

**Environmental Services Division
Sydney East Joint Regional Planning Panel meeting of 19 March 2015**

2014SYE117

Property: 1-13A and Part 15 and 15A Marshall Avenue, St. Leonards
 DA No: DA14/143
 Date Lodged: 15 September 2014
 Cost of Work: \$95,503,546
 Owner: Loftex Pty Ltd
 Applicant: Loftex Pty Ltd
 Author: Rebecka Groth

DESCRIPTION OF PROPOSAL TO APPEAR ON DETERMINATION	Construction of a mixed use development comprising 269 residential units, commercial/retail space, communal areas and basement parking for 295 vehicles, construction of a roundabout, subdivision and a voluntary planning agreement
ZONE	B4 Mixed Use under the Lane Cove Local Environmental Plan 2009
IS THE PROPOSAL PERMISSIBLE WITHIN THE ZONE?	Yes
IS THE PROPERTY A HERITAGE ITEM?	No
IS THE PROPERTY WITHIN A CONSERVATION AREA?	No
IS THE PROPERTY ADJACENT TO BUSHLAND?	No
BCA CLASSIFICATION	2, 5/6 and 7a
STOP THE CLOCK USED	Yes
NOTIFICATION	2, 4, 6, 8, 10, 12, 14 and 16 Marshall Avenue All properties within Holdsworth Street All properties within Berry Road Properties on the eastern side of Park Road All properties within Canberra Avenue 52, 54, 71-73, 75, 77 and 70 Lithgow Street 2-4, 6-8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, 32-42, 44, 46, 58-64, 66, 558, 560, 562 and 564 Pacific Highway

	<p>East Ward Councillors</p> <p>Associations: Marshall Avenue Action Group, Marshall Avenue West Action Group, St Leonards-Wollstonecraft Residents Association</p> <p>Others: Willoughby Council</p> <p>Complete details of the notification are available on Council's file</p>
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REASON FOR REFERRAL:

This application has been referred to the Sydney East Joint Regional Planning Panel as per Schedule 4A of Environmental Planning and Assessment Act 1979 as the proposed development has a capital investment value of greater than \$20 million.

EXECUTIVE SUMMARY:

- The subject site is irregular in shape with an area of 3,795m². The site is located on the northern side of Marshall Avenue and falls approximately 3.5m from the north-western section down to the north-eastern section.
- The proposed mixed use development meets the requirements of Council's Local Environmental Plan 2009 with regard to maximum permissible floor space ratio.
- The low rise component of the proposal complies with the maximum permissible height limit for the site. The high rise, Tower, component seeks consent to vary from the maximum permissible height for the site by approximately 29m or 9 storeys.
- A voluntary planning agreement (VPA) has been proposed by the applicant, exhibited and adopted by Council at its meeting of 17 November 2014. The VPA accompanies the development application.
- The proposal generally meets the requirements of Council's Development Control Plan, the following variations are sought:
 - Visitable unit requirement for access to bathrooms
 - Minor reduction in on-site car parking
 - Proportion of building presenting to the street
- Council's Consulting architect confirms the proposed development generally meets the 10 design quality planning principles of State Environmental Planning Policy 65.
- A total of 115 individual submissions were received as a result of the notification period and two (2) petitions with 64 signatures for the proposal. The primary issues raised in the submissions include the following:
 - Suitability of the development for the site
 - Bulk and scale of the proposal
 - View loss
 - Overshadowing
 - Opposition to and support for the Voluntary Planning Agreement

- Traffic congestion
 - Amenity
 - Noise
- On 6 November 2014, the JRPP was briefed on the proposal.
 - The proposed development is recommended for approval subject to draft conditions.

Background into Planning Proposal

The applicant controls all lots having frontage to north Marshall Avenue, St Leonards and sought to amend the height over two thirds of the site from 36m to 25m and to increase the height of the eastern third from 36m to 78m. The FSR was sought to be changed under the planning proposal from 5.1:1 to 2.5:1 for the western two thirds of the site, and the remaining portion increasing from 5.1:1 to 10:1. The amendment to the controls sought to permit the construction of a tower at the end of the site closest to the railway line. The redistribution of building height towards the eastern section of the site would ensure the properties immediately south of Marshall Avenue would continue to enjoy adequate access to sunlight. The above has been endorsed by Council and the Minister by the Planning Proposal and gazettal.

Below is a brief history of the Planning Proposal:

- In October 2011, Planning Proposal was submitted to Council for an amendment to the Local Environmental Plan (LEP) 2009 for 1-25 Marshall Avenue, St Leonards.
- Gateway approval was received from the Department of Planning and Infrastructure on 13 April 2012 and public exhibition was undertaken. A total of 172 submissions were received (including one petition with 534 signatures). An information evening was also held during the exhibition period.
- On 16 July 2012, Council considered a report on the exhibition's submissions with a recommendation for approval of the planning proposal, subject to reduction of height from 78m to 65m for the tower block. Council voted to defer its decision and called for additional information.
- The report to the Council Meeting of 19 November 2012 provided the additional information requested by Councillors at its meeting on 16 July 2012. In addition, the report recommended to Council that the planning proposal be supported, with a reduction in height for the tower from 78m to 65m. At the meeting, Council resolved to write to Loftex asking for a letter of support for an extension of time, this was received from Loftex. The Department on 2 January 2013 agreed to an extension of time for the completion of the planning proposal until the 30 June 2013.
- At the Council meeting of 18 March 2013, Council resolved not to continue with the planning proposal. Also, until the Department formally terminates the planning proposal it remains a relevant draft planning instrument.
- At the Council meeting of 15 April 2013, Council resolved to rescind the resolution of the 18 March 2013 Council meeting and resolved to proceed with the planning proposal.
- The plan was gazetted on the 17 April 2014.

The western most portion of the site included within the planning proposal (DA13/32, 15-25 Marshall Avenue) is currently under construction. The current development application pertains to the remaining portion of the planning proposal site area (1-13A and part 15 and 15A Marshall Avenue) and has been designed with regard to the controls in the Planning Proposal.

SITE:

The site is located on the northern side of Marshall Ave, south of the Pacific Highway. The description of the site is as follows:

Property	Legal Description
1 and 1A Marshall Avenue	Lot 17 Section 1 DP 7259
3 Marshall Avenue	Lot 181 DP 1044948
3A Marshall Avenue	Lot 182 DP 1044948
5 Marshall Avenue	Lot 191 DP 1048543
5A Marshall Avenue	Lot 192 DP 1048543
7 Marshall Avenue	Lot 201 DP 633091
7A Marshall Avenue	Lot 202 DP 633091
9 Marshall Avenue	Lot 1 DP 1068458
9A Marshall Avenue	Lot 2 DP 1068458
11 Marshall Avenue	Lot 2 DP 602010
11A Marshall Avenue	Lot 1 DP 602010
13 Marshall Avenue	Lot 232 DP 566002
13A Marshall Avenue	Lot 231 DP 566002
Part 15 Marshall Avenue	Lot 2 DP 209715
Part 15A Marshall Avenue	Lot 1 DP 209715

The site is irregular in shape with an area of 3,795.1m². The site has a frontage to Marshall Ave, Canberra Avenue and Marshall Lane.

The site falls approximately 3.5m from the north-western section of the site down towards the north-eastern section of the site.

The site comprises fifteen lots. The site previously comprised dwellings however these have been demolished as part of a separate development application (DA2012/226, No. 1-25 Marshall Avenue, St Leonards). A sales office associated with the redevelopment of the Marshall Avenue site operates from the site.

Matures trees line both sides of Marshall Avenue and are situated outside of the site boundaries. One tree is proposed to be removed to enable vehicular access into the proposed basement.

To the site's north is land zoned B3 Commercial Core which addresses the Pacific Highway. The commercial buildings which are immediately north of the site are approximately two to three storeys and have vehicular access from Marshall Lane. The northern side of Pacific Highway opposite the site is within the Willoughby Council Local Government Area.

To the site's east is land zoned SP2 Railway and comprises a rail corridor. To the north-east of the rail corridor is land zoned B3 Commercial Core and comprises dwelling houses and residential flat buildings.

To the site's south on Marshall Avenue and along part of Berry Street are one to two storey dwelling houses. These properties are zoned R2 Low Density Residential.

To the site's immediate north-west is an eight (8) storey mixed use building with a maximum height of 24.6m which is under construction to the immediate west at 13-25 Marshall Avenue. This building is known as Stage 1 of the redevelopment of Marshall Avenue. Further north-west of this construction site on Berry Street are commercial buildings ranging from two to seven storeys in height. These buildings address the corner of Berry Street and the Pacific Highway. Further south along Berry Street is an elevated open air car park and a single storey building. These properties are zoned B3 Commercial Core. The remainder of Berry Street is occupied by single storey dwelling houses and is zoned R2 Low Density Residential.

