

## Sydney East Joint Regional Planning Panel meeting of 9 August 2012

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Property: 86-90 Christie Street and 75-79 Lithgow Street, St Leonards  
(Lot 71 & 72, DP 542079, Lot 10, Section 18, DP 3175, Lot 4,  
DP 560889, and Lot 50, Section 18, DP 3175)

DA No: 2012 SYE008, DA 11/224

Date Lodged: 2 December 2011

Cost of Work: \$98,000,000

Owner: Stuva Pty Limited

(The landowners' consents have been submitted along with the  
development application).

Applicant: Winten Property Group

<b>DESCRIPTION OF PROPOSAL TO APPEAR ON DETERMINATION</b>	Demolition of all existing structures and construction of an 18 storey commercial building with basement car park for 206 cars
<b>ZONE</b>	B 3 – Commercial Core
<b>IS THE PROPOSAL PERMISSIBLE WITHIN THE ZONE?</b>	Yes – Part 3A of Environmental Planning and Assessment Act 1979 and Lane Cove Local Environmental Plan 2009
<b>IS THE PROPERTY A HERITAGE ITEM?</b>	No
<b>IS THE PROPERTY WITHIN A CONSERVATION AREA?</b>	No
<b>IS THE PROPERTY ADJACENT TO BUSHLAND?</b>	No
<b>BCA CLASSIFICATION</b>	Class 5, 6 & 7a
<b>STOP THE CLOCK USED</b>	Yes – 110 days
<b>NOTIFICATION</b>	Neighbours: 1-5 Canberra Avenue, 54-84, 57-69 Christie Street, 2 Holds worth Avenue, 71-73 Lithgow Street, 1-25, 2-8 Marshall Avenue, 2-64, 500-564 Pacific Highway.  North Sydney City Council and Willoughby City Council  All Councillors of Lane Cove Council  Progress Association: St Leonards-Wollstonecraft Residents Association

## 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 greater than \$20 million.

## EXECUTIVE SUMMARY

- The proposal involves demolition of all existing structures on the combined site and construction of an 18 storey commercial building with basement car park.
- The site is located within B3 – Commercial Core zone and commercial developments are permissible within the zone in accordance with Lane Cove Local Environmental Plan 2009 (the LEP).
- Prior to the lodgement of the development application, a Part 3A Concept Plan Approval was granted by the Planning Assessment Commission (PAC), as delegated by the Minister for Planning and Infrastructure on 19 July 2011.
- The Part 3A Concept Plan Approval included terms of approval and modifications to the submitted concept plan. Refer to **Attachment 1**.
- The building height of the development in the Part 3A Concept Plan Approval exceeds the building height standard of the LEP for the site by a maximum of 7.4m (on Lithgow Street).
- The Part 3A Concept Plan Approval is also inconsistent with the block control requirements of the Lane Cove Development Control Plan (the DCP).
- On 1 October 2011, Part 3A of the Environmental Planning and Assessment Act 1979 (the Act) was repealed.
- Schedule 6A of the Act provides special provisions in relation to transitional arrangements relating to the Part 3A repeal.
- The provisions of Schedule 6A states that a consent authority (JRPP) must not grant consent under Part 4 for the development unless it is satisfied that the development is generally consistent with the terms of the approval of the concept plan.
- The provisions of Schedule 6A also specifies that any development standard, that is within the terms of the approval, has effect and the provisions of any environmental planning instrument or any development control plan do not have effect to the extent to which they are inconsistent with the terms of the approval of the concept plan.
- 17 submissions were received resulting from the notification of the development proposal. The majority of the concerns relate to non-compliance with the building height standard of the LEP, intensification of land use, increase in local traffic congestion, and loss of views to the residential dwellings in the Forum development located to the north of the site.

- Most of the concerns raised from the submissions are the result of the Part 3A Concept Plan Approval. The proposed development is consistent with the approved building height and the footprint of the Part 3A Concept Plan Approval.
- Rail Corp has granted concurrence to the proposed development and advised Council that deferral conditions must be satisfied prior to the commencement of the development.
- Deferred commencement consent is recommended.

## **SITE**

The subject site is located on the southern side of Pacific Highway approximately 200m from St Leonards railway station. The site bound by Christie Street to the east, Christie Lane to the north and Lithgow Street to the west. The site has a site of 2589.5m<sup>2</sup>.

The site is made up of 5 lots, namely:

- 79 Lithgow Street, St Leonards (Lot 71, DP 542079);
- 77 Lithgow Street, St Leonards (Lot 72, DP 542079);
- 75 Lithgow Street, St Leonards (Lot 10, Section 18, DP 3175);
- 86-90 Christie Street, St Leonards (Lot 4, DP 560889, and Lot 50, Section 18, DP 3175).

The site falls approximately 7m from its north-eastern corner at Christie Street at RL 80.73 to its south-western corner at Lithgow Street at RL 73.6.

There are four 2-3 storey commercial buildings existing on the site.

Surrounding development comprise commercial, retail and residential premises.

### To the east:

A 7 storey commercial building is located at 69 Christie Street. Further to the north-east of the site, a group of five 2 storey commercial/retail buildings are located at 536-542 Pacific Highway.

### To the north:

Christie Lane adjoins the northern boundary of the site. A block of eight 2-storey commercial/retail buildings are located to the north of Christie Lane at 546-564 Pacific Highway. These properties have rear accesses to Christie Lane. St Leonards railway station and the Forum buildings are located further to the north of Pacific Highway in the Willoughby City Council area.

### To the west:

The north shore railway line is located to the west of Lithgow Street, directly opposite the site. An under ground pedestrian access way to St Leonards railway station is located at the northern end of Lithgow Street. Further to the west of the railway line, dwelling houses are located in Marshall Avenue.

### To the south:

Commercial buildings are located to the south of the site. Two commercial buildings adjoin the southern boundary of the site. The NSW Pharmacy Guild is located in a 3 storey building at 84 Christie Street. The Australian Dental Association is located in a 4 storey building at 73 Lithgow Street. The adjoining buildings have nil setbacks to the southern boundary of the site.

Further to the south is the Pharmaceutical Society of Australia building at 82 Christie Street, Norths Rugby Club, Cabana Bar and Lounge at 67-69 Lithgow Street.

The building character of the southern side of Pacific Highway is dominated by low rise aged commercial buildings.

