

**Environmental Services Division Report 9**  
**Sydney East Joint Regional Planning Panel**  
 2011SYE069 – 1-8 Nield Avenue, Greenwich, Lane Cove

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Property: 1-8 Nield Avenue, Greenwich, Lane Cove

DA No: D100/11

Date Lodged: 7 June 2011

Amended plans: 26 September 2011

Cost of Work: \$35,568,145.00

Owner: Waterbrook@Greenwich as trustee for Greenwich Partnership Pty Ltd

Applicant: Balmoral Australia Group

Author: Rajiv Shankar

<b>DESCRIPTION OF PROPOSAL TO APPEAR ON DETERMINATION</b>	Demolition of existing ten dwelling houses and construction of four residential flat buildings (six blocks) with 131 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	Nield Av, 1, 2, 3, 4, 6, Ulonga Rd, 2, 4, 6, 7-15, 8, 10, 17, 17A, 17B, 17C, 17D, 17E, 17F, 17G, 21, 23, 25, 27A, Bellevue Ave, 188-192, 194, 196, 198, 200-204, 206-208, 214-216, 218-220, 222, Pacific Hwy, 21, 23, 23A, 25, 27, 29, 31, 33, 35, 37, Wisdom Rd, 2, 4, 6, Morven Gdn, 4, Innes Rd
	Ward Councillors	Clr W Gaffney, Clr D Brooks-Horn, Clr P Palmer, Clr R Tudge.
	Association	Greenwich Community Association
	Others	S Bashford, North Sydney Council

## **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 and predated the recent \$20 million threshold.

## **EXECUTIVE SUMMARY:**

- The subject site is irregular in shape and has an area of 7,570 m<sup>2</sup>. The site is located to the western side of the Pacific Highway and accessed by Nield Avenue. The site falls from north to south and from east to west by approximately 19m.
- The original proposal included demolition 10 of existing dwelling houses and construction of five storey residential flat building comprising 141 dwellings and basement parking for 188 cars.
- The proposal was amended with the number of dwellings reduced to 131 dwellings in order to increase internal amenity and achieve SEPP65 compliance. The basement car parking was reduced accordingly to 177 cars.
- Council's Consulting Architect stated that the original design did not comply with the design principles of SEPP65 and the non compliances have been satisfactorily addressed by amended plans. The amended proposal is now satisfactory with regard to SEPP 65.
- 14 submissions including 2 letters of support have been received from the neighbours following the notification. Major concerns relate to the height of the building, traffic and parking demand in the area, bulk and scale, removal of trees, privacy, mix of housing types, increase in density and SEPP65 compliance.
- On 20 September 2011 the JRPP was electronically briefed on the issues.
- The amended proposal 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 amended proposal meets the requirements of Council's Development Control Plan with the exception of the building depth requirement, which is supported in this instance.
- The amended proposal meets the minimum requirements for solar access and cross ventilation and would meet the minimum requirements of all the 10 SEPP65 planning principles.
- The proposal is supported and recommended for approval subject to the draft conditions included in this report.

## **SITE:**

The site includes the following 10 residential properties:

- Lot 1, DP 26707 (No. 1);
- Lot 2, DP 26707 (No. 2);
- Lot 3, DP 26707 (No. 3);
- Lot 41, DP 555753 (No. 4A);
- Lot 42, DP 555753 (No. 4B);
- Lot 5, DP 26707 (No. 5);
- Lot 6, DP 26707 (No. 6);
- Lot 7, DP 26707 (No. 7);
- Lot 1, DP 535088 (No. 7a); and
- Lot 8, DP 397302 (No. 8).

In addition to the above the site also includes the following:

- Part of the Nield Avenue road reserve.
- The former public pathway through to Morven Gardens.

The site is irregular in shape and has an area of 7,570 m<sup>2</sup>. The site is located to the western side of the Pacific Highway and is accessed by Nield Avenue, which falls from its intersection with the Pacific Highway.

The site comprises of individual properties which contain one and two storey dwelling houses. The site falls from north to south and from east to west by approximately 19m. There are approximately 140 trees on or adjacent to the site.

Towards the north of the site is a public pathway and cycleway known as Morven Gardens, beyond which is a three and four storey residential flat buildings at 214A and 214 to 216 Pacific Highway.

Towards the north west, also separated by the public pathway and cycleway known as Morven Gardens, is a seniors living retirement village known as Waterbrook at Greenwich.

Towards the west are battleaxe lots 17 and 17A to 17G Bellevue Avenue and one lot with access from Morven Gardens. The lots contain one and two storey dwelling houses.

Towards the south is a two and three storey residential flat building at 7-15 Bellevue Avenue.

Towards the east are three and four storey residential flat buildings. The residential flat building north of Nield Avenue is at 206-208 Pacific Highway and that towards the south is at 200-204 Pacific Highway beyond which is a two and three storey residential flat building at 198 Pacific Highway. Further towards the south is four storey motel known as Greenwich Inn.