PROPOSAL:

Proposed Development:

Construction of two (2) buildings which have a total gross floor area (GFA) of approximately 25,271m² and comprise:

- 327m² commercial/ retail space on Level 1 (157m²) and 3 (170m²) of the high rise building
- Approximately 816m² communal facilities including a meeting room, function room, gym, common outdoor area and communal terrace
- 269 residential dwellings:
 - Low Rise Building: comprising 52 apartments within a part 6 and 7 storey configuration
 - High Rise Building: comprising 217 apartments, 327m² commercial/retail spaces within a 29 storey configuration
- Four (4) basement parking levels comprising:
 - 295 car spaces (resident, visitor, retail and 1 car share space), 1 car wash bay, motorcycle spaces and bike racks
- Vehicular ingress and egress from Marshall Avenue
- Construction of a roundabout within Marshall Avenue, opposite Holdsworth Avenue
- Landscaping
- Consolidation of thirteen (13) allotments (3795.1m²)
- A Voluntary Planning Agreement (VPA)

Dwellings:

The proposal would comprise 269 dwellings:

- 19 x studio units
- 97 x 1 bedroom dwellings.
- 120 x 2 bedroom dwellings.
- 33 x 3 bedroom dwellings.

Of these dwellings, 54 dwellings would be adaptable.

PREVIOUS APPROVALS/HISTORY:

The following approvals relate to the site:

DA2012/226 – Demolition of dwellings at 1 to 25 Marshall Avenue, St Leonards. Consent granted on 24 March 2013.

DA2013/32 - Construction of a mixed use development comprising of 66 residential units and retail/commercial at the ground level and subdivision. Consent granted by the JRPP on 9 May 2013.

Modification of DA2013/32 – Deletion of Condition No. 63 requiring a remediation action plan be prepared from the development consent. Consent granted 11 December 2013.

Modification of DA2013/32 – Section 96(2) modification seeking amendments and internal reconfiguration to an approved mixed use development. Consent granted by the JRPP on 26 February 2014.

THE PROVISIONS OF ANY ENVIRONMENTAL PLANNING INSTRUMENT (Section 79 (C) (1) (a)(i))

Lane Cove Local Environmental Plan 2009

	Code	Proposed	Complies/ Comment
Clause 2.2- Zoning	B4 – Mixed Use zone	Mixed use development comprising two (2) buildings, residential units & retail/commercial spaces	Yes
Clause 4.3 - Height of Buildings	The site has two building height controls of 25m and 65m and is evident in Figure 1 below.	Low rise is RL 95.5 and is below the 25m height requirement Tower is RL 166.8 and is above the 65m height limit	Low rise complies. Tower - Discussed in Clause 4.6 assessment
Clause 4.4 - Floor Space Ratio	2.5:1 + 10:1 and is evident in Figure 2 below.	Detailed below	Yes

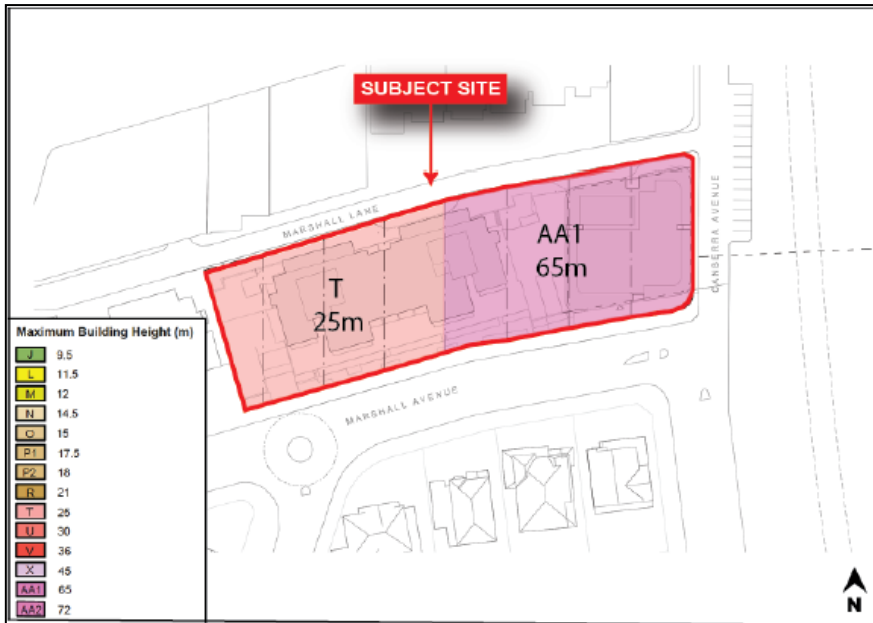


Figure 1 – Height of building map – Lane Cove LEP 2009

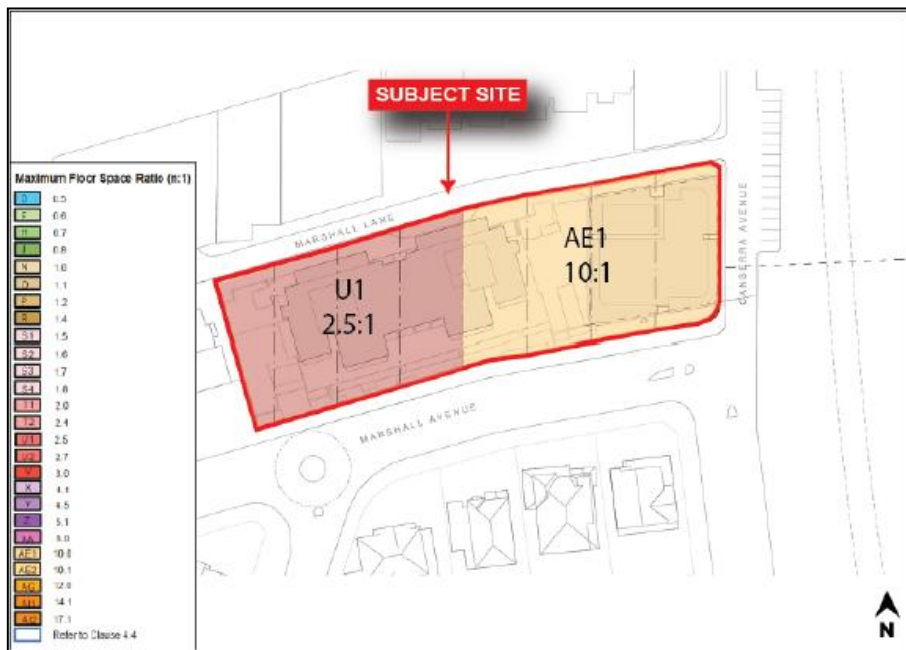


Figure 2 –Floor Space Ratio map – Lane Cove LEP 2009

Floor Space Ratio

The following table summarises the permitted GFA and FSR and indicates the proposal is compliant with the maximum permitted FSR on the subject site.

GFA	FSR
Permitted GFA = 25,880m ²	Permitted FSR for the entire site = 12.5:1 (2.5:1 + 10:1) Site area = 3,795.1m ²
Complying proposal (without the VPA) = approximately 18,985m ²	Complying proposal (without the VPA) = 5:1
Proposal (with the VPA) = 24,978m ²	Proposal (with the VPA) = 6.6:1
Proposal is theoretically 902m ² below maximum permissible GFA for the subject site	

THE PROVISIONS OF ANY DEVELOPMENT CONTROL PLAN (Section 79 (C) (1) (a)(iii))

Lane Cove Development Control Plan 2010

Part D – Commercial Development & Mixed Use Localities

Locality 1: St. Leonards Key Precinct – B1: Marshall Precinct

The current proposal relates to the Block C (low rise) and Block D (high rise) of the DCP controls. An assessment of the proposal with regard to relevant controls is summarised below.