## **PROPOSAL**

The proposal involves:

- Demolition of all existing structures on the site
- Construction of an 18 storey commercial building with 5 basement levels of car parking for 206 cars
- Use of the building as office premises with retail/business and a through-site link on the ground level.

The development application has not provided details of the use of the proposed building. The Statement of Environmental Effect states that the retail/business premises uses and fit out would be subject to separate development applications. It is therefore, recommended that the use of the proposed building requires separate development consents. (See draft condition 12)

## **PREVIOUS APPROVALS/HISTORY**

### Part 3A Concept Plan Approval

A concept approval MP09\_0210, under Section 75O of the Environmental Planning and Assessment Act 1979 (the Act) for redevelopment of the site for commercial and retail use, with a building envelope with a maximum height of RL149.05 metres (AHD) and a maximum gross floor area of 32,599m<sup>2</sup> at 88 Christie Street, 75, 77 and 79 Lithgow Street, St Leonards was granted by Planning Assessment Commission (PAC) on 19 July 2011.

Schedule 2 of the Concept Approval outlines the terms of approval and modification to concept plan. Schedule 3 outlines the future environmental assessment requirements and Schedule 4 outlines the statement of commitments of the development.

The Concept Approval also states that pursuant to Section 75P (1) (b) of the Act, approval to carry out all future stages of the project be subject to Part 4 of the Environmental Planning and Assessment Act.

The Approval of the Concept Plan would lapse 5 years after the determination date unless the development has physically commenced.

### Inconsistence of the Part 3A Concept Plan Approval with the LEP and DCP

It is noted that the Part 3A Concept Plan Approval was granted with an exception to the building height standard of the LEP and block control requirements of the DCP as follows.

- The building height of the development in the Part 3A Concept Plan Approval exceeds the building height standard of the LEP for the site by a maximum of 7.4m.
- The approved on site parking provision is 206 car spaces which is 78 car spaces less than the minimum DCP car parking requirement.
- The footprint of the Concept Plan Approval is inconsistent with the block plan of the DCP.

### Repeal of Part 3A

Part 3A of the Act was repealed on 1 October 2011. Section 3B of Schedule 6A – Transitional arrangements – repeal of Part 3A of the Act provides the following special provisions which apply to the Part 3A concept plan approval:

- (a) *If Part 4 applies to the carrying out of the development, the development is taken to be development that maybe carried out with development consent under Part 4 (despite anything to the contrary in an environmental planning instrument),*
- (b) *If Part 5 applies to the carrying out of the development, the development is taken to be development that may be carried out without development consent under Part 4 (despite anything to the contrary in an environmental planning instrument),*
- (c) *Any development standard that is within the terms of the approval of the concept plan has effect,*
- (d) *A consent authority must not grant consent under Part 4 for the development unless it is satisfied that the development is generally consistent with the terms of the approval of the concept plan,*
- (e) *a consent authority may grant consent under Part 4 for the development without complying with any requirement under any environmental planning instrument relating to a master plan,*
- (f) *the provisions of any environmental planning instrument or any development control plan do not have effect to the extent to which they are inconsistent with the terms of the approval of the concept plan,*
- (g) *any order or direction made under section 75P (2) when the concept plan was approved continues to have effect.*

The building height standard of the LEP, the block control and car parking requirements of the DCP have no effect to the proposed development in accordance with the provisions of the Act.

## PROPOSAL DATA/POLICY COMPLIANCE

The following tables outline the compliances with the LEP and the DCP. Schedule 6A of the Act was taken into consideration during the assessment:

Site Area (2589.5m<sup>2</sup>)

### Lane Cove Local Environmental Plan 2009

LEP 2009	Provision	Proposed	Complies/ Comment
Zone	B3 – Commercial Core zone	A commercial building	Yes – permissible
Clause 4.3 - Maximum permitted building height	65m	72.4m	<b>N/A</b> The Part 3A Concept Plan Approval has set the maximum building height of the development and the building height standard of the LEP has no effect to the proposed development.
Clause 4.4 - Maximum permitted FSR	14:1	12.1:1 (GFA-31,211m <sup>2</sup> )	Yes The Concept Plan Approval has set the maximum building envelope including a maximum GFA of 32,599m <sup>2</sup> .
Clause 6.1A - Earthworks	To ensure that earthwork for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land	The proposed development comprises 5 levels of basement car parking for 206 cars and service vehicles.  A geotechnical and groundwater assessment report submitted with the development application has stated that the proposed development is feasible.	Acceptable  The Concept Plans has included 4 levels of basement car park for 206 cars.  The applicant states that 5 levels of basement are required because it is physically not possible to accommodate 206 car spaces within 4 levels of the basement car park.

## Lane Cove Development Control Plan

### Part B – General Controls

Clause	DCP	Proposed	Complies/ Comment
B.2 – Public Domain	To provide public space that contributes to the identity and enjoyment of an area and provide pedestrian surfaces that are safe for all users.	A 12m wide through site link is proposed and would provide public access between Christie Street and Lithgow Street	Yes
B.3 - Site Amalgamation & Development on Isolated sites	To encourage site consolidation of allotments for development in order to promote the desired urban design outcomes and the efficient use of land and to avoid the creation of isolated sites.	Consolidation of 5 allotments for a commercial building complex which would reduce the number of driveways  The proposed development would not create an isolated site. However, it is inconsistent with the Block plan of the DCP	N/A  The Concept Plan Approval has set the footprint of the development and the Block Plan requirements of the DCP have no effect to the proposed development.
B.4 – View Sharing	To minimise the impact of new development on existing public and private views and vistas.	The proposed development would impact upon view to Sydney Harbour Bridge and city from the Forum development to the north.	N/A  The loss of view is the result of the Part 3A Concept Plan Approval which has set the building height, the envelope and the footprint of the development.
B7 – Developments near Busy Roads and Rail	To ensure an appropriate acoustic amenity can be achieved for development near transport corridors, particularly residential development and other noise sensitive land uses.	The proposed is a commercial development	N/A The proposed development is not a noise sensitive land use

Clause	DCP	Proposed	Complies/ Comment
	To provide additional acoustic design or mitigation measures that may be necessary.		
B8 – Safety & security	Address safety, security and crime prevention requirements in the planning and design of development	A 24 hours and 7 days public access to the through site link is proposed on the ground level of the building. The link is proposed to be supervised through the placement of capable guardians such as building staff and retail staff. It also relies on 24/7 building management, including CCTV and on site security.	Yes  The safety, security and crime prevention management plan would be required by a condition of consent.

