying Authority **PRIOR TO THE CONSTRUCTION CERTIFICATE BEING ISSUED.**
39. Lane Cove Council charges a fee of \$30 for the registration of any Part 4A Certificates (compliance, construction, occupation or subdivision certificates) issued by an accredited certifier under the Environmental Planning and Assessment Act.
40. **Long Service Levy** Compliance with Section 109F of the *Environmental Planning and Assessment Act 1979*; payment of the Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 (or, where such a levy is payable by instalments, the first instalment of the levy) – All building works in excess of \$25,000 are subject to the payment of a Long Service Levy at the rate of 0.35%.

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

41. **BASIX** - Compliance with all the conditions of the BASIX Certificate lodged with Council as part of this application.
42. Separate approval must be obtained for strata subdivision of the development.

Access conditions:

43. Provide **access to the garbage room** on southern side so people using accessible parking don't need to go through the lifts to get to the bins.
44. **Council required footpath to the entrance of the building from the existing footpath** - A 2 metre wide footpath to the

entrance of the building from the existing footpath on Burns Bay Road shall be constructed to the specifications and levels issued by Council. The footpath from Burns Bay Road is to enable equitable access for the public and people with disabilities to satisfy as far as possible AS1428, the BCA and DDA. An application shall be submitted to Council prior to the issue of the Construction Certificate. All works associated with the construction of the path shall be completed prior to the issue of the Occupation Certificate.

45. **Accessible parking** to be made compliant with AS2890.6 and Council's DCP.
46. The **AS4299 checklist** be audited at Construction Certificate stage to ensure compliance with all items.

### Garbage Chutes

47. A garbage chute system and interim recyclable storage facilities must be provided to the development in accordance with the following:
  - Garbage chutes must be constructed in accordance with the requirements of the Building Code of Australia (BCA).
  - Garbage chutes must be located and insulated in a manner that reduces noise impacts.
  - Chutes, service openings and charging devices must be constructed of material (such as metal) that is smooth, durable, impervious, non-corrosive and fire resistant.
  - Chutes, service openings and charging devices must be capable of being easily cleaned.
  - Chutes must be cylindrical and have a diameter of at least 500mm.
  - Chutes must not have any bends or sections of reduced diameter in the main shaft of the chute;
  - Internal overlaps in the chute must follow the direction of waste flow.
  - Chutes must deposit rubbish directly into a bin or compactor located within a waste/recycling storage room.
  - A cut-off device must be located at or near the base of the chute so that the bottom of the chute can be closed when the bin or compacting device at the bottom of the chute is withdrawn or being replaced.
  - The upper end of the chute must extend above the roofline of the building.

- The upper end of the chute must be weather protected in a manner that does not impede the upward movement of air out of the chute.
- Compaction of garbage must not exceed a ratio of 2:1. No compaction is permitted for recyclable material or green waste.

### Garbage Chute Service Rooms

48. The service opening (for depositing rubbish into the main chute) on each floor of the building must be located in a dedicated service room in accordance with the following:

- The charging device for each service opening must be self-closing and must not project into the main chute.
- Branches connecting service openings to the main chute must be no longer than 1m.
- Each service room must include provision for 2x240l recycling bins for the storage of recyclable materials. Signage regarding the materials that can be recycled must be displayed near these recycling bins.
- Each service room must be located for convenient access by users and must be well ventilated and well lit.
- The floors, walls and ceilings of service rooms must be finished with smooth durable materials that are capable of being easily cleaned.
- Service rooms must include signage that clearly describes the types of materials that can be deposited into the garbage chute, the types of materials which must be deposited into recycling bins, and bulky waste collection arrangements including the location and travel paths to the bulky waste storage room.

### Waste and Recycling Storage Rooms

49. Basement waste and recycling storage rooms must be provided with each garbage chute and be of sufficient size to accommodate garbage chute systems and a total of 13x240l garbage bins and 8x240l recycling bins with adequate space for maneuvering garbage and recycling bins in accordance with the following.

- Minimum clearance between bins of 300mm;
- Minimum door openings of 1700mm; &
- Minimum distance of 1700mm between rows of bins (where bins are located on either side of the room).