## **PROPOSAL:**

The original proposal included the construction of 4 buildings (six blocks) with levels between 4 and 6 storeys and totalling 141 dwellings. The proposal was amended and the number of dwellings was reduced to 131 dwellings.

The amended proposal is as follows:

Proposed Development:

- Demolition of the existing 10 dwelling houses and removal of 93 trees.
- Removal of a portion of Nield Avenue and pathway to Morven gardens which fall within the development site.
- Construction of a five storey residential flat building in six blocks with 2 basement car-parking levels.

Dwellings:

The residential flat building contains a total of 131 dwellings:

- 1 X studio dwelling.
- 105 X 1 bedroom dwellings
- 25 X 2 bedroom dwellings.

Out of the 131 dwellings, twenty six (26) dwellings would be adaptable dwellings. The number of adaptable dwellings complies with Council's requirement.

Parking

- A total of 177 car parking spaces over two basement levels have been provided.
- The above includes twenty six (26) accessible car parking spaces and thirty three (33) visitors' car parking spaces.
- A total of 7 motorcycle spaces and 13 bicycle spaces have been provided.

**PREVIOUS APPROVALS/HISTORY:**

The Minister for Planning granted consent on 26 June 2009 for the demolition of existing structures, excavation, construction and use of a private hospital with an aged care component including a basement car park.

The Minister for Planning approved the hospital pursuant to Part 3A of the *Environmental Planning and Assessment Act 1979*. The approval is valid until 26 June 2014.

This Development Application seeks to set aside this previous consent.

**PROPOSAL DATA/POLICY COMPLIANCE:**

**Lane Cove Local Environmental Plan 2009**

Site area – 7,570m<sup>2</sup>.

Clause	LEP	Proposed	Complies/ Comment
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Clause 2.2- Zoning	R4 – High Density Residential	Proposed Residential Flat Building.	Yes
Clause 4.3 - Height of Buildings	15.0m	15.0m	Yes
Clause 4.4 - Floor Space Ratio	1.5:1	1.24:1 (9, 448 m <sup>2</sup> )	Yes

### Lane Cove Development Control Plan

#### Part B – General Controls

Clause	DCP	Proposed	Complies/ Comment
B3 Site amalgamation and development on isolated sites	The development should not result in isolated sites	The development does not result in any site to be isolated.	Yes The existing allotments would be consolidated (See draft condition 119)
B6 Energy and water efficiency for buildings	Buildings are to be energy and water efficient	The Basix report indicates water and energy efficiency	Yes
B7 – Development near busy Roads and Rail Corridors	L <sub>Aeq</sub> levels: (i) In any bedroom 35dB(A) 10.00pm to 7.00am. (ii) anywhere else 40dB(A)	Acoustic report provided. The report indicates how acoustic impacts have been addressed.	Yes
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 minimised and generally within the footprint of the proposed podium.	NO- But considered satisfactory.

#### Part C3 – Residential Flat Buildings

Clause	DCP	Proposed	Complies/ Comment
3.2 Density	Minimum site area 1500m <sup>2</sup>	Area of site 7, 570 m <sup>2</sup>	Yes
3.3 Building depth	18m exclusive of	19m in blocks 1, 2 & 3.	NO - But

Clause	DCP	Proposed	Complies/ Comment
	balcony	20m in block 5.	considered satisfactory.
3.4 Building width	40m maximum fronting the street	Frontage to Nield Avenue to be created by this development	N/A
3.5 Setback	Awnings, balconies, bay windows and other articulation elements up to a maximum of 600mm	Less than 600mm balcony projection where provided.	Yes
<u>Front</u> Eastern Side	6.0m up to 4 storeys (because of the nature of the site)	Min 11.5m	Yes
<u>Side</u> Northern side	6.0m up to 4 storeys	6.0m and 8.0m	Yes
	9.0m for 5-8 storeys	N/A	N/A
<u>Side</u> Southern side	6.0m up to 4 storeys	6.0m	Yes
	9.0m for 5-8 storeys	N/A	N/A
<u>Rear</u> Western side	6.0m up to 4 storeys	12.56m	Yes
	9.0m for 5-8 storeys	N/A	N/A
3.5.3 Encroachment into setback zone.	Maximum 1.2m above ground up to 2m.	Basement car park below ground encroaches within the northern setback by 6m.	NO- But considered satisfactory as the basement is wholly within the ground and not visible.
3.6 Building separation (within developments)	12m between habitable rooms up to 4 storey buildings.	Between Block 1 and Blocks 2/3- 12.9m Between Block 1 and Blocks 5/6- 12.6m Between Block 3 and Blocks 4- 12.4m	Yes Yes Yes
3.7 Design of roof top areas	Landscape plan required	Roof of buildings not accessible	N/A
3.8 Size of dwellings	Minimum 40m <sup>2</sup>	> 47m <sup>2</sup>	Yes