Table 1 – Block C – Low Rise

Clause	Control	Proposed	Complies/ Comment
1. Height	LEP control (25m)	Maximum 24m	Complies
2. Height – podium	Max 2 level podium is permissible along Marshall Ave, setback 3m from Marshall Ave	Achieved	Complies
4.1 Street setback	6m setback to Marshall Lane boundary. 3m articulation zone (max 30% of boundary length permitted for balcony extensions) <i>Note: Articulation zones subject to SEPP 65. Continuous accessible</i>	Range 3m to 6m Low rise building is articulated as are the balconies	Variation deemed to be acceptable given articulation proposed

Clause	Control	Proposed	Complies/ Comment
	<i>footpath to be provided in setback zone</i>		
4.3 Street setback to Marshall Ave	10m setback including 3m articulation zone (max 30% of boundary length permitted for balcony extensions) 3m setback to podium level	10m setback proposed to Level 2 and above. Balconies setback 6.6m from Marshall Avenue (6.4m encroachment) 3m setback to Level 1 (townhouses)	Complies
4.4 Setback, eastern end of Block B	18m separation provided between Block B & Block C Between Blocks B & C and Blocks C & D: - Dwellings are not permissible - No building, including car parking is to be higher than ground level at Marshall Lane at that point	18m is proposed between the development currently under construction (DA13/32), Block B and the proposed low rise building being Block C There are no dwellings proposed between Blocks B, C and D Buildings are at the ground level at Marshall Lane	Complies Complies Complies
5 Service vehicles	<i>Note: All servicing – Marshall Lane</i>	Service vehicles are proposed to use Marshall Lane via a shared service lane within the subject site	Complies
6 Car parking	Access from Marshall Ave in the area indicated in the circulation plan opposite end of Holdsworth Ave. Sleeved & predominantly underground. <i>Note: One common car park entry for the whole block</i>	The current proposal would result in two (2) separate driveways from Marshall Avenue. The driveway proposed under the current proposal for Blocks C and D is proposed to be sited opposite Holdsworth Avenue in line with the DCP. The development under construction, Block B (DA13/32) comprises a separate vehicular access to the current proposal which is located further west	The proposed driveway location for the current proposal is consistent with the DCP.

Clause	Control	Proposed	Complies/ Comment
		along Marshall Avenue. This has already been approved in this location	
7 Landscaping	<p>Maximum possible retention of all street trees along Marshall Ave. Landscaping to be provided between Blocks B & C and C & D.</p> <p>3m setback to Marshall Ave to be landscaped for max screening of buildings</p> <p><i>Note: Extreme care to be taken with the protection of the Marshall Ave street trees</i></p>	One (1) street tree, a casuarinas tree, is proposed to be removed to accommodate the proposed driveway. All other trees are proposed to be retained. Council's Manager Traffic and Transport and Council's Senior Tree Assessment Officer support the removal of this tree.	Complies
8 Privacy	Where necessary, building design to include devices/screens to prevent overlooking to residential dwellings	Commercial uses operate immediately north of the site on the Pacific Highway and as such overlooking into adjoining residential uses is not a concern. A child care centre has been approved to operate at 44-46 Pacific Highway which incorporates outdoor play areas fronting Marshall Lane. There is a minimum of 10m separation between the sites and as such direct overlooking between the uses is not a concern	Complies

Table 2 – Block D – Tower (high rise)

To avoid duplication, the controls addressed in Table 1 which are relevant also to Block D have not been included below. The relevant controls to the Tower are summarised below.

Clause	Control	Proposed	Complies/ Comment
1. Height	LEP control (65m)	Approximately 94m as per the architectural plans	Clause 4.6 variation discussed in the LEP section of this report

Clause	Control	Proposed	Complies/ Comment
		RL 166.9 proposed	Variation is supported
2. Uses	<p>Mixed use retail commercial and residential. Building must be designed to be able to accommodate an entry from the future square level , RL 80</p> <p><i>Notes: Floor to floor heights capable of accommodating commercial & retail to be provided up to future square level RL 80.</i></p> <p><i>Where uses are predominantly residential, RFB controls apply</i></p>	<p>Tower comprises 327m² retail /commercial space and 269 residential units.</p> <p>Level 3 of the tower has been designed to accommodate the future square level of RL 80</p>	Complies
3.1 Street setback, Marshall Lane	<p>3m setback from Marshall Lane boundary</p> <p><i>Note: A continuous accessible footpath to be provided within 3m setback</i></p>	<p>3m setback to Marshall Lane achieved</p> <p>Accessible pathway provided within the setback which would be shared with service vehicles</p>	Complies
3.2 Street setback, Canberra Avenue	<p>No setback to property boundary</p> <p><i>Note: Building to be able to address future square at RL80m level</i></p>	<p>Nil to approximately 1.8m setback to Canberra Ave. Predominantly residential units from ground level to Level 4 are setback 4.6m.</p> <p>Proposed Tower addresses future plaza site</p>	Acceptable, proposal addresses future square.
3.3 Street setback to Marshall Ave	4m setback to Marshall Ave	3.8m to 4.8m setback achieved to Marshall Avenue	Minor variation considered acceptable
6 Landscaping	<p>Max possible retention of all street trees along Marshall Ave. Landscaping to be provided between Blocks C & D.</p> <p>3m setback to Marshall Ave to be landscaped for max screening of</p>	<p>1 street tree proposed to be removed to accommodate the driveway</p> <p>No additional screening plantings are proposed</p>	Complies

Clause	Control	Proposed	Complies/ Comment
	buildings <i>Note: Extreme care to be taken with the protection of the Marshall Ave street trees</i>		
7 Privacy	Where necessary, building design to include devices/screens to prevent overlooking to residential dwellings	The closest dwellings to the site are those situated south of the site on the opposite side of Marshall Avenue. Additional screening is not considered necessary.	Complies

Part D – Commercial Development and Mixed Use

Part D.5 – Development in B4 Mixed Use Zone

It is noted that the development application was lodged with council prior to the adoption of *Part R – Traffic, Transport and Parking* of the DCP, as such the parking provisions within Part D of the DCP have been relied upon.

Clause	DCP	Proposed	Complies/ Comment
5.3 Hours of Operation for Lighting	External lighting operates, as a minimum requirement, from dusk until dawn on Thursday, Friday and Saturday nights, and from dusk until midnight on other nights. Control to turn on at dusk is initiated by a suitably adjusted/ calibrated photo-electric switch such that the lights will be at full output when the daylight luminance in the subject areas falls to the required illuminances stipulated.	Details of lighting are not available at this stage however this matter would be addressed as a condition (refer to draft condition 3).	Achieved condition (refer draft condition 3)
5.4 Noise	Noise generated by residents, visitors, retail or commercial part and mechanical plant and equipment should not exceed the following repeatable maximum L _{Aeq} (1 hour) level, on weekdays:	Mechanical plant equipment is not known at this stage. It is noted that plant equipment would be situated on the rooftop of each building. However this matter would be addressed via conditions (refer to	Achieved via conditions (refer to draft conditions 5 and 143-145)

Clause	DCP	Proposed	Complies/ Comment
	<p>Day 7am-6pm: 55dB(A) Evening 6pm- 10pm: 45dB(A) Night 10pm-7am: 40dB(A) and on weekends:</p> <p>Day 8am-7pm: 50dB(A) Evening 7pm-10pm: 45dB(A) Night 10pm-8am: 40dB(A) or in any case not more than 5 dB(A) above the background level during the day and evening and not exceeding the background level at night when measured at the boundary of the property.</p> <p>b) Incorporate noise reduction measures on plant and machinery.</p> <p>c) Use design features or planning that will reduce noise.</p> <p>d) Incorporate adequate measures for tonal, low frequency, impulsive, or intermittent noise</p>	draft conditions 5 and 143-145)	
5.5 Non residential facilities	<p>Provide a variety of different sized non-residential spaces (eg. cafes).</p> <p>Open space to follow design principles of SEPP No. 65</p>	Retail/commercial spaces are proposed on the first and third floors	Complies
5.6 Access, entries and servicing	<p>a) Separate commercial service requirements, such as loading docks, from residential access, servicing needs and primary outlook</p> <p>b) Locate clearly demarcated residential entries directly from the public street</p> <p>c) Clearly separate and distinguish commercial and residential entries</p>	<p>Service vehicles shall access the site via Marshall Lane</p> <p>Entries for residential uses are clearly defined and are available directly from Marshall Ave and Marshall Lane and the future plaza</p> <p>The commercial and residential entries are clearly separated</p>	<p>Complies</p> <p>Complies</p> <p>Complies</p>

Clause	DCP	Proposed	Complies/ Comment
	and vertical circulation.		
	d) Provide security access controls to all entrances into private areas, including car parks and internal courtyards.	Achieved	Complies
	e) Provide safe pedestrian routes through the site	Achieved	Complies
5.7 Residential Component within Mixed Use	<p>The provisions for Residential Flat Buildings in Part C Residential Development section of this DCP and the Residential Flat Design Code associated with SEPP 65, and the additional following provisions shall apply to the residential component within mixed use developments.</p> <p>d) Minimise the amount of glazed area on the eastern and western elevations and incorporate shading devices</p>	<p>Complies</p> <p>Addressed in Part C assessment table and comments provided from Council's consultant architect discussed in the SEPP No. 65 section of this report</p>	<p>Complies</p> <p>Refer to DCP Part C and SEPP 65 assessment within this report</p>

D.1 – General provisions

The following general provisions relate to both the low rise and the high rise buildings.

