

8 May 2014

General Manager  
Lane Cove Council  
48 Longueville Road  
Lane Cove NSW 2066

Attn: Rebecca Groth, Senior Town Planner

By Email: [RGroth@lanecove.nsw.gov.au](mailto:RGroth@lanecove.nsw.gov.au)  
CC: [Angela.Kenna@planning.nsw.gov.au](mailto:Angela.Kenna@planning.nsw.gov.au)

Dear Madam,

**JRPP Reference:** 2013SYE105

**Address of Site:** 2-22 Birdwood Ave & 1-15 Finlayson Street, Lane Cove

**Application Reference:** DA 194/2013

**Description of Proposal:** Stage 1 Concept Plan for the redevelopment of the site for the purpose of 4 residential flat buildings, basement parking and on-site landscaping

City Plan Strategy & Development acts on behalf of Turner (Applicant) and Orca Partners (Proponent) in relation to the above DA, which was determined by the Sydney East Joint Regional Planning Panel (JRPP) on 26 March 2014.

The determination is set out below:

- 1. The majority of the Panel (for: John Roseth, David Furlong, Julie Savet-Ward and Trevor Bly; against: Soo Tee Cheong) resolves that it would approve the amended application submitted on 21 March 2014, subject to a set of suitable conditions.*
- 2. The Panel has considered the planning assessment report and the supplementary report, both of which recommend refusal, mainly on the grounds that the proposal does not comply with the FSR and height controls. However, the Panel has given major weight to the benefit of the site amalgamation and the consequential opportunities for good site landscaping as well as the simplification of parking and vehicular entry/exit. In the majority Panel's view, the public benefit of this amalgamation is commensurate with the relatively minor non-compliance with the FSR control. As concerns the additional height above 18m, the Panel notes that parts of the proposal are below 18m and that the top storey is well recessed.*
- 3. The Panel wants it to be noted that its acceptance of non-compliance in this case should not be regarded as a precedent for other developments. The value of this amalgamation is that it brings the entire block into redevelopment, ensuring that no isolated pockets of single housing are left.*
- 4. the Panel requests the planning assessment officer to prepare, by 11 April 2014, a set of suitable conditions. Following receipt of these conditions, the Panel will determine the application by communicating by electronic means.*
- 5. Soo Tee Cheong voted against the proposal on the grounds of non-compliance with the height control, which, in his view, had a negative impact on Birdwood Avenue and Rosenthal Street.*

The draft conditions were issued to the JRPP on Wednesday 7th May 2014.

This letter has been prepared in response to Lane Cove Council's Draft Condition of Consent for the above matter.

This letter is sent to the Council and copied to the JRPP for its information.

### Response to Council's Proposed Conditions of Consent

A review of the draft conditions have identified various matters that are considered necessary to be addressed to ensure the development may proceed in an appropriate manner. As such, it is respectfully requested that the conditions be reviewed and considered to be amended as identified in **Table 1** below:

**Table 1: Proposed amendments to draft conditions of consent**

Condition No.	Content	Comment	New Condition/Action if relevant
1	<p><i>Development consent is granted to staged development application No. DA13/194 that sets out a concept proposal for the development of the land known as 2-22 Finlayson Street and 11-15 Birdwood Avenue, Lane Cove comprising of the 17 lots listed below ("the site") for the purpose of four (4) residential flat buildings with combined basement car parking, on-site landscaping and a pedestrian through site link subject to compliance with the following conditions:</i></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Lot 81 DP10155</li> <li><input type="checkbox"/> Lot 82 DP10155</li> <li><input type="checkbox"/> Lot 831 DP844967</li> <li><input type="checkbox"/> Lot 832 DP844967</li> <li><input type="checkbox"/> Lot 84 DP10155</li> <li><input type="checkbox"/> Lot 85 DP10155</li> <li><input type="checkbox"/> Lot 86 DP10155</li> <li><input type="checkbox"/> Lot 87 DP10155</li> <li><input type="checkbox"/> Lot 88 DP10155</li> <li><input type="checkbox"/> Lot 892 DP855900</li> <li><input type="checkbox"/> Lot 891 DP855900</li> <li><input type="checkbox"/> Lot 502 DP868066</li> <li><input type="checkbox"/> Lot 501 DP868066</li> <li><input type="checkbox"/> Lot 91 DP10155</li> <li><input type="checkbox"/> Lot 75 DP10155</li> <li><input type="checkbox"/> Lot 76 DP10155</li> <li><input type="checkbox"/> Lot 77 DP10155</li> </ul>	The address references are incorrect.	<p>Amend condition as follows:</p> <p><i>Development consent is granted to staged development application No. DA13/194 that sets out a concept proposal for the development of the land known as 2-22 <del>Finlayson Street</del> Birdwood Avenue and 11-15 <del>Birdwood Avenue</del> Finlayson Street, Lane Cove comprising of the 17 lots listed below ("the site") for the purpose of four (4) residential flat buildings with combined basement car parking, on-site landscaping and a pedestrian through site link subject to compliance with the following conditions:</i></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Lot 81 DP10155</li> <li><input type="checkbox"/> Lot 82 DP10155</li> <li><input type="checkbox"/> Lot 831 DP844967</li> <li><input type="checkbox"/> Lot 832 DP844967</li> <li><input type="checkbox"/> Lot 84 DP10155</li> <li><input type="checkbox"/> Lot 85 DP10155</li> <li><input type="checkbox"/> Lot 86 DP10155</li> <li><input type="checkbox"/> Lot 87 DP10155</li> <li><input type="checkbox"/> Lot 88 DP10155</li> <li><input type="checkbox"/> Lot 892 DP855900</li> </ul>