50. The floor of waste and recycling storage rooms (including bulky waste storage rooms) must be constructed of either:



- Concrete which is at least 75mm thick; or
  - Other equivalent material; and
  - Graded and drained to a floor waste which is connected to the sewer
51. All floors must be finished to a smooth even surface, coved at the intersection of walls and floor.
  52. The walls of waste and recycling storage rooms, bulky waste storage areas and waste service compartments must be constructed of solid impervious material and must be cement rendered internally to a smooth even surface coved at all intersections.
  53. All waste and recycling storage rooms and bulky waste storage rooms must be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock.
  54. A close-fitting and self-closing door that can be opened from within the room must be fitted to all waste and recycling and bulky waste storage rooms.
  55. All waste and recycling and bulky waste storage rooms must be constructed to prevent the entry of vermin.
  56. All waste and recycling and bulky waste storage rooms must be ventilated by either:
    - Mechanical ventilation systems exhausting at a rate of 5L/s per m<sup>2</sup> of floor area, with a minimum rate of 100l/s; or
    - Permanent, unobstructed natural ventilation openings direct to the external air, not less than 1/20<sup>th</sup> of the floor area.
  57. All waste and recycling and bulky waste storage rooms must be provided with artificial light controlled by switches located both outside and inside the rooms.
  58. Clearly printed “No Standing” signs must be affixed to the external face of each waste and recycling and bulky waste storage room.

#### Bulky Waste Storage Room

59. A readily accessible bulky waste storage room(s) located near the main garbage rooms must be provided for the use of all residents in accordance with the following:
  - A bulky waste storage room with a minimum useable floor area of 30m<sup>2</sup> must be provided. Doorways and travel paths must be a minimum width of 1700mm and of sufficient height and be free of obstructions to permit easy transport from individual units to the storage area, and from the storage area to collection point.

#### Access to Waste Collection Point

60. All waste must be collected on-site via on-site access by Council's garbage collection vehicles.
- The location(s) of waste and recycling rooms & bulky waste storage areas must be conveniently accessible for both occupants and Council's waste collection contractors.
  - The minimum finished ceiling height must be 2.6m along the path of travel from the street to the residential waste and recycling collection point and maneuvering area. This clearance must be kept free of any overhead ducts, services and other obstructions.
  - The maximum grade of any access road leading to the waste and recycling collection point must not be more than 1:6.5 (15.4%). The turning area at the base of any ramp must be sufficient for the maneuver of a 6.4m small rigid vehicle to enter and exit the building in a forward direction.
  - Where security gates are proposed, a Council master key system must be installed to permit unimpeded access.

#### Indemnity

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

#### Composting/Worm Farming

62. The applicant must provide a container for communal composting/worm farming, the siting of such must have regard to potential amenity impacts. **Amended plans showing the location of the communal composting/worm farming container must be submitted prior to the issue of a construction certificate.**

#### Internal Waste Management

63. Internal waste/recycling cupboards with sufficient space for one day's garbage and recycling generation must be provided to each dwelling. **Amended plans identifying the internal waste/recycling cupboards must be submitted prior to the issue of a construction certificate.**

#### Provision of Waste Services

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

#### Contamination

65. **Prior to the issue of an occupation certificate**, the applicant must submit for approval, a Site Audit Statement (SAS) issued under Section A of Part II to the approved form and a Summary Site Audit Report (SSAR), certifying that the site is suitable for the proposed use.

#### Noise

66. **Prior to the issue of an occupation certificate**, the applicant must submit for approval a report certifying that all recommendations included in the “290 Burns Bay Road Acoustic Report for Development Application” by Renzo Tonin & Associates (17 February 2011) have been implemented.

#### Traffic and parking Conditions

67. Access to the proposed development for Waste Vehicles appear very restrictive through the garbage bin collection area. The applicant requires to demonstrate with detail design/s that the Service and Waste vehicles will be entering and exiting the service areas including the waste collection area in accordance AS 2890.6.
68. The Disabled parking spaces shown in the Plans (drwg No's A2.08) do not comply with AS 2890.6. The disabled parking shall be designed to comply with AS 2890.6.
69. All requirements stated in RTA's conditions described in RTA's letter 30 March 2011.(Owen Hodgson, Senior Lane Use Planner, - Transport Planning Section, Sydney Region).
70. The proposed Car Park design requires to comply with AS 2890.1-2004 This includes all parking spaces, ramps, aisles, disabled parking and loading areas. All other aspects of the Car Parking areas require to comply with AS/NZS 2890.1:2004 for Off-Street car parking and for loading facilities and Services vehicles with AS 2890.2 – 2002.
71. All Service Vehicle parking bays are required to be introduced and to comply with AS 2890.2 – 2002.