Clause	DCP	Proposed	Complies/ Comment
Street frontage activities	<p>Allow for visual interest on the external face of fire escapes, service doors and equipment hatches.</p> <p>Limit opaque or blank walls for ground floor uses to 20% of the street frontage.</p>	<p>Visual interest is provided for in the design of the proposal.</p> <p>Blank walls are avoided in the development's façades</p>	Complies
	<p>Provide enclosure on corner sites to define the corner.</p> <p>All street frontage windows at ground floor level are to have clear glazing.</p> <p>Provide multiple</p>	<p>Corner to future Plaza has been designed to address the Plaza</p> <p>Achieved for commercial/retail spaces</p> <p>Pedestrian entrances</p>	<p>Complies</p> <p>Complies</p> <p>Complies</p>

Clause	DCP	Proposed	Complies/ Comment
	entrances for large developments including an entrance on each street frontage	available at Marshall Ave, Marshall Lane and the future Plaza frontages	
Building depth & bulk For Mixed Use Developments:	l. The maximum horizontal dimension of the residential component parallel to the street frontage is to be 40m.	Low rise maximum 58m to Marshall Avenue. Low rise is articulated, presenting as town houses to Marshall Avenue and the second portion of the low rise is well setback into the site. Tower generally maximum of 28m to Marshall Ave	Variation to low rise horizontal dimension considered to be acceptable Tower complies
Building design & exteriors	a) Floor to ceiling heights: 3.3m for commercial uses & 2.7m for residential uses b) Materials, colours, finishes, proportion and scale of new development should add interest to façades and the streetscape c) Avoid large unbroken expanses of blank wall on any facade adjacent to the public domain	3.3m floor to ceiling heights proposed for commercial/retail use on Level 3, 3.1m floor to ceiling heights proposed commercial/retail use on Level 1. 2.7m Residential floor to ceiling heights proposed The proposal is required to comply with the floor to ceiling heights of the BCA (refer to draft condition 11). Achieved There are no large unbroken expanses of blank wall on the facades of the proposal	Achieved Complies Complies
	e) The design of roof plant rooms and lift overruns is to be integrated into the overall architecture of the building. f) Balconies and terraces	Achieved Balconies included in	Complies Complies

Clause	DCP	Proposed	Complies/ Comment
	<p>should be provided, particularly where buildings overlook public open spaces. They should be avoided where they overlook the private open spaces and severely impact the privacy of the adjoining residential properties</p>	<p>the design of the low rise and the tower. Balconies proposed are orientated towards Marshall Avenue, Marshall Lane and the future Plaza</p>	
Excavation	<p>a) All development is to relate to the existing topography of the land at the time of the adoption of this DCP</p> <p>d) Uses at ground level are to respond to the slope of the street by stepping frontages and entries to follow the slope.</p>	<p>The proposed excavation relates to the footprint of the proposed development</p> <p>The uses at ground level respond to Marshall Avenue and Marshall Lane through stepping entries to follow the slope</p>	<p>Complies</p> <p>Complies</p>
Design & location of on-site parking	<p>b) All developments must incorporate the required car parking on-site.</p> <p>c) All on-site parking, loading facilities and vehicle access points must be:</p> <p>I. accessed from a rear lane wherever available</p> <p>II. fully concealed from view from any public street or arcade</p> <p>III. accessible from only one opening in the rear lane facade for both on-site parking and loading.</p> <p>Access openings are to be fitted with a garage door or roller shutter.</p> <p>f) Vehicle entry should be:</p> <p>I. easily accessible and recognisable to motorists</p> <p>II. located to minimise traffic hazards and queuing of vehicles on public roads</p> <p>III. located to minimise the loss of on street car parking, and to minimise the number of access</p>	<p>On-site parking is provided on-site</p> <p>Driveway entry accessed from Marshall Avenue. Service vehicles to access garbage room and the like via Marshall Lane</p> <p>Achieved</p> <p>Vehicle entry easily accessible and identifiable from Marshall Avenue. Proposal includes the construction of a roundabout on Marshall Avenue which would assist in the safe movement of traffic</p>	<p>Complies</p> <p>Complies</p> <p>Complies</p> <p>Complies</p>

Clause	DCP	Proposed	Complies/ Comment
	points.		
	<p>IV. Located away from main pedestrian entries and on secondary frontages.</p> <p>V. Located having regard to any approved cycling routes.</p> <p>g) Avoid black holes in the facade for major development by providing security doors to car park entries</p>	<p>The driveway is situated clear of main pedestrian entry and is situated on Marshall Avenue</p> <p>N/A</p> <p>Roller shutter door proposed</p>	<p>Complies</p> <p>N/A</p> <p>Complies</p>
	<p>h) Return the facade material into the car park entry recess up to the extent visible from the street.</p> <p>i) Parking and service/delivery areas are to be located underground within building footprint or screened from adjacent residential uses or the public domain by sleeving with active uses.</p> <p>j) Parking and service/delivery areas are to be located to minimise conflict between pedestrians/ cyclists and vehicles and to minimise impact on residential amenity.</p> <p>o) Integrate ventilation grills or screening devices of carpark openings into the facade design and landscape design.</p>	<p>The proposed parking area is accessed via Marshall Avenue but is situated under the footprint of the proposal.</p> <p>Service delivery area situated at the rear of the site within Marshall Lane, away from view of residential uses</p> <p>Marshall Lane would become a shared zone thereby reducing conflict between vehicles, cyclists and pedestrians</p>	<p>Complies</p> <p>Complies</p>
	<p>p) Provide safe and secure access for building users, including direct access to residential apartments, where possible.</p>	<p>Achieved</p>	<p>Complies</p>

Clause	DCP	Proposed	Complies/ Comment
	q) Basement car parking is to be: I. adequately ventilated II. predominantly located within the building footprint III. located fully below natural ground level. Where slope conditions mean that this is unachievable, the maximum basement projection above natural ground level is to be 1.2m but not to the street front.	Basement is located predominantly within the building footprint. The basement is situated generally below the buildings.	Complies
Number of car parking spaces Note: The proposal was lodged with council on the 15 September 2014. Part R of the DCP relating to parking was adopted by council on the 26 September 2014. As such the car parking requirements within Part D.1 of the DCP have been relied upon	Commercial component Max 1 car space per 110m ² of GFA for commercial developments within a radius of 800m from St. Leonards Railway Station = 3 spaces Residential component: Studio and 1 bedroom apartment = 0.5 space = 116 x 0.5 = 58 spaces 2 bedroom apartment = 1 space = 120 x 1 = 120 spaces 3 and more bedroom apartment = 1.5 spaces = 33 x 1.5 = 50 spaces Visitors = 1 space per 4 dwellings = 269 spaces = 68 spaces Total number of spaces required: 299 Commercial: 3 space Residential spaces: 228 Residents: 228 spaces Visitors: 68 spaces	Total number of spaces proposed: 295 Commercial: 3 space Residential spaces: 224 spaces Visitor spaces: 68 spaces 55 accessible spaces,	Variation Given the site is an accessible location, being within 400m walking distance to St Leonard's Train Station and regular bus services along the Pacific Highway, this variation is considered to be acceptable 1 x car share space

Clause	DCP	Proposed	Complies/ Comment
		including 1 x accessible visitor space 1 x car wash bay 1 x car share space	proposed Accessible car spaces are short. 56 adaptable dwellings proposed, 54 accessible spaces proposed. Condition requiring minimum 56 accessible car spaces required (refer draft condition 4)
Traffic & accessibility report	A Transport and Accessibility Report may be required by the Traffic Manager	Traffic Impact Assessment report was submitted with the DA. An addendum to this report was requested and submitted.	Complies
Reflectivity	Visible light reflectivity from building materials used on the facades of new buildings should not exceed 20%	Achieved.	Complies
External lighting to buildings	a) Any external lighting of buildings is to be considered with regard to: I. the integration of external light fixtures with the architecture of the building (for example, highlighting external features of the building) II. the contribution of the visual effects of external lighting to the character of the building, surrounds and skyline III. the energy efficiency of the external lighting system IV. the amenity of residents in the locality. b) Floodlights for buildings are prohibited	This level of detail is not available at this stage	Addressed via a draft condition (refer to draft condition 3)
Landscaping	a) Locate basement car parking predominately under the building footprint to maximize opportunities for landscaped area b) Deep soil zones in atria, courtyards and	Basement parking is proposed to be situated within the building footprint. Deep soil zones are not incorporated into the design of the proposal. Given the proposal is to be situated within a	Complies