Clause	DCP	Proposed	Complies/ Comment
3.9 Private open space	<p>Primary balconies - 10m<sup>2</sup> with minimum depth 2m</p> <p>Primary terrace- 16m<sup>2</sup> with minimum depth 4m</p>	All balconies and terraces meet or exceed the minimum area and depth requirements	<p>Yes</p> <p>Yes</p>
3.10 Car parking, motorcycle and bicycle spaces	<p>Car parking –</p> <p>1 x Studio dwellings @0.5 spaces= 0.5 spaces</p> <p>105 x 1 bedroom dwelling @ 1.0 spaces (105x1) = 105 spaces</p> <p>25 x 2 bedroom dwellings @ 1.5 spaces (25x1.5) = 37.5 spaces</p> <p>Visitors - 1 per 4 dwellings@ 131 dwellings (131÷4) = 33 spaces</p> <p><b>Total 176 car spaces.</b></p> <p>Motor cycle @ 1 per 25 cars = 7 spaces</p> <p>Bike Lockers.- 13 (1 per 10 dwellings)</p> <p>Bike rails – 12 (1 per 11 dwellings)</p>	<p>Total 177 car spaces provided.</p> <p>0.5</p> <p>105</p> <p>37.5</p> <p>33</p> <p>8</p> <p>15</p> <p>12</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
3.11 Ceiling heights	Minimum 2.7m	2.7m	Yes
3.12 Storage	<p>Studio 6m<sup>3</sup></p> <p>1 bed 6m<sup>3</sup></p> <p>2 bed 8m<sup>3</sup></p>	All dwellings have the required storage volumes. All dwellings have 3m <sup>3</sup> storage in car	Yes

Clause	DCP	Proposed	Complies/ Comment
		park	
3.13 Solar access	Living rooms and private open spaces of 70% of the units to receive 3 hours of direct sunlight.	71% (38 dwellings)	Yes
	Single aspect dwellings with southerly aspect	10% (13 dwellings)	Yes
3.14 Natural ventilation	60% of the dwellings should have cross ventilation.	60% (52 dwellings)	Yes
	25% of the kitchen to have access to natural ventilation	25% (33 kitchens)	Yes
3.15 Visual privacy	Provide visual privacy between balconies internally and externally	Balconies face towards communal open space or towards the east or west.	Yes
3.16 Communal open space	Minimum 25%	36%	Yes
3.17 Landscaped area	25% provided at ground level and up to 15% on structures	Total = 41%	Yes
3.18	Planting on structures	Provided	Yes

#### Part F - Access and Mobility

Clause	DCP	Proposed	Complies/ Comment
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 26 adaptable dwellings and therefore 26 disabled car spaces.	26 disabled car spaces have been provided.	Yes



Clause	DCP	Proposed	Complies/ Comment
3.6 Adaptable and Visitable housing	Adaptable housing to be provided at the rate of 1 dwelling per 5 dwellings which would be 26 dwellings.	26 adaptable dwellings have been provided	Yes
	Adaptable housing to be equitably distributed throughout all types and sizes of dwellings.	Adaptable dwellings are equitably distributed.	Yes
	80% of the dwellings are to be visitable	80%	Yes
3.7 Access to and within buildings	Access is required to common areas and all dwellings.	Access to common areas and all dwellings has been provided.	Yes

## REFERRALS:

### Manager Community Services and Access Committee

Council's Manager Community Services has reviewed the plans and provided the following advise:

*"An accessible pedestrian entrance has been proposed using a public pathway and a system of three switch back systems to ensure correct gradients, beginning on the Pacific Highway and finishing at a lift on the northwest boundary of the property. The lift enables access to the podium level.*

*This proposal does not provide equal and dignified access for people with disabilities, the accessible entrance is more than 50m from the main pedestrian entrance and is therefore not acceptable according to Disability (Access to Premises – Buildings) Standards 2010 and would be subject to complaint under the Disability Discrimination Act 1992.*

*Access throughout the development, number and distribution of adaptable units, visitability of units and car parking for people with disabilities are acceptable."*

To address the above stated concern a draft condition has been provided and included in the report. (See draft condition 40).

### Manager Assets

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

*"The stormwater concept plan is proposing to divert Council existing stormwater drainage system. The diversion and required easement registration has been conditioned. The proposed OSD and a rainwater reuse system are acceptable.*

*The new driveway ramp has been conditioned to ensure no overland flow enters the basement carpark.*

*The proposed bulk excavation has been conditioned.*

*An upgrade of Council infrastructure in Neild Avenue has been conditioned."*

Draft conditions have been provided and included in the report. (See draft conditions 80-118).

#### Tree Assessment Officer & Landscape Architect

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

*"A number of the trees designated for removal to facilitate this proposed development are mature specimens and prominent in the landscape. The removal of the larger endemic trees from the site will have a negative impact on the overall existing landscape."*

*"The proposed Plans show the removal of 93 trees from the site and the retention and protection of 32 trees on site."*

If approved, all identified tree protection zones indicated in the Statement of Environmental Effects must be adopted as part of the development consent.

The proposed landscape plan is satisfactory.

Draft conditions have been provided and included in the report. (See draft conditions 73-79).