#### Construction Management Plan

72. A Construction Management Plan must be lodged with Council prior to the issuing of a Construction Certificate. The Construction Management Plan should address (but not necessarily be limited too) issues related to the movement of construction vehicles to and from the site, safe access of construction vehicles, public transport and any conflict with other road users in the street, proposed Work Zones and impact of construction traffic activities to the residents and cyclists. The Construction Management Plan should also restrict the impact of heavy vehicles travelling through the surrounding road

network and especially the impact at the nursing home and the surrounding residential and business developments.

73. Any proposed Work Zones should be clearly shown on plans and application be made to Council in accordance with approvals required for the Works Zones, Crane Permits and other associated works. Wherever possible, construction vehicle parking should be contained within the site. Proposed Work Zones will require the approval of the Lane Cove Traffic Committee.
74. Any construction vehicles exiting the site during demolition/construction should have their tyres washed in order to avoid any construction material, dust, etc coming in contact with the road pavement.

#### Roads and Traffic Authority Conditions

75. All vehicles should be wholly contained onsite after entering the property from the service road before being required to stop. The car park entrance must have adequate storage on site for vehicles stopped as a result of required access to the visitor intercom (Section 7,0) and must not impact upon the service access road or the traffic signals in the near vicinity. The location of the visitor intercom reader for the car park door is not shown on the plan.
76. All vehicles must enter and leave the proposed development in a forward direction, Provision for turning path maneuvers for the class of vehicles servicing the property (including vehicles larger than Council's small refuse collection vehicle) must be considered (AS 2890,2).
77. The layout of any car parking areas associated with the subject development (including driveways, grades, aisle widths, turning paths, sight distance requirements and parking space dimensions) should be in accordance with A82890, 1-2004.
78. The required sight lines to pedestrians, cyclists or other vehicles in or around the car park or entrances should not be compromised by landscaping, signage, fencing or display materials. This includes any existing trees on the proposed development. Minimum sight lines for pedestrian safety are outlined in AS 2890. 1 (Figure 3, 3).
79. A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a construction certificate.
80. Suitable on site provision required for construction/demolition vehicles as no construction zone will be approved on Bums Bay Road in the vicinity of the site. A construction vehicle route must be provided in the Construction Traffic Management Plan.
81. All works/regulatory signage associated with the proposed development will be at no cost to the RTA.

## Tree Conditions

82. A **Tree Preservation Order** applies in the Lane Cove local government area. The Order prohibits the cutting or removal of any tree except with the consent of Council, which must be strictly and fully complied with, and the penalty for contravention of this Order is up to one million, one hundred thousand (\$1,100,000). The co-operation of all residents is sought in the preservation of the bushland character of the Municipality. All enquiries concerning the Tree Preservation Order must be made at the Council Chambers, Lane Cove.
83. The applicant must obtain a Tree Preservation Order Work Authority prior to pruning of any overhanging trees growing in neighbouring allotments or the nature strip including the cutting of any tree roots greater than 40 mm in diameter.
84. There must be no stockpiling of topsoil, sand, aggregate, spoil or any other construction material or building rubbish on any nature strip, footpath, road or public open space park or reserve.
85. Rubbish must be stored in a locked container / cage. Any building rubbish that is not contained must be cleaned up immediately, including the immediate worksite, surrounding area and/or public open space.
86. Footing, trench or excavation that is within 3m of any tree greater than 4m in height; including neighbouring trees, must be carried out using hand held tools only with no tree roots greater than 40mm diameter to be severed or damaged.
87. A 1.8 m high chain mesh fence shall be erected encompassing the entire grass nature strip in front of the site where the stand of Eucalypt trees are standing. The tree protection area shall not be used for the storage of building materials, machinery, site sheds or vehicle parking and soil levels within the tree protection area shall remain undisturbed.
88. A 1.8 m high chain mesh fence shall be erected encompassing the stand of trees designated for retention in the north east corner of the allotment on top of the sandstone outcrop. The tree protection zone shall have a minimum setback distance of 3 m from the trunk of the trees. The tree protection area shall not be used for the storage of building materials, machinery, site sheds and soil levels within the tree protection area shall remain undisturbed.
89. A waterproof sign must be placed on all tree protection zones at 5m distance intervals stating 'NO ENTRY TREE PROTECTION ZONE – 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.
90. All tree protection measures and signage must be erected **PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE OR THE COMMENCEMENT OF WORKS, WHICHEVER OCCURS FIRST.** This includes demolition or site