Clause	DCP	Proposed	Complies/ Comment
	boundary setbacks are encouraged	high density urban environment	
Planting on structures - controls apply for planting on roof tops or over car park structures.	<p>a) Areas with planting on structures should be irrigated with recycled water and appropriate drainage provided.</p> <p>b) Provide sufficient soil depth and area to allow for plant establishment and growth. The recommendations are:</p> <p>I. Large trees (canopy diameter of up to 16m at maturity)</p> <p>i. minimum soil volume 150m³</p> <p>ii. minimum soil depth 1.3m</p> <p>iii. minimum soil area 10m x 10m area or equivalent</p> <p>II. Medium trees (8m canopy diameter at maturity)</p> <p>i. minimum soil volume 35 m³</p> <p>ii. minimum soil depth 1m</p> <p>iii. approximate soil area 6m x 6m or equivalent</p> <p>III. Small trees (4m canopy diameter at maturity)</p> <p>i. minimum soil volume 9m³</p> <p>ii. minimum soil depth 800mm</p> <p>iii. approximate soil area 3.5m x 3.5m or equivalent</p> <p>IV. Shrubs</p> <p>i. minimum soil depths 500-600mm</p> <p>V. Ground cover</p> <p>i. minimum soil depths 300-450mm</p> <p>VI. Turf</p> <p>i. minimum soil depths 100-300mm</p>	Council's Landscape Architect advised that the landscape proposed is acceptable given the high density urban environment in which the site is located	Complies
Solar access	a) Mixed use developments are not to reduce sunlight to dwellings in the adjacent or same zone below a minimum of 3 hours of	The design and siting of the proposal ensures surrounding dwelling houses receive access to at least 3 hours of sunlight in mind winter.	Complies

Clause	DCP	Proposed	Complies/ Comment
	this DCP – Signage and Advertising		

Part B – General Controls

Clause	DCP	Proposed	Complies/ Comment
B4 – View sharing	<p>Views are to be shared</p> <p>Views from commercial development will not carry the same weight as views from dwellings.</p> <p>Views will be tested against the extent of view available. Where appropriate the views will also be tested against the view sharing principles stated by the Land and Environment Court.</p>	View sharing is discussed in detail in the impacts section of this report. Views from properties to the north of the site on the opposite side of the Pacific Highway enjoy views of the Sydney Harbour Bridge, Sydney Tower, CBD and Harbour.	<p>View sharing is discussed separately in this report.</p> <p>Having regard to the assessment of view sharing and the submission received the proposal is supported as proposed</p>
<p>B6 – Environmental Management</p> <p><i>6.1 Sunlight to public spaces</i></p> <p><i>6.2 Wind Standards for St Leonards</i></p>	<p>a) New development must allow for a minimum of 2 hours of solar access to at least 50% of new and existing public open areas or plazas between the hours of 11am and 2pm on 21st June.</p> <p>b) The location of the sunlight during these hours for urban plazas is to be adjacent to building frontages to allow for outdoor seating during the lunchtime period.</p> <p>The following maximum wind criteria are to be met by new buildings in St Leonards Centre:</p> <p>a) 13 metres/second along major streets and public places and 16 metres/second in all other streets.</p>	<p>The subject site adjoins the future Plaza site to its east. The submitted shadow plans demonstrate the future Plaza site would be free of overshadowing as a result of the proposal until 1pm in mind winter. From 1pm onwards the shadow cast by the Tower would gradually move across a minor portion of the future Plaza site.</p> <p>A Pedestrian Wind Environment Study prepared by Windtech was submitted with the DA. The Study concludes treatments are required for certain locations to achieve the desired criteria for pedestrian comfort and safety and include a 2m</p>	<p>Complies</p> <p>Complies</p>

Clause	DCP	Proposed	Complies/ Comment
	<p>b) Design buildings to minimise the adverse wind effects on recreation facilities on podium terraces within developments.</p> <p>c) A Wind Effects Report is to be submitted for all buildings within the St Leonards precinct taller than 40m above street level.</p>	<p>high screen/gate on the northern and southern entrances to the Level 1 common outdoor area, 2m baffle screen on the northern side of the grassed terrace adjoining the low rise and tower buildings and setback of Levels 1 and 2 of the north-east corner of the tower.</p> <p>The study concludes with the inclusion of the recommended treatments the wind conditions for all outdoor trafficable areas within and around the proposed development would be suitable for their intended use. The Study supports the introduction of winter gardens on the corners of the Tower to prevent these areas from prevailing winds.</p> <p>It is noted Council's Consultant Architect believes balconies would be useable up to Level 7 of the Tower.</p>	
<p>B7 – Development near busy Roads and Rail Corridors</p>	<p>LAeq levels: (i) In any bed room 35dB(A) 10.00pm to 7.00am. (ii) anywhere else 40dB(A)</p>	<p>The submitted Acoustic Report prepared by Renzo Tonin and Associates assessed the external noise and vibration intrusion into the proposal and concludes that appropriate controls can be incorporated into the building design to achieve a satisfactory accommodation environment consistent with the intended quality of the building and relevant standards. The Report concludes in order to control airborne traffic and train noise intrusion and comply with the nominated criteria,</p>	<p>The proposal is supported subject to the recommendations of the Acoustic Report being implemented (refer to draft condition 5)</p>

Clause	DCP	Proposed	Complies/ Comment
		glazing of the north, south, east and west facades of both buildings is recommended.	
B8 – Safety & security	A safe and secure environment encourages activity, vitality and viability, enabling a greater level of security	The proposal has been considered with regard to the safer by design principles. The design provides safe and secure entries and well observed communal open spaces.	Achieved

Part C3 – Residential Flat Buildings

The relevant controls relating to the proposal are addressed below. To avoid duplication of controls, standards or controls included within the SEPP 65 or DCP assessment tables above are not included.

Clause	DCP	Proposed	Complies/Comment
3.10 Size & mix of dwellings	At least 10% of 1, 2 & 3 bedroom dwellings to be provided	Total development proposal 269 units: 19 x studio = 7% 97 x 1 bedroom = 36% 120 x 2 bedroom = 45% 33 x 3 bedroom = 12%	Yes
3.14 Storage	b) In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: I. studio dwellings 6m ³ II. one-bedroom dwellings 6m ³ III. two-bedroom dwellings 8m ³ IV. three plus bedroom dwellings 10m ³ A minimum of 50% of this storage volume is to be provided within the dwelling accessible from the hall or living area as hall cupboards.	Achieved	Complies
3.16 Natural Ventilation	Sixty percent (60%) (161 units) of dwellings should	67% achieved for low rise	Complies

	<p>be naturally cross ventilated.</p> <p>Ventilation provided to one end of a dwelling via windows onto an open access corridor does not satisfy this requirement due to privacy and acoustics' impacts.</p> <p>Twenty five percent (25%) (67 units) of kitchens within a development should have access to natural ventilation.</p>	<p>69% achieved for Tower</p> <p>25% Achieved</p>	<p>Complies</p>
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Part F - Access and Mobility

Clause	DCP	Proposed	Complies/ Comment
3.3 Public spaces and link to private properties	Development on public and private properties must provide and maintain accessible links and paths of travel between Class 2 to Class 10 buildings and to adjacent public spaces or pedestrian networks	Achieved	Complies
3.5 Parking	<p>Provide 1 accessible parking space per 100 spaces, in Class 2 to 9c buildings</p> <p>3 spaces required for commercial/retail uses. No requirement for accessible car spaces in this instance</p> <p>Provide 1 accessible parking space (dimensions in accordance with relevant Australian Standards) for each adaptable housing unit within the total calculation of spaces required for that dwelling = 56 spaces</p>	<p>No requirement for accessible car spaces in this instance</p> <p>54 accessible spaces provided for residents</p> <p>1 accessible space provided for visitors</p> <p>The proposal is 2 accessible car spaces short. This shall be addressed as a draft condition</p>	<p>N/A</p> <p>Achieved as a draft condition (refer draft condition 4)</p>
3.6 Adaptable and Visitable housing	Adaptable housing to be provided at the rate of 1 dwelling per 5 dwellings = 54 dwellings	56 adaptable dwellings proposed	Achieved
	Adaptable housing to be equitably distributed	Adaptable units are provided on levels 4	Achieved

	throughout all types and sizes of dwellings	to 27 within the Tower and levels 2 to 6 in the low rise and comprise 1, 2 and 3 bedrooms	
	80% of the dwellings are to be visitable = 215 dwellings	Variation proposed	Variation. The bathrooms of the visitable units would not be accessible. The applicant instead proposes a public accessible bathroom in each building which could cater for all levels of mobility of visitors and residents. The submitted expert advice by the McKenzie Group advising, they are satisfied that the proposed design documentation complies with the spirit and intent of Disability Discrimination Act (DDA). This variation to the DCP is considered as acceptable in this instance. This matter is discussed in detail below
3.7 Mobility impaired access to and within buildings	Mobility impaired access is required to common areas and all dwellings.	Achieved	Achieved

Variations to Council's Development Control Plan/Policies

As indicated in the preceding policy compliance table, the proposal meets all the Development Control Plan requirements with the exception of the following matters discussed below.