#### Building Surveyor

Council's Building Surveyor has reviewed the proposal and has identified the following issues:

*"Some exit travel distances from the sole occupancy units to the fire isolated exits exceeded the maximum distance of 6 metres. Notwithstanding the above the BCA report that forms part of the statement of environmental effects has stated that these non compliances will be dealt with by a fire engineered solution at the construction certificate stage.*

*The method of carpark exhaust needs to be ascertained as there is no identified exhaust shaft and the elevations do show any openings in the carpark walls.*

*A toilet is required at or near ground level for future employees.*

*Turning and passing spaces are required in public corridors in accordance with the Premises Standards, BCA and AS 1428.1- 2009. The plans will need to be amended to suit."*

To address the above issues draft conditions have been provided and included in the report. (See draft conditions 4 and 5).

#### 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 41-58).

#### Manager Environmental Health (Soil Contamination)

Council's Manager Environmental Health has reviewed the contamination report and has provided a draft condition which requires 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 59).

#### Manager Environmental Health (Acoustic Assessment)

Council's Manager Environmental Health has reviewed the acoustic assessment and has provided a draft condition that requires the applicant to provide a validation report prior to occupation, indicating how the development has addressed and complied with the acoustic report (See draft condition 60).

#### Manager Traffic

Council's Manager Traffic has reviewed the proposal and the referral response from RTA, and has provided the following response:

*The amount of traffic generated as a result of the proposal does not create a significant effect on the surrounding road network.*

*The amount of traffic is not significant to change the existing traffic control arrangements at the intersection of Nield Ave and the Pacific Highway.*

*Based on amount of onsite parking provided it is expected that there will be no overspill of parking in Nield Ave.*

Draft conditions have been provided and included in the report. (See draft conditions 61-68).

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

Council's Consulting Architect assessed the original proposal which included 141 dwellings and stated that the proposal meets 9 out of the 10 planning principles and did not meet the planning principle for Amenity which includes the minimum criteria with regard to solar access and cross ventilation.

The applicant has amended the proposal to address the concerns raised. The amendments include the reduction in the number of dwellings by 10 dwellings to 131 dwellings. The amended application was again referred to the Consulting Architect who is of the view that the proposed development could achieve higher amenity than that stipulated by the Residential Flat Design Code and has confirmed that the amended proposal meets the minimum criteria for solar access and cross ventilation.

The amended proposal would meet the minimum standards 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 have raised no objections to the proposed development.

Draft conditions have been provided and are included in the report (See draft conditions 69-72).

### **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 15m 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 1.5:1 for the subject site. The Gross Floor Area of the proposed development is 9, 448m<sup>2</sup> equating to an FSR of 1.24:1 to comply with the FSR development standard.

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

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

As indicated in the preceding policy compliance table, the proposal does not meet the provisions for Maximum Building Depth, however it is considered satisfactory 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. In particular that the bulk of the building is satisfactory and the amenity of the occupants is not compromised. Adequate amenity has been provided with regard to solar access and natural ventilation.

The amended proposal would meet the minimum standards of all the 10 planning principles of SEPP 65 and is considered to be acceptable.

## **OTHER PLANNING INSTRUMENTS**

### **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.

A Phase 2 Environmental Site Assessment Report has been submitted along with the application. The applicant is required to submit a Site Audit Statement (SAS) certifying that the site is suitable for the proposed use. (See condition 59)

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

The assessment of the original proposal and the amended proposal have been carried out by Timothy Williams & Associates Pty Ltd. The Consulting Architect has confirmed that the proposed development meets the minimum requirements for solar access and cross ventilation. The amended proposal would meet the minimum standards of all the 10 planning principles of SEPP 65. A full copy of the SEPP65 assessment report is attached. (AT1)

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

An acoustic report by VIPAC has been submitted with the application. The applicant shall submit a report prior to the issue of an occupation certificate that all recommendations included in the report have been implemented. (See draft condition 60)

### **Section 94 Contribution Plan**

Lane Cove Section 94 Contribution Plan applies to the proposed development 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 existing dwelling houses:

<b>Property address</b>	<b>No. of bedrooms *</b>	<b>Average occupancy rate (persons/dwelling)</b>
1 Nield Avenue	5	4.3
2 Nield Avenue	9	4.3

3 Nield Avenue	3	2.8
4A Nield Avenue	3	2.8
4B Nield Avenue	4	3.6
5 Nield Avenue	3	2.8
6 Nield Avenue	4	3.6
7 Nield Avenue	4	3.6
7A Nield Avenue	3	2.8
8 Nield Avenue	3	2.8
<b>Total Existing Population</b>		<b>33.4 persons</b>

\* Note: The information with regard to the number of bedrooms has been provided by the applicant. (Statement of Environmental Effects page 3)

The population of the proposed building:

<b>No. of bedrooms</b>	<b>Average occupancy rate (persons/dwelling)</b>	<b>Population</b>
1 x 1 studio	1.2	1 x 1.2 = 1.2
105 x 1 bedroom	1.2	105 x 1.2 = 126
25 X 2 bedroom	1.9	25 x 1.9 = 47.5
<b>Total Proposed Population</b>		<b>174.7</b>

The Section 94 contribution applicable is for 141.3 persons (174.7 – 33.4) at a rate of \$8844.26 persons which equates to \$1, 249, 693.95 (or \$9, 539.65 per dwelling). The required Section 94 contribution is less than \$20, 000 per dwelling and would not exceed the cap of the Reforms of Local Development Contributions. (See draft condition 2 for Section 94 contribution requirement)

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

A Basix report has been submitted with the application. No adverse 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 Local Environmental Plan 2009 requirements. The proposed development complies with all the DCP requirements with the exception of the building depth requirement, but is considered reasonable as the proposal meets the objective of the building depth requirement. 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 is zoned R4 High Density Residential. Given the location of the site and surrounding development, it is considered suitable for a residential use.

#### **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 14 submissions including 2 letters of support, have been received. The issues raised in the submissions have been paraphrased and discussed below:

*Internal noise emissions from the proposed development.*

**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. Internal noise emissions from the proposed development are considered to be reasonable given that the proposed development is permitted within the zone.

*Excessive height of building*

**Comment:** The maximum permissible height of the proposed building is 15m which would accommodate 5 storeys. The proposed development meets the maximum height requirement.

*Provision of inadequate car parking spaces, increase of street parking demand and lack of parking available.*

**Comment:** Car parking, including visitor car spaces have been provided in accordance with the requirements of the Development Control Plan and are considered satisfactory.

*Excessive bulk and scale of the building*

**Comment:** The maximum permissible floor space ratio for the proposed building is 1.5:1. The proposed floor space ratio for the proposed development is 1.24:1. The proposed development is less than the maximum permissible floor space. The proposed development meets the maximum height requirement. The proposed structures provide a relatively low profile for surrounding landuses.

*Excessive traffic generated by the proposed development. Reduced width of Nield Avenue.*

**Comment:** The transport infrastructure is considered adequate to cater for the increase in traffic arising from the proposed development. The application has been referred to RTA who has not raised any objections subject to draft conditions which have been included in the report (See draft condition 69-72).

Council's Traffic Manager has indicated that the amount of traffic generated as a result of the proposal would not create a significant effect on the surrounding road network.

*Removal of a large number of trees and landscaping. Impact upon the aspect of trees.*

**Comment:** While 93 trees have been indicated for removal, 32 trees would be retained. The removal of the trees would be necessary for the construction of the Residential Flat Building, which is permitted on the site.

All of these trees would have been removed had the applicant acted upon the consent granted by the Minister for Planning for the construction of a private hospital including a

basement car park pursuant to Part 3A of the Environmental Planning and Assessment Act 1979.

The applicant has submitted a detailed landscape plan that ameliorates the tree loss during construction. The proposed landscape plan is considered satisfactory.

*Impact upon privacy of the adjoining developments.*

**Comment:** The proposed development either meets the side setback requirements or exceeds side setback requirements and privacy concerns have been adequately addressed.

*Mix of housing types and increase in density.*

**Comment:** The proposal would provide a variety of dwellings, of various sizes which would increase housing choice in the area, as well as provide housing and density that accords with Urban Consolidation principles, and the objective of the zone. The total number of dwellings has been reduced in the amended proposal in order to increase internal amenity and achieve SEPP65 compliance.

*Possible damage to adjoining buildings.*

**Comment:** A suitably qualified engineer shall prepare a Construction Methodology report demonstrating that the proposed excavation would have no adverse impact on any surrounding property and infrastructure (See draft condition 105).

*Compliance with the principles of SEPP 65.*

**Comment:** The proposal has been amended which includes reduction of dwellings and now meets all the requirements of SEPP65 planning principles.

*Increase in traffic, process of construction and ongoing traffic would compromise safety of pedestrians. Noise during construction. Dust and air quality during construction.*

**Comment:** The transport infrastructure is considered adequate to cater to the increase in traffic arising from the proposed development. An onsite reversing bay has been provided. If approved, a Construction Management Plan would be required to address construction parking and vehicle movements. Notwithstanding such construction of any significant development would generate noise and inconvenience to neighbours. The draft conditions seek to ensure such inconvenience is not unreasonable.

*Impact of overshadowing.*

**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 in accordance with the requirements of the DCP.



*On street waste collection*

**Comment:** The proposal would provide for onsite waste collection.

*Electricity provider Ausgrid, has indicated no objection to the proposed development.*

**Comment:** The comment is acknowledged.

*North Sydney Council has indicated no objection to the proposed development.*

**Comment:** The comment is acknowledged.

### **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 with the exception of the building depth requirement, which is supported in this instance.

The proposed dwellings would have the required minimum 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 the public good and the suitability of the site.

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

The amended proposal meets the requirements of Council's Development Control Plan with the exception of the building depth requirement, which is supported in this instance.