preparation works, and tree protection measures must remain in place for the duration of the development, including construction of the driveway crossing.

### **Bond on Street & Council Trees**

91. A bond of \$ 20,000 must be paid to Council prior to the issue of Construction Certificate to ensure adequate protections are taken during the development to protect the stand of street trees to be retained in front of the site. This bond shall be forfeited in the event of damages to the trees as a result of the development works within a period of 12 months from issue of the Occupation Certificate. In the event of damages to the tree, as determined by Council's Tree Assessment Officer, the cost of replacing the tree including labour will be incurred in addition to forfeiting the bond. The following formula shall be used for retention of all or part of the tree bond:

Breach of any condition - 25% of bond for each offence.

Trunk or root damage of any protected tree - 50% of bond for each offence.

Death or severe decline of any protected tree - 100% of bond and possible legal action by Council.

### **Landscape Conditions.**

92. The proposed landscape design by Melissa Wilson Landscape Plan Dwg No LS01 & LS02 shall be adopted as part of this development.
93. The Applicant must ensure that all landscaping is completed to a professional standard, free of any hazards or unnecessary maintenance problems and that all plants are consistent with NATSPEC specifications.
94. The Applicant must ensure that there are sufficient number of groundcovers and low shrubs, planted at appropriate distances and depths to eliminate bare mulched gardens areas within twelve (12) months of completion of all landscaping works. Where screen planting is required throughout the development, plants must have a height of 2 m at planting
95. At least 12 trees being locally indigenous species must be planted as part of the landscape works. These plants must be healthy, good quality nursery stock, grown to at least 75 L pot size, being free of girdling roots and other defects and have a height at maturity of at least 6 m.
96. A landscape practical completion report must be prepared by the consultant landscape architect and submitted to the accredited certifier within 7 working days of the date of practical completion of all landscape works. This report must certify that all landscape works have been completed in accordance with the landscape working drawing.  
*Where the project is being supervised by a private certifier, for the purposes of public record, a copy of the certification must be forwarded to Council within five (5) working days of the date of issue.*

## General Engineering Conditions

97. **Design and Construction Standards:** All engineering plans and work shall be carried out in accordance with Council's standards and relevant development control plans except as amended by other conditions.
98. **Materials on Roads and Footpaths:** Where the applicant requires the use of Council land for placement of building waste, skips or storing materials a "*Building waste containers or materials in a public place*" application form is to be lodged. Council land is not to be occupied or used for storage until such application is approved.
99. **Works on Council Property:** Separate application shall be made to Council's Urban Services Division for approval to complete, any associated works on Council property. This shall include vehicular crossings, footpaths, drainage works, kerb and guttering, brick paving, restorations and any miscellaneous works. Applications shall be submitted **prior to the start of any works on Council property.**
100. **Permit to Stand Plant:** Where the applicant requires the use of construction plant on the public road reservation, an "*Application for Standing Plant Permit*" shall be made to Council. Applications shall be submitted and approved **prior to the start of any related works.** Note: allow 2 working days for approval.
101. **Restoration:** Public areas must be maintained in a safe condition at all times. Restoration of disturbed Council land is the responsibility of the applicant. All costs associated with restoration of public land will be borne by the applicant.
102. **Public Utility Relocation:** If any public services are to be adjusted, as a result of the development, the applicant is to arrange with the relevant public utility authority the alteration or removal of those affected services. All costs associated with the relocation or removal of services shall be borne by the applicant.
103. **Pedestrian Access Maintained:** Pedestrian access, including disabled and pram access, is to be maintained throughout the course of the construction as per AS-1742.3, '*Part 3 - Traffic control devices for works on roads*'.
104. **Council Drainage Infrastructure:** The proposed construction shall not encroach onto any existing Council stormwater line or drainage easement. If a Council stormwater line is located on the property during construction, Council is to be immediately notified. Where necessary the stormwater line is to be relocated to be clear of the proposed building works. All costs associated with the relocation of the stormwater line are to be borne by the applicant.
105. **Services:** Prior to any excavation works, the location and depth of all services must be ascertained. All costs associated with adjustment of the public utility will be borne by the applicant.