Part D – Clause 4.1 Setback to Marshall Lane – Low Rise

The DCP requires that the low rise building be setback 6m to Marshall Lane. The proposal includes a setback of 3m to 6m. The portion of the building within the 6m setback comprises balconies which are permitted and two living rooms, repeated for each level, which seek to maximise solar access. The staggered setback proposed to Marshall Lane is considered to be acceptable in this instance.

Part D – On-site Car Parking

The proposal would require 299 on-site car spaces as per the DCP. The proposal incorporates 295 car spaces. The site is within an accessible location, being within 400m

walking distance to St Leonard's Train Station and regular bus services situated along the Pacific Highway. Further the applicant has proposed 1 x car share space within the basement car park. Given this context and the proximity to public transport, this variation is considered to provide articulation, is minor, and is therefore acceptable.

The proposal incorporates 56 adaptable dwellings and 54 accessible spaces, being 2 accessible car spaces short of the DCP requirement. This matter can be addressed via a draft condition requiring minimum 56 accessible car spaces be marked on the plans prior to the issue of the construction certificate (refer draft condition 4).

Part F- Clause 3.6 Visitable housing

The DCP requires adaptable housing to comply with AS4299 meaning that the dwelling is designed that it can be modified easily in the future to become accessible to both occupants and visitors with disabilities or progressive frailties.

The DCP considers that visitable housing is an important part of maintaining a connected community in which people are able to go to see family members and friends at home. Groups who benefit from visitable housing include families with strollers or prams for young children, older and frail aged people and persons with disability. The DCP states that visitable housing is to provide a continuous path of accessible travel from the property frontage or car parking area to the living area and to a toilet that is either accessible or visitable and common areas within the building. Further the DCP requires that dwellings are to be visitable at the rate of 80% in developments requiring adaptable housing. The current proposal incorporates the provision of 56 adaptable dwellings and as such visitable dwellings are required.

The applicant seeks consideration of the proposal on merit in relation to the visitable dwellings.

The initial Access Report was requested to be submitted by council officers and was prepared by Morris-Goding Accessibility Consulting, dated 21 November 2014 and is included in **ATT 1**.

The Access Report states the current design relating to bathrooms and bedrooms in the adaptable units do not achieve compliance with the AS4299. The Report states the proposal provides the correct dimensions required for access into the visitable units, however the required dimensions are not provided for access to the bathrooms of the visitable units, there is a departure from 1250mm x 900mm required circulation area in front of the toilet pan. The Access Consultant supports the alternative design, as a minimum of 900mm x 900mm unobstructed circulation area in front of the toilet pan, which is advised is suitable for people with ambulant disability in accordance with AS1428.1-2009.

The Report propose the common use accessible toilet facility provided within Level 1 of the low rise and the Ground Level of the Tower buildings should be considered as a better outcome which would be designed in accordance with AS1428.1-2009. The accessible toilet facilities would allow visitors of the units to access a purpose built wheelchair accessible toilet.

Council's Community Services Officer raised concern with the proposal with regards to compliance of the proposed design of the adaptable and accessible units, in particular, the alternative proposed to the bathrooms within the accessible units.

Following discussions with council officers and the Access Consultant, the applicant submitted a DDA Expert Opinion Report prepared by the McKenzie Group, dated 28 January

2015 and is included in **ATT 2**. The Expert Report states Clause 1.4.12 of AS4299-1995 a visitable toilet is a toilet which has a space of a minimum of 1250mm in front of the toilet x 900mm wide clear of door swings and fixtures. The Report states that in accordance with the current BCA requirements, Class 2 residential buildings are not required to provide accessible/adaptable units. However to meet Lane Cove Council's DCP requirements the applicant has provided both adaptable and accessible units.

The Expert Report confirms the proposed alternative to the accessible toilets provides a better outcome for the development. The accessible toilets would provide a higher degree of compliance catering for a wider range of visitors with disability, due to the larger compartment size of the room and increased circulation space around each fixture in addition to the provision of grab rails, compliant pan and basin and associated fixtures.

The Expert Report addresses council's concern with regard to an overnight visitor. The McKenzie Group believe the term visitable implies short term stay and that this is based on the fact that the term visitable housing does not require a continuous path of travel to a bedroom, nor does it require a visitable shower facility.

The Expert Report states that the proposed solution to provide ambulant toilets within all of the residential units in place of visitable toilets within 80% of the units is a better outcome. McKenzie Group believes this departure from the DCP is acceptable given the proposed solution provides a more functional and dignified outcome that will meet the range of needs by all occupants.

Assessing Officer's comments:

The circulation requirements of the bathrooms and bedrooms of the adaptable units could be resolved via draft conditions of consent. The applicant would be required to submit amended plans for the adaptable units prior to the construction certificate detailing compliance with the requirements of AS4299. This matter has been discussed with the applicant who raises no objection to a draft condition in this regard (refer draft condition 6).

Where design permits, it is preferable that access to sanitary facilities be provided for visitors regardless of their mobility requirements within the visitable residential apartments themselves. It is unfortunate the current design of the low rise and high rise does not permit visitors requiring the use of a wheelchair to use bathrooms of visitable units. It is acknowledged that people with an ambulant disability could use these bathrooms. It is acknowledged that the current design provides an alternative, enabling all visitors, to use the accessible bathrooms situated in each of the buildings and that these bathrooms have a higher degree of compliance which would cater for a wider range of visitors with a disability. Given the McKenzie Group advice, they are satisfied that the proposed design documentation complies with the spirit and intent of Disability Discrimination Act (DDA), this variation to the DCP is considered as acceptable and is supported in this instance.

REFERRALS:

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

Since the lodgement of the development application in September 2014, the proposal has undergone several amendments to address solar access, accessibility and design issues. Council's consulting architect reviewed the initial design and the subsequent amendments to the proposal as a result of concerns raised during the assessment of the application with regard to the objectives of the 10 planning principles of SEPP No. 65. The consultant architect's comments are summarised below.

Initial design lodged September 2014

The primary concern with the proposal is the impact of the tower on the properties to the south west of the site. Whilst the low rise sections of the proposal would have only marginal impact on properties on the south side of Marshall Avenue during the winter solstice, the tower, with its additional height would overshadow, if only briefly, a broad sweep of residences south-west of the development during the winter solstice. Any overshadowing is a loss of amenity and regrettable. This is an unavoidable consequence of the tower development in this position. The applicant has minimised the impact of overshadowing by positioning and proportioning the building as far to the east of the site as possible. The applicant's shadow analysis diagrams show the extent of this overshadowing. The tower has been designed to be as narrow as is practicable thereby generating a narrow band of overshadowing that would pass relatively quickly over the affected properties. The greater proportion of the properties affected by the Tower would see its shadow pass in an hour or less, leaving more than adequate sun between 9am and 3pm in mid winter. The properties most affected are those directly south of the tower along Marshall Avenue. Even these properties appear to continue to receive 3 hours of sun, or close to, between 9am and 3pm mid winter.

Of some concern was the use and function of the Winter Gardens/balconies in the Tower building and the related issue of the detailing and thermal performance of the facade treatment, which requires further development and explanation.

Solar access to the mid-rise portion of the development met the minimum rule of thumb for solar access being 70% of units having adequate solar access. The proposed tower did not meet the solar access requirement, 47% of units would have solar access.

Officers Comment:

With exception of the matters mentioned above, the reviewing architect found the proposal meet the objectives of the principles of good design. Further the architect advises the applicant has endeavoured to minimise the impact of the proposal with respect to overshadowing and would provide a valuable addition to a future public square over the railway line.

Amended design received 24 November 2014

Amended plans were submitted by the applicant on the 24 November 2014 which responded to concerns raised in relation to solar access. Council's Consultant Architect's revised report focused on the specific issues of solar access, balcony sizes and winter gardens in response to the amended plans. The consultant architect's advice is summarised below.

Solar Access

The amended design is such that a greater number of smaller units face the northern and eastern facades thereby maximising the number of units receiving sun between 9am and 3pm on 21 June. The amended proposal now achieves the 70% solar access recommended by the Residential Flat Design Code (RFDC).