The amended proposal meets the minimum requirements for solar access and cross ventilation and would meet the minimum requirements of all the 10 SEPP65 planning principles.

The matters under Section 79C of the Environmental Planning and Assessment Act, 1979 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 D100/11 for the Demolition of existing ten dwelling houses and construction of four residential flat buildings (six blocks) with 131 dwellings in total and associated basement parking on Lot 1, DP 26707 (No. 1); Lot 2, DP 26707

(No. 2); Lot 3, DP 26707 (No. 3); Lot 41, DP 555753 (No. 4A); Lot 42, DP 555753 (No. 4B); Lot 5, DP 26707 (No. 5); Lot 6, DP 26707 (No. 6); Lot 7, DP 26707 (No. 7); Lot 1, DP 535088 (No. 7a); and Lot 8, DP 397302 (No. 8), former part of the Nield Avenue road reserve and the former public pathway through to Morven Gardens and known as 1-8 Nield Avenue, Greenwich, Lane Cove subject to the following conditions:

**General Conditions:**

1. That the development be strictly in accordance with the following drawings dated 11/10/11 prepared by Marchese Partners International Pty Ltd except as amended by the following conditions.

- Site Plan, DA 1.00 Revision B;
- DA1.01, Revision B;
- DA1.02, Revision B;
- DA1.03, Revision B;
- DA1.04, Revision B;
- DA1.05, Revision B;
- DA1.06, Revision B;
- DA1.07, Revision B;
- DA1.08, Revision B;
- DA1.09, Revision B;
- DA1.10, Revision B;
- Section AA & BB, DA3.01, Revision B;
- Section CC, DA3.02, Revision B;
- Section DD & EE, DA3.03, Revision B;
- Section FF & GG, DA3.04, Revision B;
- East Elevation West Elevation, DA4.01, Revision B;
- South Elevation North Elevation, DA4.02, Revision B;
- Elevation 1 & 2, Revision B;
- Landscape Planting Plan, LC02 Revision B dated 19/05/2011 prepared by Taylor Brammer
- Stormwater drainage plans H-000, H-001, H-002, H-003, SW-100, SW-101, SW-102, SW103, SW-104, SW-105, SW106, SW107, SW108, SW-109, SW-110, SW300 Issue B prepared by **SPP Group** dated **27-05-11**.

2. THE PAYMENT OF A CONTRIBUTION FOR AN ADDITIONAL 141.3 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 \$1, 249, 693.95 AT THE CURRENT RATE OF \$8844.26 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.

3. The submission of a Construction Certificate and its issue by Council or Private Certifier PRIOR TO CONSTRUCTION WORK commencing.
4. All building works are required to be carried out in accordance with the provisions of the Building Code of Australia (BCA). Note: Prior to the issue of the Construction Certificate, sufficient information must be forwarded to the certifying authority (whether Council or a private accredited certifier) illustrating compliance with the relevant requirements of the Building Code of Australia.
5. Provide a closet pan and washbasin at or near the ground level in a compartment or room and accessible to employees. **Details to be provided prior to the issue of the Construction Certificate.**
6. An Occupation Certificate being obtained from the Principal Certifying Authority before the occupation of the building.
7. 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.

8. 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.	
9. 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.
10. 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.
11. 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**.

12. 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.

13. 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.

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

15. 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.

16. 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

17. 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.

18. 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.
19. 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.

20. 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.
21.
  - (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.**

22. The demolition works being confined within the boundaries of the site.
23. The site being cleared of all debris and left in a clean and tidy condition at the completion of all works.
24. Compliance with the Waste management Plan submitted with the development application.
25. 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.
26. All demolition works being completed within a period of three (3) months from the date of commencement.
27. Use of explosives is not permitted.
28. 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.
29. All spillage deposited on the footpaths or roadways to be removed at the completion of each days work.
30. The site being properly fenced to prevent access of unauthorised persons outside of working hours.
31. Compliance with Australian Standard 2601 - The Demolition of Structures.
32. An approved type of hoarding being erected along the street frontage.
33. Pedestrians' portion of footpath to be kept clear and trafficable at all times.
34. 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.
35. A copy of Sydney Water's Notice of Requirements must be submitted to the Principal Certifying Authority **PRIOR TO THE CONSTRUCTION CERTIFICATE BEING ISSUED.**
36. 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.

37. **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.**

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

Access conditions:

40. Equal and dignified access to the podium level of the development be provided for people with disabilities – this could be provided by a lift near the Nield Avenue pedestrian entrance to the podium level and by ensuring a continuous accessible path of travel from the lift landing to the entrances of all residential blocks.

Garbage Chutes

41. 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

42. 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

43. Waste and Recycling Collection Rooms on Level 3 of the development must be of sufficient size to accommodate a total of 26x240l garbage bins and 29x240l 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).
44. 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
- 45. All floors must be finished to a smooth even surface, coved at the intersection of walls and floor.
- 46. 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.
- 47. 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.
- 48. 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.
- 49. All waste and recycling and bulky waste storage rooms must be constructed to prevent the entry of vermin.
- 50. 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.
- 51. 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.
- 52. 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

- 53. 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

- 54. 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 9.64 meter rigid vehicle with a turning circle of 25 meters to enter and exit the development in a forward direction.