#### Part D – Commercial Development and Mixed Use Localities

Clause	Requirement	Proposed	Complies/ Comment
1. Height	65m (LEP control)	72.4m under Part 3A Concept Plan Approval	N/A The LEP building height standard has no effect to the proposed development under Part 3A Concept Plan Approval
2. Street frontage height	18m	15.6m	Yes
3. Uses	Street level retail	Retail/showroom, café are shown on the street levels of Christie Street and Lithgow Street	Yes However, future uses of the building would require separate development consents
4. Tower separation	12m	The proposal comprises one building only.	N/A
5. Tower footprint	Maximum 1600m <sup>2</sup>	Proposed 1869m <sup>2</sup>  Maximum GFA 1932m <sup>2</sup> (Part 3A Approval)	N/A The DCP requirement has no effect to the footprint approved by the Part 3A Concept



Clause	Requirement	Proposed	Complies/ Comment
			Plan Approval
6. Street setback	10m to create public open space to be provided to the west of the block	Nil	N/A The DCP block control requirements have no effect to the proposed development under Part 3A Concept Plan Approval
7. Colonnade	4m depth from building edge & 2 storey clear height	N/A	N/A
8. Pedestrian entry/ address	Christie Street & open space	Christie Street and Lithgow Street	Yes
9. Vehicle entry	Christie Street	Lithgow Street	N/A The DCP block control requirements have no effect to the proposed development under Part 3A Concept Plan Approval
10. Car parking	284 car spaces	206 car spaces	N/A The DCP car parking requirements have no effect to the proposed development under Part 3A Concept Plan Approval
11. New laneway and Mid Block connection	Relocate Christie Lane to south – adjacent to No. 80	No works are proposed to the existing Christie Lane and the future Christie Lane.	N/A The existing Christie Lane and the location of the new Christie Lane are beyond the site boundaries of the site.
12. Tower	North to south long	East to west long axis	N/A

Clause	Requirement	Proposed	Complies/ Comment
orientation	axis  Maximum building length 40m	Maximum proposed building length 50m	The DCP requirements have no effect to the proposed development under Part 3A Concept Plan Approval
13. Landscaping / public domain	Street trees to Christie Street and Lithgow Street and public open Trees are agreed with Council	Street trees are proposed on Council land prior to an agreement with Council	There is no agreement for street tree planting between Council and the owner of the site. Council tree assessment officer requests trees on Council land not to be included in the development proposal.
14. Public open space/share zone	Minimum 1500m <sup>2</sup> for public open space to the west of Block A	No public space proposed to the west of the building	N/A The DCP block control requirements have no effect to the proposed development under Part 3A Concept Plan Approval

### Part F - Access and Mobility

DCP	Requirement	Proposed	Complies/ Comment
3.7 Access to and within the building	To and within all areas normally used by occupants	Access to and within all areas normally used by occupants is by lifts.	Yes
		3 disabled car spaces are proposed on Basement Level	Yes

### Part 3A Concept Plan Approval

The compliance with the Part 3A Concept Plan Approval is included in **Attachment 2**.

## REFERRALS

### Senior Building Surveyor

Council Senior Building Surveyor has assessed the proposal against the Deemed-to-Satisfy provisions of the Building Code of Australia and the Access Premises Standards 2008.

The following issues were initially identified during the assessment:

- *The development proposes a number of alternate solutions in order to comply with the performance solutions of the BCA. Some of the proposed solutions would require concurrence with NSW Fire and Rescue. Prior to making a determination it is requested that the proposed alternate solutions be formulated for each identified non compliances with the BCA and report/s be submitted to Council for review including concurrence from NSW Fire and Rescue.*

This concern is addressed by a draft condition of consent.

- *The pedestrian link from the retail showroom to the terrace level indicates a grade of 1:11. Amend plans to indicate a grade to the ramp not steeper than 1:14 in order to comply with AS 1428.1 2009.*

This matter was raised with the applicant who responded that they would not support the provision of an access ramp within the through-site link and maintains their position that an access lift would comply with the relevant access standards. The lift would be provided consistent with the hours of access to the through site-link.

Council Senior Building Surveyor raised no further objections to the access level of the through-site link.

- *Additional disabled car parking spaces are required for the Class 6 retail components of the building in accordance with Table D3.5 of the BCA.*

The Part 3A Concept Approval Plan requires less car parking spaces for the development as compared to the DCP requirements. However, the proposed 3 disabled car spaces comply with the accessible parking ratio requirement of the DCP which is 1 accessible parking space per 100 spaces, in Class 2 to 9c buildings.

- *The pedestrian corridor on basement level 01 leading to the Accessible WC and lift lobby requires widening at the 90 degree turn to comply with AS1428.1.*

This issue is able to be addressed by a condition of consent which would require the development to comply with the provisions of the BCA.

The Senior Building Surveyor has provided draft conditions to be imposed in the event that JRPP approve the application.

### Development Engineer

The development engineer has provided the following advice:

The applicant has provided an amended stormwater concept plan on 3/5/2012 which includes an on-site detention system. The proposed system is acceptable subject to draft conditions.

The proposed bulk earthworks have been specially considered and conditioned.

Council's development engineer has endorsed the application and provided draft engineering conditions to be imposed in the event that the JRPP approve the application.

### Manager Community Services

Council Community Services Manager has endorsed the application and provided draft conditions to be imposed in the event that the JRPP approve the application.

### Traffic Engineer

Council's traffic engineer has endorsed the application and provided draft conditions to be imposed in the event that JRPP approve the application.

### Trees Assessment Officer

Council's Senior Tree Assessment Officer has assessed the application and provided the following advice:

*The proposed development requires the removal of all existing trees from the site. Existing trees are located on the Christie street side of the building and consist of 4 Box Elder and 1 Casuarina.*

*The proposed plans show landscape design and construction on the Council owned nature strip area on both street frontages. Council does not allow or consider construction on the nature strip areas including the removal and planting of street trees by developers. The proposed landscape design for the nature strip areas must be deleted from the proposed plans.*

*The Landscape Section (Appendix E) of the Statement of Environmental Effects shows a proposed rooftop garden area. Council encourages the use of rooftop landscape areas to reduce the heat Island effect in built up areas and reduce stormwater run-off. Further more detailed information was required by Council to fully assess the viability of the rooftop garden. The applicant should submit comprehensive landscape construction methods for the rooftop garden including stormwater management that would be used within the garden.*

*However, the applicant has failed to provide the requested information relating to the pot size, soil volume and the proposed irrigation of the posts on the roof top garden.*

*Draft conditions have been provided in the event that JRPP approve the application.*

## Manager Environmental Health

The Manager Environmental Health has endorsed the development application and recommended that the contamination issues mentioned in the Appendix P of the Statement of Environmental Effects has been addressed.