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7	<p><i>The combined floor space ratio for all buildings on the site must not exceed 1.85:1 and the maximum number of dwellings that may be constructed on the site must not exceed 245 and shall comprise of a mix of studio, 1, 2 and 3 bedroom dwellings in the following proportions:</i></p> <p>3% studio units            15% 1 bed units            25% 1 bed + study units            45% 2 bed units            12% 3 bed units</p>	<p>The DA clearly stated that approval was sought only for a maximum GFA/FSR and not for the maximum number of units or unit mix.</p> <p>Internal building layouts in the DA were indicative only and it was always intended that the maximum number of units and final unit mix would be refined in detailed design development.</p> <p>Council's DCP includes a unit mix guideline of at least 10% of each unit type (1, 2 and 3 bedroom) to be provided. Future stage DA's will consider this guideline and provide a response accordingly.</p>	<p>Amend condition as follows:</p> <p><i>The combined floor space ratio for all buildings on the site must not exceed 1.85:1. <del>and the maximum number of dwellings that may be constructed on the site must not exceed 245 and shall comprise of a mix of studio, 1, 2 and 3 bedroom dwellings in the following proportions:</del></i></p> <p><i>3% studio units            15% 1 bed units            25% 1 bed + study units            45% 2 bed units            12% 3 bed units</i></p>
11	<p><i>Provision of 4% of units that are in excess of the FSR pursuant to the LEP shall be dedicated to Lane Cove Council as affordable housing.</i></p>	<p>This condition is considered to be unreasonable.</p> <p>The subject development does not seek approval for affordable housing and at no point during the assessment or determination of this application was an offer made or a requirement to provide a proportion of affordable housing indicated.</p> <p>The appropriateness of the additional yield above Council's LEP FSR control was determined on the basis of the environmental assessment undertaken.</p>	<p>Delete condition</p>

		We respectfully request that this condition be deleted.	
<b>14A</b>	<p><i>THE PAYMENT OF A CONTRIBUTION FOR ADDITIONAL PERSONS IN ACCORDANCE WITH COUNCIL'S SECTION 94 CONTRIBUTIONS PLAN. THIS PAYMENT BEING MADE PRIOR TO THE ISSUE OF CONSTRUCTION CERTIFICATE AND IS TO BE AT THE CURRENT RATE AT TIME OF PAYMENT. THE AMOUNT IS AS PER THE CALUCLATION BELOW.</i></p> <p><i>NOTE: PAYMENT MUST BE IN BANK CHEQUE. PERSONAL CHEQUES WILL NOT BE ACCEPTED.</i></p> <p><i>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.</i></p>	<p>As the DA is for a concept only and no physical works, it would be appropriate to include a condition for Section 94 contributions prior to the issue of a CC for future stage DAs.</p> <p>However, if Council requires a condition in this regard, a condition for contributions may be imposed stating that contributions are to be payable prior to the issue of a construction certificate for future stage DAs and in accordance with the Contribution Plan applicable at that time.</p> <p>Should such a condition be imposed, we respectfully request that it clearly states that contributions are payable proportionate to the number of units proposed in <u>each stage</u> should the development be the subject of multiple future stages.</p>	Delete condition or amend as per comment.
<b>15</b>	<p><i>A comprehensive Traffic Impact Assessment (TIA) must be prepared by a reputable transport consultant and submitted with the first further development application. The report shall be prepared in accordance with Council's TIA Checklist. Any deviation from the required report structure and content must be endorsed by Council's traffic section. Council will provide all available information relating to local developments and transport projects such as the Longueville Road Intersection Improvement</i></p>	<p>A comprehensive TIA was submitted with the subject DA. We respectfully request that this condition be amended to allow for a supplementary TIA to be prepared to address detailed issues as they relate to the detailed design of future stages.</p>	<p>Amend condition as follows:</p> <p><i>A <del>comprehensive</del> supplementary Traffic Impact Assessment (TIA) must be prepared by a reputable transport consultant and submitted with the first further development application. The report shall be prepared in accordance with</i></p>