#### Indemnity

55. **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

56. 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

57. 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

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

#### Contamination

59. **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

60. **Prior to the issue of an occupation certificate**, the applicant must submit for approval a report certifying that all recommendations included in the "1-8 Neild Avenue, Greenwich Acoustic Report for DA submission" by VIPAC (29 April 2011) have been implemented.

#### Traffic and parking Conditions

61. Service Vehicle parking bays shall comply with AS 2890.2 – 2002.
62. The Disabled Parking Spaces shall comply with AS 2890.6.
63. Directional signage shall be applied in the car park to show clearly the direction of the traffic circulating.
64. The maximum grade across the property line shall be 1 in 20 (5%). It should be 1 in 20 (5%) for at least 6 m prior to the control point. The changes of grade on Ramps shall be in accordance with AS/NZS 2890.1:2004.
65. The signage and line markings at the entrance of the site at the intersection with Nield Avenue (within the property) shall be designed by a traffic engineer/designer and implemented prior to the issue of occupation certificate.

#### **Construction Management Plan**

66. 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 to) 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.
67. 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.
68. 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**

69. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1– 2004 and AS 2890.2 – 2002 for heavy vehicle usage.
70. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on the Pacific Highway.
71. The proposed development shall be designed such that road traffic noise from the Pacific Highway is mitigated by durable materials in order to satisfy the

requirements for habitable rooms under Clause 102 subdivision 3 of State Environmental Planning Policy (Infrastructure) 2007.

72. All works associated with the proposed development will be at no cost to the RTA.

#### Tree Conditions

73. Lane Cove Council regulates the **Preservation of Trees and Vegetation** in the Lane Cove local government area. Clause 5.9(3) of *Lane Cove Local Environmental Plan 2009* [the "LEP"], states that a person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by development consent or a permit granted by the Council. Removal of trees or vegetation protected by the regulation is an offence against the Environmental Planning and Assessment Act 1979 (NSW). The maximum penalty that may be imposed in respect to any such offence is \$1,100,000 or a penalty infringement notice can be issued in respect of the offence, the prescribed penalty being \$1,500.00 for an individual and \$3,000.00 for a corporation. The co-operation of all residents is sought in the preservation of trees in the urban environment and protection of the bushland character of the Municipality. All enquiries concerning the Preservation of Trees and Vegetation must be made at the Council Chambers, Lane Cove.
74. The applicant must obtain written Authority prior to pruning or removal of any trees identified for retention within the Arborist Impact Assessment Report compiled by Footprint Green Pty Ltd dated 05.May 201. This Condition includes damage or severing of any tree roots greater than 40mm in diameter of any tree designated for retention.
75. 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.
76. Footing, trench or excavation that is within 4m 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
77. A waterproof sign must be placed on all tree protection zones 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 A4 portrait with NO ENTRY TREE PROTECTION ZONE in capital Arial Font size 100, and the rest of the text in Arial font size 65.
78. All identified tree protection zones in Appendix 1D of the Statement of Environmental Effects (Volume 2) titled Arboricultural Impact Assessment Report prepared by Footprint Green Pty Ltd dated 05 May 2011 must be adopted as part of the development consent. All tree protection measures must be erected prior to commencement of any works on the site. Additionally all tree protection measures/standards within Australian Standard AS4970 'Protection of trees on

development sites' must be adopted and followed for the duration of the development.

79. 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.

#### **General Engineering Conditions**

80. **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.
81. **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.
82. **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**.
83. **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.
84. **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.
85. **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.
86. **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*'.
87. **Council Drainage Infrastructure:** All costs associated with the relocation of the existing Council stormwater pipe lines are to be borne by the applicant. Any existing pipelines draining to the effected pipelines shall be reconnected into the new receiving system.

88. **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.
89. **Safety fence along the boundary of the property:** Before commencement of any works, barrier or temporary fencing is to be provided along the full frontage of Neil Avenue. This fence is for the safety of pedestrians on the public footpath.
90. **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.
91. **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.
92. **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 Infraction Notice*" being issued to the drivers of those vehicles not in compliance with the regulations.
93. **Overland Flow around Buildings:** To prevent stormwater from entering the buildings the finished habitable ground floor level of the building must have a minimum freeboard of 300mm and 150mm above the calculated top water level for the 1 in 100 year ARI storm event respectively. The new driveway shall also be designed to ensure no overland flow enters the basement carpark.
94. **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 part O Council's DCP-Stormwater Management. An approved plate may be purchased from Council's customer service desk.

95. **Cast in Situ Drainage Pits:** Any drainage pit within a road reserve, a Council easement, or that may be placed under Council's control in the future, shall be constructed of cast in situ concrete and in accordance with part O Council's DCP-Stormwater Management.
96. **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.
97. **Rainwater Reuse Tanks:** The proposed rainwater tanks are to be installed in accordance with Council's rainwater tank policy and relevant Australian standards.
- Note:
- Rainwater draining to the reuse tanks are 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.