106. **Temporary Footpath Crossing:** A temporary footpath crossing must be provided at the Vehicular access points. It is to be 6m in width, made out of sections of hardwood with chamfered ends and strapped with hoop iron.
107. **Geotechnical Report:** A geotechnical report is to be completed for the excavation proposed for the development. The Geotechnical Report and supporting information are to be prepared by a suitably qualified geotechnical engineer and be submitted to Principle Certifying Authority prior to issue of a Construction Certificate.
108. **Geotechnical Monitoring Program:** Excavation works associated with the proposed development must be overseen and monitored by a suitably qualified engineer. A Geotechnical Monitoring Program shall be submitted to the principle certifying authority prior to issue of a Construction Certificate. The Geotechnical Monitoring Program must be produced by suitably qualified engineer ensuring that all geotechnical matters are regularly assessed during construction.

The Geotechnical Monitoring Program for the construction works must be in accordance with the recommendations of the Geotechnical Report and is to include:

- Recommended hold points to allow for inspection by a suitably qualified engineer during the following construction procedures;
  - Excavation of the site (face of excavation, base, etc)
  - Installation and construction of temporary and permanent shoring/retaining walls.
  - Foundation bearing conditions and footing construction.
  - Installation of sub-soil drainage.
- Location, type and regularity of further geotechnical investigations and testing.

Excavation and construction works must be undertaken in accordance with the Geotechnical and Monitoring Program.

109. **Safety fence along the boundary of the property:** Before commencement of any works, barrier or temporary fencing is to be provided along the full frontages of the property. This fence is for the safety of pedestrians on the public footpath.
110. **Heavy Vehicle Duty Employee and Truck Cleanliness:** The applicant shall
- Inform in writing all contractors of Council's requirements relating to truck cleanliness leaving the site.
  - Keep a register of all contractors that have been notified, the register is to be signed by each contractor. The register must be available for access by Council officers at all times.
  - Place an employee within close proximity of the site exit during site operation hours to ensure that all outgoing heavy vehicles comply with Council's requirements. This employee shall liaise with heavy vehicle drivers and provide regular written updates to drivers on the conditions of entry to the subject site.

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



111. **Recording of Trucking Movements:** Prior to commencement of site works, the applicant shall
- Nominate a contact person who will be responsible for all heavy vehicle operations.
  - Submit contact details of the nominated person to Council including relevant telephone numbers, facsimile numbers and email.
- During construction the applicant shall
- Submit a weekly summary of all trucking movements. The summary is to include the number of trucks that have travelled to and from the site each day, and the registration numbers (both truck and dog-trailer registration plates) of these vehicles.
112. **Truck Shaker:** A truck shaker ramp must be provided at the construction exit point. Fences are to be erected to ensure vehicles cannot bypass the truck shaker. Sediment tracked onto the public roadway by vehicles leaving the subject site is to be swept up immediately.
113. **Covering Heavy Vehicle Loads:** All vehicles transporting soil material to or from the subject site shall ensure that the entire load is covered by means of a tarpaulin or similar material. The vehicle driver shall be responsible for ensuring that dust or dirt particles are not deposited onto the roadway during transit. It is a requirement under the Protection of the Environment Operations (Waste) Regulation, 1996 to ensure that all loads are adequately covered, and this shall be strictly enforced by Council's ordinance inspectors. Any breach of this legislation is subject to a "*Penalty Infringement Notice*" being issued to the drivers of those vehicles not in compliance with the regulations.
114. **On-Site Stormwater Detention System - Marker Plate:** The on-site detention system shall be indicated on the site by fixing a marker plate. This plate is to be of minimum size: 100mm x 75mm and is to be made from non-corrosive metal or 4mm thick laminated plastic. It is to be fixed in a prominent position to the nearest concrete or permanent surface or access grate. The wording on the marker plate is described in Council's DCP-Stormwater management. An approved plate may be purchased from Council's customer service desk.
115. **On-Site Stormwater Detention Tank:** All access grates to the on site stormwater detention tank are to be hinged and fitted with a locking bolt. Any tank greater than 1.2 m in depth must be fitted with step irons.
116. **Overland Flow around Buildings:** To prevent stormwater from entering the building the finished habitable ground floor level of the building must be a minimum of 150mm above the adjacent finished ground level.
117. **Cast In Situ Drainage Pits:** Any drainage pit within a road reserve, a Council easement, or that may be placed under Council's control in the future, shall be constructed of cast in situ concrete.