Accordingly a draft condition of consent is recommended:

*A stage 2 site investigation is to be undertaken in accordance with the provisions of SEPP 55. Upon completion of all related earth works, a site audit statement is to be submitted to Council from an EPA accredited site Auditor confirming that the validation report has been completed and that the site is suitable for the commercial use and is not subject to contamination.*

The draft condition has been included in the recommendation.

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

### Roads and Maritime Services (RMS)

The development application was referred to the Roads & Maritime Services (RMS) for comment in accordance with the State Environmental Planning Policy (Infrastructure) 2007.

The Sydney Regional Development Advisory Committee (SRDAC) considered the traffic impact of this application in its meeting on 14 March 2012.

RMS has the following advisory comments:

1. *RMS raises concerns with the proposed development as the submitted documentation does not adequately address pedestrian connectivity to, from and around the site.*
2. *The proposal is reliant on a large number of employees (between 1500 - 2000 persons) coming via public transport, there should be adequate facilities in place to ensure their safety from the railway station and bus interchange to the site. RMS suggests the proponent create a Pedestrian Access and Mobility Plan to demonstrate how safe convenient and connected pedestrian routes will be used and/or established to ensure safe pedestrian access.*
3. *RMS are advised that a number of drivers are travelling past the 'No Entry' signs on Lithgow Street where vehicles are not permitted south of Christie Lane heading southbound. This traffic arrangement in its present form should be addressed due to the level of non-compliance to the 'No Entry' signs by workers in the area. This non-compliance directly impacts on both pedestrian and vehicular safety on Lithgow Street.*

*RMS supports ongoing discussions between Council and the proponent to coordinate future plans for the area. RMS is supportive of a combined approach to the revitalisation of the southern side of St Leonards and the further utilisation of the railway station and bus interchange.*

The applicant has provided the following response to the RMS advice:

1. *The pedestrian connectivity to, from and around the site was considered and approved as part of the Concept Plan and is not a relevant matter for consideration as part of the DA.*

Comment:

It is agreed that pedestrian connectivity was a consideration during the concept plan approve process. The proposed through site connectivity would improve the pedestrian movement within the building and between Christie Street and Lithgow Street. The site through link would be available for public access 24 hours a day, seven days a week (See draft condition 34).

2. *There is a pedestrian connection under the Pacific Highway at Lithgow Street to connect to the railway station. This would be the primary connection for pedestrians between the site and the railway station.*

Comment:

It is agreed that the existing railway under pass would be a primary pedestrian connection between the site and the railway station.

3. *600 pedestrians is equivalent to an average of some six pedestrian per cycle at traffic signals at Pacific Highway/Christie Street and Pacific Highway/Herbert Street over a two hour period. Such low pedestrian flows would not have significant implications on the operations of these intersections.*

Comment:

The proposed development would increase in pedestrian movement in the area. The Part 3A concept plan approval reduced the car parking requirement to encourage increased pedestrian movement.

4. *Council has recently undertaken a Pedestrian Access and Mobility Plan for the St Leonards area, which included the area surrounding the site.*

*In relation to drivers illegally travelling past the 'No Entry' signs on Lithgow Street. This is a traffic enforcement matter for Council to consider and is not relevant to the subject DA.*

Comment:

Council's traffic engineer has conformed that Council would carry out a pedestrian analysis, taking into consideration the existing and the proposed intersection traffic control changes including parking assessment. The Pedestrian Access and Mobility Plan (PAMP) would be exhibited shortly by Council for Public comment and feedback.

### RailCorp

The site is opposite the existing rail corridor and the proposed development involves the penetration of ground to a depth of at least 2m below ground level (existing) on land within 25m (measured horizontally) of a rail corridor.

The development application was referred to the RailCorp for concurrence in accordance with Clause 86 of the Infrastructure SEPP.

RailCorp advised that the site is opposite the existing rail corridor and adjoins the future rail corridor identified in the CBD Rail Link (CBDRL). RailCorp has granted its concurrence to the proposed development, subject to the consent authority imposing the deferred commencement condition listed in their Attachment A, the operational conditional conditions listed in Attachment B and Advisory Note are listed in the Attachment C.

RailCorp also requires the imposition of a number of deferred commencement conditions as several impacts pertaining to the development site need to be resolved prior to this development application becoming operative.

Refer to **Attachment 3** for the advice of RailCorp dated 4 April 2012.

### **LANE COVE LOCAL ENVIRONMENTAL PLAN 2009**

The Lane Cove LEP was gazetted in February 2010 and rezoned the site and its surrounding properties to B3- Commercial Core. The objectives of the zone are:

- *To provide a wide rang of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*
- *To encourage appropriate employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To integrate business, retail and other development in accessible locations.*
- *To maximise sunlight for surrounding properties and the public domain.*
- *To encourage urban design maximising attractive public domain and adequate circulation space through out the St Leonards commercial centre for current and future users.*

The proposed development comprising office and retail spaces is consistent with the zoning objectives of the LEP and is permissible with development consent.

As outlined in the compliance table, the proposed development complies with the provision of the LEP with an exception to the building height standard which is 65m for the site. The Part 3A Concept Approval granted a maximum height of RL 149.05 (72.4m on Lithgow Street) and the Part 3A Concept Approval overrides the LEP standard in this case.

The area is expected to be redeveloped and the character would be dominated by high rise commercial buildings in the future.

### **LANE COVE DEVELOPMENT CONTROL PLAN (THE DCP)**

Part D – Commercial Development and Mixed Use Localities of the DCP includes a block plan - Block 2 for Christie Precinct developments. Block 2 is located in the precinct area bounded by Pacific Highway to the north, Lithgow Street to the west and Christie Street to the east. The site is located within Block 2 plan.

The objectives of the block control are to provide a high quality public open space in Lithgow Street including an upgrade of the existing pedestrian link to the rail station and provide a new laneway connector to improve vehicle and pedestrian connection to the rail underpass.

The subject site is located in the centre of Area A of the block plan and the footprint of the proposed development was approved by the Part 3A Concept Approval which was inconsistent with the block plan of the DCP. The Part 3A Concept Approval Plan and the proposed development have had limited consideration of the block plan of the DCP and the future development of the adjacent properties.