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

98. **Drainage Construction:** The stormwater drainage on the site is to be constructed generally in accordance with plans numbered **H-000 – SW300** prepared by **SPP Group** dated **27-05-11**.  
Certification by a suitably qualified engineer of the above plans is to be submitted to the Principal Certifying Authority stating that the design fully complies with, AS-3500 and part O, Council's DCP-Stormwater Management. The 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.  
The plans and certification shall be submitted **prior to the issue of the Construction Certificate**.  
The Principal Certifying Authority is to satisfy themselves of the adequacy of the certified plans for the purposes of construction. They are to determine what details, if any, are to be added to the Construction Certificate plans, in order for the issue of the Construction Certificate.
99. **Construction adjacent to or parallel to a drainage Easement / pipeline:** The footings of the proposed structure adjacent to the Council drainage easement shall be taken below the zone of influence of the Council stormwater line. The location and depth of the footings in relation to the stormwater line, along with the design of the footings, are to be detailed on engineering plans. The engineering plans are to be completed and certified for construction by a suitably qualified engineer and be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate**.  
On completion of the works and **prior to the issue of the Occupation Certificate** the design engineer shall certify that structure has been constructed in accordance with the approved plans and is within acceptable construction tolerances. The certification is to include a Work as Executed plan. The Work-as-Executed must show the location of all structures in the vicinity of the Council

- drainage easement, indicating that all footings are located below the zone of influence of the Council stormwater line.
100. **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.**
  101. **Sydney Water Approval:** The approved plans must be submitted to Sydney Water to determine whether the development will affect Sydney's Waters sewer main which affects this property. If the development complies with Sydney Water's requirements, the approved plans will be appropriately stamped and submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**
  102. **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.**
  103. **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.
  104. **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.
  105. **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.

106. **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**.

107. **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**.

108. **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**.

109. **Road Pavement Design:** The design and supporting calculations of the road pavement reconstruction of Neild Avenue shall be submitted to the Principle Certifying Authority. The plans shall be prepared by a suitably qualified engineer and certified that the design fully complies with Austroad design standards and all

relevant Australia Standards. The plans and certification shall be submitted to the Principle Certifying Authority **prior to the issue of the Construction Certificate.**

110. **Council Construction Requirements:** The applicant shall construct / reconstruct the following:
1. New 1.5m wide footpath along both sides of Neild Avenue from the boundary of the site up to the Pacific Highway.
  2. Reinstate the entire road surface in Neil Avenue to Council's satisfaction.
  3. Reinstate all damaged naturestrips in Neil Avenue to Council's satisfaction.
  4. A \$20,000.00 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.

111. **Council Inspection Requirements:** The following items shall require Council inspections.
- New footpath
  - All asphalt adjustments to the roadway
  - All the approved stormwater drainage works on Council property
- 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 \$580.00 is to be paid **prior to the issue of the Construction Certificate.**

112. **Soil and Water Management Plan:** Soil and Water Management Plans (SWMP) shall be prepared by a suitably qualified consultant in accordance with the guidelines set out in the manual *"Managing Urban Stormwater, Soils and Construction Fourth Edition 2004 Volume 1"* prepared by LANDCOM. The plan is to be submitted to the principal certifying authority to **prior to the issue of the Construction Certificate.**

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

113. **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 approved plan satisfying condition '(C1) *Soil and Water Management Plan*'. The devices shall be maintained during the construction period and replaced when necessary.

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

114. **Stormwater System Engineering Certification:** On completion of the drainage system a suitably qualified engineer shall certify that the drainage system has been constructed in accordance with the approved plans, part O Council's DCP-

Stormwater Management and AS-3500. The certification is to include a work as executed plan. The work as executed plan shall:

- (a) be signed by a registered surveyor, &
- (b) clearly show the surveyor's name and the date of signature.

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

115. **Creation of Drainage Easements:** A new 2m wide drainage easement is to be created in favour of Council over the new stormwater pipeline designed by **SPP Group** drawing number **H-001** issue **B** dated **27-5-11**. Documents demonstrating that the proposed easement has been created are to be submitted to the principle certifying authority **prior to the issue of the Occupation Certificate**. All costs associated with piping, relocation and creation of easements shall be borne by the applicant.
116. **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**.
117. **Certification of Retaining Structures and Excavations:** A suitably qualified engineer shall provide certification to the principal certifying authority that all retaining structures and excavations have been carried out in accordance with the relevant Australian Standards and Codes of Practise.  
The certification and a complete record of inspections, testing and monitoring (with certifications) must be submitted to the principal certifying authority **prior to the issue of the Occupation Certificate**.
118. **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 part O Council's DCP-Stormwater Management.

#### Amalgamation of lots:

119. The existing allotments must be consolidated prior to issue of an construction certificate.