118. **Rainwater Reuse Tanks:** The proposed rainwater tank is to be installed in accordance with Council's rainwater tank policy and relevant Australian standards.

Note:

- Rainwater draining to the reuse tank is to drain from the roof surfaces only. No "on - ground" surfaces are to drain to the reuse tank. "On - ground" surfaces are to drain via a separate system.
- Mosquito protection & first flush device shall be fitted to the reuse tank.
- The overflow from the rainwater reuse tank is to drain by gravity to the receiving system.

119. **Stormwater Requirement:** A Gross Pollutant Trap is to be installed just prior to the connection to Council's drainage system. The design and construction of the drainage system is to fully comply with, AS-3500 and Council's DCP-Stormwater Management. The design shall ensure that the development, either during construction or upon completion, does not impede or divert natural surface water so as to have an adverse impact upon adjoining properties.

### **Engineering conditions to be complied with prior to Construction Certificate**

120. **Drainage Plans Amendments:** The stormwater drainage plan **numbered CE1925 pages H01-H09** prepared by **Central Engineers** dated **17-02-11** is to be amended to reflect the above condition titled '*Stormwater requirement*'. The amended design is to be certified that it fully complies with, AS-3500 and Council's DCP-Stormwater management; certification is to be by a suitably qualified engineer. The amended plan and certification shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate**.

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

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

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

123. **(H1) Accelerated Depreciation to Council's Road Infrastructure:** In order to cover the accelerated depreciation to Council's Road Infrastructure the

applicant is to pay a fee based upon a calculation of the damage caused by trucking operations.

A qualified consultant needs to prepare a report estimating all associated truck movements leaving the site for the duration of the construction works. The fee shall be calculated based on the following table:

3 axle single unit	<b>\$5.76</b>
4 axle single unit	<b>\$7.17</b>
4 axle or less double unit, 1 unit is truck	<b>\$8.56</b>
5 axle double unit, 1 unit is truck	<b>\$10.03</b>
6 or more axle double, 1 unit is truck	<b>\$11.50</b>
5 axle or less multi unit	<b>\$18.06</b>
6 axle multi unit	<b>\$14.32</b>

The calculated fee is payable to Lane Cove Council **Prior to the issue of the Construction Certificate.**

124. (D4) Construction Methodology Report: There are structures on neighbouring properties that are deemed to be in the zone of influence of the proposed excavations. A suitably qualified engineer must prepare a Construction Methodology report demonstrating that the proposed excavation will have no adverse impact on any surrounding property and infrastructure. The report must be submitted to Principal Certifying Authority prior to issue of a Construction Certificate. The details must include a geotechnical report to determine the design parameters appropriate to the specific development and site. The Report must include recommendations on appropriate construction techniques to ameliorate any potential adverse impacts. The development works are to be undertaken in accordance with the recommendations of the Construction Methodology report.
125. **(D5) Dilapidation Report** The applicant is to provide a dilapidation report of all adjoining properties and any of Councils infrastructure located within the zone of influence of the proposed excavation. Dilapidation report must be conducted by a suitably qualified engineer **prior to the commencement of any demolition, excavation or construction works**. The extent of the survey must cover the zone of influence that may arise due to excavation works, including dewatering and/or construction induced vibration. The Initial dilapidation report must be submitted to Principal Certifying Authority **prior to issue of a Construction Certificate**. A second dilapidation report, recording structural conditions of all structures originally assessed prior to the commencement of works, must be carried out at the completion of the works and be submitted to Principle Certifying Authority **prior to issue of an Occupation Certificate**.
126. **(V4) Car Parking Certification:** The plans and supporting calculations of the internal driveway, turning areas, ramps, garage opening widths, parking space dimensions and any associated vehicular manoeuvring facilities shall be submitted to the Principal Certifying Authority. The plans shall be prepared and certified by a suitably qualified engineer. The design is to be certified that it fully complies with AS 2890 Series and Council's standards and specifications. The design and certification shall be submitted to