The development as proposed on the southern boundary would have zero building setbacks that would restrict the development potential of the adjoining sites. The impact of such would potentially render this boundary sterile for both sites with regard to light, natural cross ventilation, view and aesthetics.

### **Section 94 Contribution Plan**

Lane Cove Section 94 Contribution Plan applies to the proposal for the traffic management demand increase and streetscape improvements in the area as a consequence of the development.

The Section 94 contribution is calculated in the following manner:

The gross floor area of the existing buildings is 5,195m<sup>2</sup> and the proposed GFA is 31,211m<sup>2</sup>.

The proposal would increase the GFA of the site by 26,016m<sup>2</sup> (31,211m<sup>2</sup> - 5,195m<sup>2</sup>).

The Section 94 contribution applicable for additional 26,016m<sup>2</sup> at the current rate of \$94.87/m<sup>2</sup> is \$2,468,137.90.

Note: The Section 94 Contribution payment is included in a draft condition imposed in the event that JRPP approve the application.

### **VARIATIONS TO COUNCIL'S CODES/POLICIES (SECTIONS 79C(1)(a), (1)(b), and (1)(c))**

The preceding policy assessment table identifies those controls that the proposal does not comply with. Each departure has been discussed in the previous sections of this report.

### **RESPONSE TO NOTIFICATION (Section 79C(1)(d))**

The development proposal was notified in accordance with Council's notification policy. 17 submissions were received in response to the notification of the development application. The issues raised in the submission can be summarised as follows.

- *The proposed development exceeds the maximum permissible building height standard of the LEP*

#### **Officer's comment:**

It is agreed that the proposal does not comply with the building height standard of the LEP. However, the building height standard of the LEP has no effect on the proposed development because the Part 3A Concept Plan Approval permits the building height to exceed the LEP standard. The proposal is consistent with the Part 3A Concept Approval. The proposed building height is therefore acceptable.



- *The proposal is contrary to the Lane Cove DCP*

Officer's comment:

As discussed in the previous sections of the report, the Part 3A Concept Plan Approval established the permissible footprint and maximum building height of the development. The LEP and DCP provisions are set aside by the Part 3A Concept Plan Approval.

- *Out of character of the adjacent existing developments*

Officer's comment:

The existing buildings on the site and its adjacent properties to the southern side of the St Leonards CBD are low to medium density commercial developments. The LEP was gazetted in 2010 and permits high rise commercial developments up to a maximum building height of 65m to be built on the site. The character of the area is expected to change in accordance with the zoning objectives of the LEP.

- *The design compromises safe pedestrian movements*

Officer's comment:

The proposed development would reduce the number of driveways on the site from 6 to 1. There is no footpath along Christie Lane adjacent to the north of the site. A through-site link within the building would improve the pedestrian access between Christie Street and Lithgow Street.

- *The proposed development would adversely overshadow the adjoining properties.*

Officer's comment:

The adjacent properties to the south of the site are commercial buildings and there are no solar access requirements for commercial buildings in the DCP. However, a nil setback would limit development potential for the adjoining site to the south.

- *The proposed development would increase traffic movement within the area.*

Officer's comments:

The proposal would increase traffic movements in the area. The Council's traffic engineer has endorsed the traffic report submitted with the development application.

- *The proposed development provides for insufficient parking*

Officer's comment:

The Part 3A Concept Plan Approval has set the parking provisions for the development and the car parking requirements of the DCP are set aside.

- *Loss of view to the residential dwellings in the Forum development to the north of the site*

Officer's comment:

The Forum development was built over the railway station and comprises three commercial office buildings, two residential towers and retail premises.

The Forum Tower is a 38 storey, 118m high with 483 apartments including many with panoramic views of the city skyline.

Forum West is the second of the two residential buildings within the Forum Plaza, standing 25 storeys tall with 290 apartments.

The view loss was considered during the Part 3A Concept Plan Approval assessment and the assessment report provided the following statements:

*The southerly views enjoyed from the south-facing apartments include uninterrupted 180 degree views of the southern side of St Leonards in the foreground and views of the Sydney city skyline and the Harbour Bridge and Milson Point beyond. Apartments also enjoy views of Sydney Harbour, spanning from the Heads to the east Drummoyne to the west. The quality of the view improves with height in both Forum and Forum West towers.*

*The view impact analysis provided in the Portent's PPR indicates that the proposal would primarily impact upon southerly view to 2 apartments per level between 15 to 24 (total 20 apartments) within the Forum tower and on apartments per level between levels 17 to 23 (total 7 apartments) within the Forum West. In addition, the proposal would impact upon views from all levels of the commercial podium, particularly views from the eastern and central portions of the building.*

*The Department of Planning and Infrastructure (State Section) had considered the proposal was reasonable given that:*

- The site is located within a commercial CBD and is subject to a 65m high height limit and 14:1 maximum floor space ratio in the LEP controls which apply to the site.*
- The site is zoned "B3 – Commercial Core". The LEP does not contain any objectives of control to protect views in the commercial core zone.*
- The increased height caused minimal additional view loss.*
- The DCP provides various objectives and control to achieve view sharing. However the Proponent has demonstrated that full compliance with the DCP controls would not preserve views from the north.*

It is noted that part of the south aspect view from the apartments of the Forum development to the Sydney Harbour Bridge and the city skyline was obtained over the existing 2-3 storey buildings on the site. Any new development which fully complies with the building height standard of the LEP on the site and the adjoining properties would inevitably result in a significant view loss to the lower levels of the Forum development. Nevertheless, the maximum building height, the footprint and development were approved by the Part 3A Concept Approval.

All submissions have been taken into consideration during the assessment.

## CONCLUSION

The development application was submitted with a Part 3A Concept Plan Approval. The building height and the footprint of the Part 3A Concept Plan Approval is inconsistent with the building height and block control provisions of Lane Cove LEP and DCP.

The matters under Section 79C and the Schedule 6A of the Environmental Planning and Assessment Act 1979 have been considered.

The proposed development is generally consistent with the Terms of the Part 3A Concept Plan Approval. The Statement of Commitments has not been fully met at this stage given that some of the commitments of the concept plan approval are beyond the applicant's desire to comply, such as the need for the underground rail way pass upgrade.

The development application is recommended for approval as deferred commencement as follows.