Balconies and Winter Gardens

The consultant architect believes that it is reasonable to expect that balconies are provided to all units up to and including Level 7. The architect advises that the Winter Gardens on Units 03 and 07 on levels 4 to 7 should be converted into balconies.

The corner studios on levels 8 to 13, 14 and 15 to 25 need not have balconies due to the fact that they are small studios situated on corners which are susceptible to strong turbulent winds. These include units 08, 09 on levels up to 13, units 1407 and 1408 on level 14 and units 06 and 07 on levels 15 to 25.

The absence of balconies or Winter gardens to units 03 and 05 on levels 8 to 13 is not justified, especially with respect to unit 03 which is a two bedroom unit.

Unit 1403 and unit 03 on floors 15 to 27 should comprise balconies. A small 6m² balcony has been provided between the 3 bedrooms. If this is the more desirable location for a balcony then the internal planning of the unit should be amended as such that the balcony is accessed directly from a living space. Alternatively, a balcony could be provided in the corner as per the units below or as a mirror image of what is provided in unit 01.

It is noted that the windows to the winter gardens can only open to an equivalent amount as standard windows and as such do not replace the need for a balcony. The winter gardens attached to Unit 06 on floors 26 and 27 should be replaced with a balcony, possibly immediately adjacent to the balcony in Unit 05.

The consultant architect acknowledges the applicant's desire with respect to the sleek aesthetics of the building, not to have balconies of the corners, due to the curved form of the building. However the architect states that the continuation of mullions across the balcony areas would continue to allow the corners to be read as curved surfaces, however it would be preferable to position the balconies away from the corners as has been achieved in other areas of the proposal.

The architect advises if the balcony issues are addressed as suggested, the proposal would meet the objectives of the principles of good design.

Officer's Comment:

Having regard to the above suggested amendments, the introduction of balconies which would provide for greater amenity and not detract from the built form is supported. The amendments are supported. The absence of balconies for several of the units was discussed with the applicant. The applicant has indicated agreement to a draft condition requiring the introduction of a balcony to several units (refer to draft condition 8).

Copies of the consulting architect's reports are attached to this report refer to **ATT 3 and ATT 4**.

Development Assessment Manager

Council's Building Surveyor reviewed the proposal and initially raised concerns relating to BCA compliance for the toilet facilities, light to study rooms and turning areas provided within the corridors of the buildings. Amended plans and further BCA advice was submitted by the applicant on the 25 November 2014. The Senior Building Surveyor advised the amended proposal can generally comply with the Building Code of Australia and further the fire engineer advises the development would be subject to fire engineered solutions where a non-compliance has been identified with the deemed to satisfy provisions of the Building Code of Australia. The conditions recommended by the Senior Building Surveyor are included within the draft conditions (refer to draft conditions 10 - 32).

Strategic Planner

Council's Strategic Planner advised, that Council's Resolution of its meeting on the 15 April 2013 was to approve Amendment No11 to LEP 2009 which provided for a building height of 65m and to *"consider any further height increase if the applicant enters into a suitable*

Voluntary Planning Agreement (VPA) to enhance the public domain in the vicinity of the site”.

The height increase is accompanied by an appropriate VPA that contributes significantly to the proposed Rail Plaza/ Bus Interchange and is supported.

The height increase under the VPA does not result in any FSR increase and is supported on this basis, taking into account that the vehicle generation and parking requirements would be effectively the same.

Visual impact due to the height increase has been accepted by Council already in resolving to accept the VPA. From the major area of public domain i.e. the proposed Rail Plaza, the height would appear as a 26 storey tower. From the south, though substantial in size, the tower would be one of a cluster of existing or proposed buildings surrounding the Station’s immediate precinct, or be filtered by substantial tree canopy. This is supported as the emerging character of the St Leonards Specialised Centre in all three council areas.

Metropolitan Plan for Sydney 2036

Development proposals for new, large-scale mixed use along Pacific Highway, together with Transport for NSW plans to run the North-west Rail link through a second platform at St Leonards, all indicate that increased residential density on this site is consistent with the Metro Strategy.

Inner North Subregional Strategy 2007

Key directions include an emphasis on focussing residential development around centres, town centres, villages and neighbourhood centres. The proposal is consistent with this.

St Leonards Strategy 2006

The provisions for this sub-precinct support relaxing land use prohibitions, in particular changes to mixed use development “to encourage use of underutilised sites”. In principle, the location of higher density residential development adjacent to a low density residential precinct is therefore supported. It is noted that St Leonards is an area in transition. The tower form in the LEP for this site allows for acceptable shadow impacts within acceptable limits.

St Leonards South Strategy Precinct Report (2013)

The Report notes an opportunity for future built form in the precinct to “*maintain a diversity of scale and siting and provide a transition in built form scale generally from north to south and east to west.*” The Report reiterates the value of close proximity to a transport hub.

Solar Access

The general proposal that a high density residential development is appropriate to this site is supported by the relevant strategic documents. An issue remains as to whether a taller, narrower tower is a “better” outcome than a lower (complying) broader building, where both meet the FSR requirement. This can be viewed as a positive trade-off in terms of sunlight impacts on the existing residents in the St Leonards South precinct:

- A longer shadow would impact more residents further to the south; however,
- A narrower shadow would impact near residents for a shorter period of time.

Conclusion

Council has endorsed an LEP amendment permitting this tower form of development with a VPA providing for public benefit in return for a height increase above 65 metres. This proposal provides significant financial contribution towards the Rail Plaza / Bus Interchange public domain and infrastructure improvements.

The DCP objectives support the built form outcomes relating the tower to the Plaza. The impacts due to FSR are not altered and the shadowing impacts are acceptable. The DA is supported.

Traffic and Transport Manager

Council's Traffic and Transport Manager and Transport Planner reviewed the proposal and requested additional information relating to traffic survey data, SIDRA analysis, pedestrian refuges, on-site car parking including the proposed small car spaces and additional car spaces above council's DCP, shared zones and details of the proposed car share arrangement.

Further information was submitted by the applicant on 24 November 2014 and addressed the Traffic and Transport Team's concerns. Council's Traffic and Transport Team advised of its preference for the roundabout to remain on the DA plans. The applicant agreed to the requirement of the shared zone within Marshall Lane. It was agreed that given construction of the subject site and surrounds would damage the shared zone and any treatment of surfaces, this be a requirement addressed via a draft condition of consent.

The Traffic and Transport Team provided draft conditions including requirement of the design of the car park, car spaces, the shared zone and construction management plan (refer to draft conditions 56 - 65).

Manager Open Spaces

Council's Tree Assessment Officer raises no concern with the removal of one mature Forest Oak (Tree 17) to facilitate the new driveway crossing, provided all other street trees are retained and protected. The Tree Assessment Officer recommended conditions which are included in the draft conditions of consent (refer to draft conditions 66 - 74).

Council's Landscape Architect notes despite the limited provision for on-site soft landscaping, this outcome is considered appropriate given the site is within an urbanised area. The Landscape Architect supports the recommendation of the retention of the existing street trees as they would benefit the new streetscape. The conditions recommended by the Landscape Architect are included in the draft conditions of consent (refer to draft conditions 75 to 84).

Manager Urban Design and Assets

Council's Development Engineer reviewed the proposal and raised no concern with the proposal subject to draft conditions which include a new driveway, extent of excavation, 1.5m wide concrete pedestrian pathway along the sites entire frontage of Marshall Avenue and Marshall Lane (refer to draft conditions 85 -127).

Manager Environmental Services

The Environmental Health Officer raised no objection to the proposal subject to the recommended conditions addressing noise and construction concerns (refer to draft conditions 128 -156).

Council's Waste Coordinator reviewed the proposal and advised the proposal can address the requirements as per Part Q of Council's DCP in relation to waste management subject to the recommended draft conditions being included in any approval (refer to draft conditions 157 to 175).

THE PROVISIONS OF ANY ENVIRONMENTAL PLANNING INSTRUMENT (Section 79 (C) (1) (a)(i))

Lane Cove Local Environmental Plan 2009

Clause 2.2 - Zoning

The subject site is zoned B4 – Mixed Use under the provisions of Lane Cove Local Environmental Plan 2009. The proposed development meets the zone objectives and is permitted with development consent.

Clause 4.3 - Height of Buildings

The maximum permissible height limit for the site is part 25m and part 65m. The proposed development is well below the maximum permissible height limit for the low rise component of the development. The Tower seeks to vary the building height limit, a 96m building is proposed and this matter is discussed in the Clause 4.6 variation assessment below.