the Principal Certifying Authority **prior to the issue of the Construction Certificate.**

127. **(K1) Council Construction Requirements:** The applicant shall construct/reconstruct the following:

1. New 1.5m wide concrete footpath along the entire Burns Bay Road frontage of the site. The site has two footpaths and both will need to be reinstated.
2. Reinststate all associated nature strips with new turf along the entire frontage of the site.

A \$10,000 cash bond or bank guarantee shall be lodged with Council to cover the satisfactory construction of the above requirements. Lodgement of this bond is required **prior to the issue of the Construction Certificate.** The Bond will be held for a period of six months after satisfactory completion of the works. All works shall be carried out **prior to the issue of the Occupation Certificate.** All costs associated with the construction of the above works are to be borne by the applicant.

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

- Connection to Council's trunk drainage system
- Footpath Formwork

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

An Inspection fee of \$565.00 is to be paid **prior to the issue of the Construction Certificate.**

129. **(B1) Council infrastructure damage bond:** The applicant shall lodge with Council a \$50,000.00 cash bond or bank guarantee. The bond is to cover the repair of damage to Council's roads, footpaths, kerb and gutter, drainage or other assets as a result of the development. The bond will be released upon issuing of the Occupation Certificate. If Council determines that damage has occurred as a result of the development, the applicant will be required to repair the damage. Repairs are to be carried out within 14 days from the notice. All repairs are to be carried in accordance with Council's requirements. The full bond will be retained if Council's requirements are not satisfied. Lodgement of this bond is required **prior to the issue of the Construction Certificate.**

### **Engineering condition to be complied with prior to commencement of construction**

130. **(C2) Soil and Water Management Control:** The applicant shall install appropriate sediment control devices **prior to the start of any works on the site.** The devices are to be installed in accordance with the plan numbered H08 prepared by Central Engineers and dated 17-02-11. The devices shall be maintained during the construction period and replaced when necessary.

## **Engineering Condition to be complied with prior to Occupation Certificate**

131. **(V3) Redundant Gutter Crossing:** All redundant gutter and footpath crossings shall be removed and the kerb, gutter and footpath reinstated to the satisfaction of Council's Urban Services Division. These works shall be carried out **prior to the issue of the Occupation Certificate.**
132. **(D6) Certification of Retaining Structures and Excavations:** A suitably qualified engineer shall provide certification to the principal certifying authority that all retaining structures and excavations have been carried out in accordance with the relevant Australian Standards and Codes of Practice. The certification and a complete record of inspections, testing and monitoring (with certifications) must be submitted to the principal certifying authority **prior to the issue of the Occupation Certificate.**
133. **(O2) Positive Covenant OSD:** Documents giving effect to the creation of a positive covenant over the on site detention system shall be registered on the title of the property **prior to the issue of the Occupation Certificate.** The wording of the terms of the positive covenant shall be in accordance with Council's DCP-Stormwater Management.
134. **(M1) Stormwater System Engineering Certification:** On completion of the drainage system a suitably qualified engineer shall certify that the drainage system has been constructed in accordance with the approved plans, Council's DCP-Stormwater management and AS-3500. The certification is to include a work as executed plan. The work as executed plan shall:
- (a) be signed by a registered surveyor, &
  - (b) clearly show the surveyor's name and the date of signature.
- All documentation is to be submitted to the Principle Certifying Authority **prior to the issue of the Occupation Certificate.**