## RECOMMENDATION

### Part A

THAT pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979, as amended, the Sydney East Joint Regional Planning Panel grant deferred development consent to Development Application 11/224 for the demolition of all existing structures on the following lots

- 79 Lithgow Street, St Leonards (Lot 71, DP 542079);
- 77 Lithgow Street, St Leonards (Lot 72, DP 542079);
- 75 Lithgow Street, St Leonards (Lot 10, Section 18, DP 3175);
- 86-90 Christie Street, St Leonards (Lot 4, DP 560889, and Lot 50, Section 18, DP 3175).

subject to the following :

The owner of the site of the approved development must enter into an agreement with RailCorp to address the potential impacts of the approved development on the CBD Rail Link. The agreement must provide for the following:

- (i) the design, construction and maintenance of the approved development so as to satisfy the requirements in operational condition B1 to B9 below;
- (ii) allowances for the future construction of railway tunnels in the vicinity of the approved development;
- (iii) allowances for the future construction and maintenance of the approved development for the future operation of railway tunnels in the vicinity of the approved development, especially in relation to noise, vibration, stray currents, electromagnetic fields and fire safety;
- (iv) consultation with RailCorp;

- (v) access by representatives of RailCorp to the site of the approved development and all structures on that site;
- (vi) provision to RailCorp of drawings, reports and other information related to the design, construction and maintenance of the approved development;
- (vii) preparation of a completion report that summarises and incorporates material and documents related to the Agreement;
- (viii) creation of a restrictive covenant on each of the titles which comprise the approved development so as to satisfy operational condition B12 below;
- (ix) such other matters which RailCorp considers are appropriate to give effect to (i) to (viii) above; and
- (x) such other matters as the owners and RailCorp may agree.

Documentary evidence as requested of the above information must be submitted to the consent authority within 12 months of the granting of this deferred commencement consent. Commencement of the approval cannot commence until written approval of the submitted information has been given by Council.

#### Part B.

Subject to A. above being satisfied, a development consent and plans be issued, subject to the following conditions:

#### Operational Conditions:

- B1. All structures which are proposed for construction or installation, or which are constructed or installed, in connection with the approved development which have a potential impact on the CBD Rail Link must be designed, constructed and maintained so as to:
  - a. ensure that they not inhibit and prevent damage to, or other interference with the approved development which may occur in connection with the future design, construction and operation of the CBD Rail Link in any location, including the risk of any damage which may occur as a result of any rock stress redistributions, associated load re-distributions, rock movements, other geological events and draw down of the water table;
  - b. allow for the future demolition of any part of the approved development without damaging or otherwise interfering with the CBD Rail Link and rail operations in any location. This does not apply where a part of the structure is to be retained because its demolition would damage or otherwise interfere with the CBD Rail Link and train operations, in which case, that part of the structure must have a minimum design life of 100 years;
  - c. ensure that liquids and gases cannot transfer into the CBD Rail Link;
  - d. avoid any damage or other interference which may occur as a result of stray electrical currents, electromagnetic effects and the like from railway operations; and
  - e. avoid any damage or other interference which may occur as a result of noise

and vibration from railway operations.

B.2 The applicant shall prepare and provide to RailCorp for approval/certification the following items:

1. Final Geotechnical and Structural report/drawings that meet RailCorp's requirements. The Geotechnical Report must be based on actual new borehole testing conducting on the site closest to the rail corridor.
2. Final Construction methodology with construction details pertaining to structural support during excavation. The Applicant is to be aware the RailCorp will not permit any rock anchors/bolts (whether temporary or permanent) within in its land or easements.
3. Final cross sectional drawings showing ground surface, rail tracks, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the existing Rail Corridor and CBD rail Link.
4. Final Impact Assessment Report near RailCorp infrastructure based on the results of the Geotechnical Investigation and any RailCorp requirements.
5. If required by RailCorp, an FE analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor and detailed analysis of the stress-strain field of the rock mass after excavation.
6. If required by RailCorp, a track monitoring plan detailing the proposed method of track monitoring during excavation and construction phases.

Any conditions issued as part of RailCorp's approval/certification of the above documents will also form part of the consent conditions that the Applicant is required to comply with.

A Construction Certificate is not to be issued until the measures detailed in this condition of consent have been incorporated into the construction drawings and specification. Prior to the commencement of works the Principle Certifying Authority is to provide verification to RailCorp that this condition has been complied with.

- B3. All structures which are proposed for construction or installation, or which are constructed or installed, in connection with the approved development which have a potential impact on the CBD Rail Link must be designed, constructed and maintained in accordance with design criteria specified by RailCorp.
- B4. The design and construction of the basement levels, foundations and ground anchors for the approved development are to be completed to the satisfaction of RailCorp.
- B5. No modifications may be made to that approved design without the consent of RailCorp.
- B6. RailCorp and persons authorised by it for this purpose, are entitled to inspect the site of the approved development and all structures to enable it to consider whether those structures on that site have been or are being constructed and maintained in accordance with these conditions of consent, on giving

reasonable notice to the principal contractor for the approved development or the owner or occupier of the part of the site to which access is sought.

- B7. A detailed regime is to be prepared for consultation with, and approved by, RailCorp for the excavation of the site and the construction of the building foundations (including ground anchors) for the approved development, which may include geotechnical and structural certification in the form required by RailCorp.
- B8. All requirements contained in the Agreement between RailCorp and the owners of the site must be satisfied during construction and, where appropriate, the operation of the approved development.
- B9. Copies of any certificates, drawings or approvals given to or issued by RailCorp must be submitted to Council for its records.
- B10. Prior to the issue of an Occupation Certificate a completion report as required in deferred commencement A1(vii) must be completed to the satisfaction of RailCorp.
- B11. Prior to the issuing of an Occupation Certificate the Applicant is to submit the as-built drawings to RailCorp and Council.

The Principle Certifying Authority is not to issue the Occupation Certificate until written confirmation has been received from RailCorp confirming that this condition has been satisfied.