	Scheme.		Council's TIA Checklist. Any deviation from the required report structure and content must be endorsed by Council's traffic section. Council will provide all available information relating to local developments and transport projects such as the Longueville Road Intersection Improvement Scheme.
29	<i>The on-site waste collection / loading bay must comply with the Service Bay dimensions for the SRV vehicle class (3.5m x 6.4m; 3.5m vertical clearance) as per AS 2890.2.</i>	<p>The type of garbage truck (from the DCP) that will be used for the development is the one with dimensions 6.64m long x 2.37m wide x 2.40m high type of garbage truck.</p> <p>The development has been designed to be consistent with this (and also regarding vertical clearance).</p> <p>We respectfully request that this condition be amended accordingly.</p>	<p>Amend condition as follows:</p> <p><i>The on-site waste collection / loading bay must comply with the Service Bay dimensions for the SRV vehicle class (<del>3.5m x 6.4m; 3.5m vertical clearance</del> 6.64 metres long x 2.37 metres wide x 2.4 metre operational height) as per AS 2890.2.</i></p>
41	<i>The entry to the car park shall maintain a clearance height of at least 5.2 metres. This clearance height shall be maintained throughout the travel path and stationary locations of the collection vehicle.</i>	<p>This requirement for a 5.2 metre clearance height for the car park entrance was a matter that we had previously made representations to Council about. Our response (as made previously) is below:</p> <p>We are unsure where the requirement for a floor-to-ceiling height of 5.2 metres is sourced from as Section Q of Council's DCP (page 42) requires a clear height of 2.6 metres for residential waste rooms. The development is capable of complying with this requirement. To further</p>	<p>Amend condition as follows:</p> <p><i>The entry to the car park shall maintain a clearance height of at least <del>5.2</del> 2.6 metres. <del>This clearance height</del> An operational height of 2.4 metres shall be maintained throughout the travel path and stationary locations of the collection vehicle, in accordance with the DCP.</i></p>

		<p>respond to this issue, we refer to the attached response prepared by Henson Consulting which confirms the following:</p> <p><i>"Lane Cove DCP Part Q – Waste Management and Minimisation provides guidance for travel height requirements for Council's waste vehicles. The diagram on page 47 shows the smallest Council Garbage Truck used for Domestic Waste Collection –Rear Load: a length overall of 6.64m, operational height 2.40m, and travel height of 2.60m(clear of sprinklers, lighting, and ducts etc), 7.5 tonne vehicle and load, turning circle of 10.7m. This ability to service residential buildings with 2.6m clear headroom was confirmed in 2014 with Council.</i></p> <p><i>As described in the TIS, there is sufficient headroom for this vehicle to access and operate in accordance with Australian Standard AS2890.2 2002 in the garbage collection areas of the basement of the subject development.</i></p> <p><i>There is a wide range of systems for dealing with waste including ducting, the proposed basement collection, collection from a central loading dock, and delivery of bins by hand or tug for collection of bins from kerbside. Discussions with major waste operators such as Veolia and URM Group in January 2014 confirm that they provide regular services across this range of operations to Council and private clients, including services with a travel</i></p>	
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		<p>height of 2.6m.</p> <p><i>Discussions with designers and architects of multi –unit residential development indicate that 2.6m basement access to garbage is a common design solution. A nearby example is 17-21 Finlayson Street Lane Cove."</i></p>	
49	<p><i>The first further development application for development on the site and each further development application shall be accompanied by a statement demonstrating the commitments to delivering a benchmark in sustainable residential development in Lane Cove as detailed within the conclusion of the Sustainability Statement prepared by ORCA Partners Pty Ltd and dated 18 November 2013.</i></p>	<p>The Sustainability Statement submitted with the DA was prepared by Arup and not ORCA Partners Pty Ltd.</p> <p>We respectfully request that this condition be amended.</p>	<p>Condition amended as follows:</p> <p><i>The first further development application for development on the site and each further development application shall be accompanied by a statement demonstrating the commitments to delivering a benchmark in sustainable residential development in Lane Cove as detailed within the conclusion of the Sustainability Statement prepared by <del>ORCA Partners Pty Ltd</del> ARUP and dated 18 November 2013.</i></p>

We trust that the above information is satisfactory to address the matters identified. It would be greatly appreciated that the above comments be taken into consideration and considered for the JRPP determination.

Should you wish to discuss any aspect of the contents of this letter, please do not hesitate to contact the undersigned on (02) 8270 3500.

Yours Sincerely,



**David Ryan**  
**Executive Director**  
**CITY PLAN STRATEGY AND DEVELOPMENT**