- B12. Prior to the commencement of any excavation below existing ground level, a restrictive covenant is to be created upon each of the titles which comprise the approved development pursuant to Section 88E of the Conveyancing Act 1919, restricting any alterations or additions to any part of the approved development which are reasonable likely to adversely affect, or which otherwise are likely to interfere with the safety or structural integrity and effective operation of the proposed CBD Rail Link without the prior written consent of RailCorp.
- B13. Prior to the commencement of works and prior to the issue of the Occupation Certificate, a joint inspection of the rail infrastructure and property in the vicinity of the project (especially the retaining wall and rail track formation) is to be carried out by representatives from RailCorp and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by RailCorp.
- B14. An acoustic assessment is to be submitted to Council prior to the issue of a Construction Certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads – Interim Guidelines". This assessment is also to assess the likely noise and vibration that may emanate from the CBD Rail Link (CBDRL). The applicant must incorporate in the development all the measures recommended in the report.
- B15. Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The applicant must incorporate in the

development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.

B16. Given the possible likelihood of objects being dropped or thrown onto the rail corridor from balconies, windows and other external features (e.g. roof terraces and external fire escapes) that are within 20m and face the rail corridor, the Applicant is required to install measures (e.g. awning windows, louvers, enclosed balconies, window restrictors etc) which prevent the throwing of objects onto the rail corridor. These measures are to comply with RailCorp requirements. The Principle Certifying Authority is not to issue the Construction Certificate until it has confirmed that these measures are to be installed and have been indicated on the Construction Drawings.

B17. The design, installation and use of lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of RailCorp.

The Principle Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from RailCorp confirming that condition has been satisfied.

B18. Prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to RailCorp for review and comment on the impacts on rail corridor. The Principle Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from RailCorp confirming that this condition has been satisfied.

B19. Prior to the issuing of a Construction Certificate the Applicant is to submit to RailCorp a plan showing all craneage and other aerial operations for the development and must comply with all RailCorp requirements. The Principle Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from the RailCorp confirming that this condition has been satisfied.

B20. Where a condition of consent requires RailCorp's endorsement the Principle Certifying Authority is not to issue a Construction Certificate or Occupancy Certificate, as the case may be, until written confirmation has been received from the RailCorp that the particular condition has been complied with.

**Advisory Note:**

- In relation the deferred commencement condition, the applicant is advised to contact RailCorp Corridor Protection Advisor. Mr. John Bryan on 0409 243 851.

**Part 3**

**General Conditions**

1. That the development be strictly in accordance with the following drawings dated November 2011, prepared by Batess Smart except as amended by the following conditions.

- Site Plan, A02-001, Revision 1;
  - Basement 001, A03-001, Revision 1;
  - Basement 002, A03-002, Revision 1;
  - Basement 003, A03-003, Revision 1;
  - Basement 004, A03-001, Revision 1;
  - Basement 005, A03-005, Revision 1;
  - Lower Ground, A03-100, Revision 1;
  - L00-Ground Level, A03-200, Revision 1;
  - Level 01, A03-201, Revision 1;
  - Level 02, A03-202, Revision 1;
  - Level 03, A03-203;
  - Level 04, A03-204, Revision 1;
  - Level 05, A03-205, Revision 1;
  - Level 06, A03-206, Revision 1;
  - Level 07, A03-207, Revision 1;
  - Level 08, A03-208, Revision 1;
  - Level 09, A03-209, Revision 1;
  - Level 10, A03-210, Revision 1;
  - Level 11, A03-211, Revision 1;
  - Level 12, A03-21-, Revision 1;
  - Level 13, A03-213, Revision 1;
  - Level 14, A03-214, Revision 1;
  - Level 15, A03-215, Revision 1;
  - Level 16, A03-216, Revision 1;
  - Plant Room Level, A03-217, Revision 1;
  - Elevation – West, A04-001, Revision 1;
  - Elevation – North, A04-002, Revision 1;
  - Elevation – East, A04-003, Revision 1;
  - Elevation – South, A04-004, Revision 1;
  - -Section AA, A05-101, Revision 1;
  - Section BB, A05-102, Revision 1;
  - Landscape Plan, LP-DA-01, Revision B, dated 24/11/11;
  - Rooftop Landscape Plan, LP-DA-02, Revision A, Dated 18/11/11.
2. The submission of a Construction Certificate and its issue by Council or Private Certifier PRIOR TO CONSTRUCTION WORK commencing.
  3. All building works are required to be carried out in accordance with the provisions of the Building Code of Australia.
  4. The approved plans must be submitted to a Sydney Water Check agent or Customer Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped. For Quick Check agent details please refer to the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) see Your Business then Building & Developing then Building & Renovating or telephone 13 20 92.
- The consent authority or a private accredited certifier must:-
- Ensure that a Quick Check agent/Sydney Water has appropriately stamped the plans before the issue of any Construction Certificate.
5. (15) THE PAYMENT OF A CONTRIBUTION OF **\$2,468,137.90** TOWARDS



TRAFFIC MANAGEMENT AND STREETScape IMPROVEMENTS, OPEN SPACE AND RECREATION FACILITIES, DRAINAGE AND COMMUNITY FACILITIES. THE CONTRIBUTION TO BE MADE PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE AND TO BE AT THE CURRENT RATE AT TIME OF PAYMENT. THE AMOUNT IS AT THE CURRENT RATE OF \$94.87/m<sup>2</sup>. NOTE: PAYMENT MUST BE IN BANK CHEQUE. PERSONAL CHEQUES WILL NOT BE ACCEPTED.

THE CONTRIBUTION IS BASED ON 26,016 SQM AND THE CONTRIBUTION RATE OF \$94.87 PER SQM OF ADDITIONAL RETAIL/COMMERCIAL FLOOR SPACE.

THIS CONTRIBUTION IS UNDER LANE COVE COUNCIL SECTION 94 CONTRIBUTIONS PLAN WHICH IS AVAILABLE FOR INSPECTION AT THE CUSTOMER SERVICE COUNTER, LANE COVE COUNCIL, 48 LONGUEVILLE ROAD, LANE COVE.

6. An Occupation Certificate being obtained from the Principal Certifying Authority before the occupation of the building.
7. All car parking spaces on site shall comply with requirements of the Australian Standard AS 2890.1-1993 ("Parking facilities, Part 1: Off-street car parking").
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. All advertising signs/structures being the subject of a separate development application.
12. The use of the proposed building must obtain separate development consent of Council.
13. The provision of 206 on-site car parking spaces including 3 accessible car spaces must be provided for the use of proposed building at all times.
14. Access and parking spaces for disabled persons being provided in accordance with Part D.3 of the Building Code of Australia.
15. 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.**

16. 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.

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:-

- b) All reinforcement prior to filling with concrete.
- c) The dampcourse level and each floor before covering.
- d) Framework including roof and floor members when completed and prior to covering.
- e) Installation of steel beams and columns prior to covering
- f) Waterproofing of wet areas
- g) Stormwater drainage lines prior to backfilling
- h) 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) Each level floor framing.

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. A check survey certificate is to be submitted at the completion of:-

- a The establishment of the each floor level;
- b The roof framing; and
- c 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.

22. 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.

23. The use of mechanical rock pick machine

- (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.

- 24. The proposed works must be confined within the boundaries of the site.
- 25. The site being cleared of all debris and left in a clean and tidy condition at the completion of all works.
- 26. 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.
- 27. All spillage deposited on the footpaths or roadways to be removed at the completion of each days work.
- 28. The site being properly fenced to prevent access of unauthorised persons outside of working hours.
- 29. Compliance with Australian Standard 2601 - The Demolition of Structures.
- 30. Submission of a Waste Management Plan for the disposal of all waste material, spoil and excavated material. The Waste Management Plan shall be submitted PRIOR TO ISSUE OF THE CONSTRUCTION CERTIFICATE.

31. 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.
32. Lane Cove Council charges a fee of \$36 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.
33. **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.**

34. The Accessible through-site link including the lifts for the access of the link must be available for public access 24 hours per day, seven days per week.
35. A management plan of the operation of the through-site link to ensure the safety of the public access must be prepared and submitted to the Principle Certificate Authority prior to the release of the Occupation Certificate.

#### **Community Service Condition**

36. The proposed development must adopt the all recommendations made by Morris-Goding Accessibility Consulting prepared for the proposed development application.

#### **General Engineering Conditions**

37. **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.
38. **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.
39. **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.**
40. **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.

41. **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.
42. **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.
43. **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’*.
44. **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.
45. **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.
46. **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 the property. This fence is for the safety of pedestrians on the public footpath.
47. **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.
48. **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.

49. **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.
50. **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.
51. **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.
52. **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.
53. **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.
54. **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 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.

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

55. **Drainage Construction:** The stormwater drainage on the site is to be constructed generally in accordance with plan **DACS010 Issue 01** prepared by **Hyder Consulting P/L** dated **02 May 2012**.

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 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.

56. **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**.

57. **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**.

58. **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 **\$5.76**

4 axle single unit **\$7.17**

4 axle or less double unit, 1 unit is truck **\$8.56**

5 axle double unit, 1 unit is truck **\$10.03**

6 or more axle double, 1 unit is truck **\$11.50**

5 axle or less multi unit **\$18.06**

6 axle multi unit **\$14.32**

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

59. **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.

60. **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.

61. **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.

62. **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.**

63. **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.**

64. **Proposed Vehicular Crossing:** The proposed vehicular crossing shall be constructed to the specifications and levels issued by Council. A '*Construction of a Multi Unit Footpath Crossing*' application shall be submitted to Council **prior to the issue of the Construction Certificate.** All works associated with the construction of the crossing shall be completed **prior to the issue of the Occupation Certificate.**
65. **Boundary Levels:** The levels of the street alignment shall be obtained from Council. These levels are to be incorporated into the design of the internal pavements, car parking, landscaping and stormwater drainage plans and shall be obtained **prior to the issue of the Construction Certificate.** Note: The finished floor level of the proposed basement car park shall be determined by Council.
66. **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.**
67. **Council Construction Requirements:** The applicant shall construct / reconstruct the following:
1. New footpath along the entire frontage of the site to Council's satisfaction.
  2. New Kerb and Gutter along the entire frontage of the site.
  3. Reinstate all adjustments to the road surface to Council's satisfaction.
  4. Reinstate all nature strip areas adjacent to the development to Council's satisfaction.
- A \$10,000.00 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.
68. **Council Inspection Requirements:** The following items shall require Council inspections.
- New footpath
  - New kerb and gutter
  - 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 / set out requirements.

An Inspection fee of \$580.00 is to be paid **prior to the issue of the Construction Certificate.**

69. **Erosion and Sediment Control Plan:** An *Erosion and Sediment Control Plan* (ESCP) 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**

70. **Erosion and Sediment 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) *Erosion and sediment control plan*'. The devices shall be maintained during the construction period and replaced when necessary.

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

71. **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.**
72. **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.**
73. **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.**
74. **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.

### **Environmental Health Conditions**

75. A stage 2 site investigation is to be undertaken in accordance with the provisions of SEPP 55. Upon completion of all related earth works, a site audit statement is to be submitted to Council from an EPA accredited site Auditor confirming that the validation report has been completed and that the site is suitable for the commercial use and is not subject to contamination.

### **Landscaping Conditions**

76. 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.
77. The applicant must obtain written authority prior to pruning or removal of any trees greater than 4m in height, located on the property or in neighbouring properties including the cutting of any tree roots greater than 40mm in diameter. Trees shown on the approved Plans for removal are exempt from this condition.
78. 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.
79. 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.
80. The rooftop landscape Plan must be adopted as part of the development consent. The plant material proposed on the Landscape Plan dated 18/11/2011 must be established prior to **ISSUE OF THE OCCUPATION CERTIFICATE**. The rooftop landscape must be maintained to a high horticultural standard in perpetuity.
81. No landscaping work is permitted on Council owned land.

### **Traffic Management Conditions**

82. All 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 complying with AS/NZS 2890.1:2004 for Off-Street car parking and for loading facilities and Services vehicles with AS 2890.1-2002.

83. The applicant shall provide a detailed traffic study addressing the proposed development's traffic impact on the road network surrounding the site of No 88 Christie Street. The detail traffic impact assessment shall include the intersections in the immediate vicinity using SIDRA traffic intersection modelling as described above.
84. Consideration of various options related to Christie Lane. Traffic modelling shall be carried out to determine the impact of the following scenarios:
  - The do nothing scenario;
  - Re-locating Christie Lane further south;
  - Closing the laneway and consideration to allow only pedestrian access at that location;
  - Closing the Laneway but changing the intersection arrangements in the surrounding vicinity.
85. A detail pedestrian analysis shall be undertaken, which shall not be limited to examining the existing and the proposed intersection traffic control proposal scenarios and Councils Pedestrian Access and Mobility Plan (PAMP).
86. **CONSTRUCTION MANAGEMENT PLAN**

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 assess and address the impact of heavy vehicles travelling through the surrounding road network and the impact on the surrounding intersections.
87. 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.
88. 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.

Attachment 1 - Part 3A Concept Plan Approval

Attachment 2 - Compliance with Part 3A Concept Plan Approval commitments