Clause 4.4 - Floor Space Ratio

The proposal complies with the maximum permissible floor space ratio of 12.5:1. The proposal has an FSR of 6.6:1 which is 902m² below maximum permissible GFA for the subject site.

Clause 4.6 – Variation to Development Standards

The proposed Tower has an overall height of 94m (RL 166.80), approximately 29m above the 65m building height development standard. The following provides a summary of the applicant's submission to support varying the development standard.

- (1) *The objectives of this clause are as follows:*
- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Clause 4.6(3) requires as follows:

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

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

Under Clause 4.6(4) the consent authority must be satisfied as to the matters of subclause (3) and also be satisfied of the following:

- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out*

Unreasonable or unnecessary

The Planning Proposal for the site was submitted to increase building height, the basis of the then proposed amendment was to maintain GFA and to redistribute height. The LEP amendment was published with a height of 65m, reduced from the originally proposed 78m, equating to a loss of 13m or 4 storeys. Given the proximity of the site to St Leonards railway station, public buses on the Pacific Highway and to retail, commercial and employment opportunities, it is unreasonable that the development potential of the site is not realised.

Following the amendment council updated the Lane Cove DCP in relation to the Marshall Precinct design controls. The controls reflect the amendment but also require mixed use to be situated in the Tower building and be within the bottom 3 to 4 levels; a building entry level at RL80 to link with a future public plaza resulting in a ground level on the eastern face of the building; a setback to Marshall Avenue increased from 3m to 4m; and floor to ceiling height of 3.6m to accommodate retail or commercial uses.

The effect of the above controls is to replace previously intended residential floor space with commercial floor space and to ensure the Tower can adapt for the public plaza have a financial impact on the viability of the development of the site. The LEP and DCP controls reduce the development potential of the site in order to facilitate public benefit and in that regard it is not unreasonable to vary the height control to compensate for the future public benefit of the public plaza.

Environmental planning grounds

Overshadowing

A thorough assessment of overshadowing impacts has been carried out which illustrate the shadow cast by the Tower including the shadow by the additional height. The additional height does not affect any residential property for more than one hour during mid winter. Council's planning report to council at its meeting on 16 July 2012 details that the Tower and additional height would not impact the nearby Newlands Park.

Scale

Council's report of 16 July 2012 noted that scale of buildings in the St Leonards area including the Forum, The Abode and the IBM Building which contribute to the scale of the precinct. The report also noted that the uplift in height and FSR in the Lane Cove LGA is part of a strategic decision of the Metropolitan Strategy to upgrade sections of St Leonards within the Lane Cove LGA and that the area is in transition. The proposed Tower would sit within the context of the surrounding taller buildings. Since July 2012 the local context is set to change with further increases in height proposed for St Leonards with developments at 472 Pacific Highway, 486 Pacific Highway, 504 Pacific Highway.

Visual Impact

The Urban Design Analysis submitted with the planning proposal and included within the July 2012 Council report for the change in height and FSR controls supported the urban design outcome of a taller building in this location. Potential visual impacts should therefore be considered in terms of the additional height 9 storeys proposed above the LEP required 65m. The taller building within a different scale to the detached housing character was found to be acceptable. The additional height would be visible in the surrounding locality as would a compliant building, however the visual impact of this height would be negligible in the context of the surrounding building height and future character. The existing tree canopy would screen a large portion of the building especially when viewed from the surrounding residential properties, however from some locations where the canopy thins more of the Tower would be evident.

View Impact

The height of the building would be visible from surrounding developments including residential buildings such as The Forum and commercial buildings located along the Pacific Highway. View impacts to residential buildings, as discussed further in the impacts section of this report, affect a portion of their angled view and do not obstruct views towards the iconic Sydney CBD, Harbour Bridge, Anzac Bridge and Parramatta and Lane Cove Rivers. Views from commercial development to the north would be affected, but views to the north are less important given that the high rise building would site within the St Leonards centre context. Further; the planning controls on the southern side of the Pacific Highway would block views from the commercial buildings opposite. There are no view impacts from the public domain.

Density

The additional height has been achieved within the maximum FSR applying to the site. The additional height is not associated with any increase in dwelling yield or associated traffic generation.

The objectives of the height of buildings development standard are:

- (a) to minimise any overshadowing, loss of privacy and visual impacts of development on neighbouring properties, particularly where zones meet, and*
- (b) to maximise sunlight for the public domain, and*
- (c) to relate development to topography.*

The objectives of the B4 – Mixed Use zone are:

- To provide a mixture of compatible land uses.*
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- To encourage urban design maximising attractive public domain and adequate circulation space for current and future users.*
- To maximise sunlight for surrounding properties and the public domain.*

The above summary demonstrates how the proposed Tower including its additional height does not give rise to unacceptable overshadowing, privacy or visual impacts when compared to a compliant building. The above demonstrates that sunlight to the public domain including Newlands Park is not reduced. The site is on the lower side of the St Leonards centre and the proposed building height would fit within the building scape of St Leonards.

The proposed building height departure does not compromise the zone objectives and consistency is achieved with those objectives as a mixed use development is retained as the DCP requirements. The proposal achieves residential accommodation close to public

transport, employment and other services. The proposal integrates with the existing public and future public domain and the VPA accompanying the DA would contribute to the funding of the proposed plaza or similar. There is no adverse impact on solar access of the public domain.

In terms of clause 4.6(4) the additional height can achieve consistency with the zone objectives and objectives of the building height development standard. Based on the environmental impacts as discussed, the variation to the building height is considered to be in the public interest and consistent with the objectives of the B4 zone. The VPA offered would deliver meaningful public benefits.

Public Benefit

In relation to the Tower, it is important to note that when council considered the former Planning Proposal for 1-25 Marshall Avenue, on 15 April 2013 it resolved, in part, to:

3. Council indicate it will only consider any further height increase if the applicant enters into a suitable VPA to enhance the public domain in the vicinity of the site

The council resolution provides that a proposal for greater height would be considered provided a VPA was entered into to enhance the public domain in the vicinity of the site. The proposal and VPA respond to the council resolution. The VPA sets out that public benefit in the form of a monetary contribution that can be delivered through the additional height. The VPA has been drafted such that Section 94 contributions can be levied for the entire development, but the GFA associated with the additional height would be subject to an additional levy (VPA) of \$1,300 per m² GFA above 65m.

Council's Section 94 Contributions Plan identifies that the public plaza in its works schedule with a value of \$33.6 million (as at September 2013). The contribution that would be realised through the VPA would equate to a significant proportion of the total contribution required. This project would deliver a significant public benefit to both the local residential and the St Leonards working communities.

Summary

The above Clause 4.6 variation has demonstrated that the additional height does not give rise to unacceptable environmental impacts and would deliver significant public benefits through the offer to enter into a VPA with council.

Section 94 Contribution Plan

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

The Section 94 Contribution is calculated in the following manner:

Residential Contributions

Dwelling Type	Number of dwellings	Persons per dwelling	Total Number of persons	Contribution payable @ \$9636/person 2014/2015 fees and charges
Studio	19	1.2	22.8	\$219,700.80
1 bedroom	97	1.2	116.4	\$1,121,630.40
2 bedroom	120	1.9	228	\$2,197,008.00
3 bedroom	33	2.4	79.2	*\$660,000.00
Total	269	N/A	446.4	*\$4,198,339.20

***Note:** A cap of \$20,000 per dwelling has been imposed under the *Reforms of Local Development Contribution*. As such, the Section 94 Contributions for the proposed three-bedroom dwellings are capped at \$20,000 per dwelling, i.e. 33 dwellings x \$20,000 = \$660,000.00

Retail/Commercial Development - Traffic Management and Streetscape improvement

327 m² @ \$97.34 per m² (2014/2015) = \$31,830.18

Credit for dwelling houses demolished

Dwelling type	Number of persons
14 x Semi-detached dwelling houses at 1-13A Marshall Avenue	14 x 2 bedrooms @ 1.9 persons per dwelling = 53.2 persons
Half of the Semi-detached dwelling houses (x2) at 15&15A Marshall Avenue	0.5 x [2 x2 bedrooms] @1.9 persons per dwelling = 3.8 persons
Total Credit	57 persons @ \$9636 per person = \$549252

Total Section 94 Contributions Payable

Contribution Type	Amount
Commercial/Retail:	\$31,830.18
Residential:	*\$4,198,339.20
(Credit for dwellings):	(\$549,252.00)
Total Contribution:	\$3,680,917.38

The total Section 94 contribution for the proposal is **\$3,680,917.38**.

State Environmental Planning Policy (Building Sustainability Index) 2004

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

State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)

RailCorp

Pursuant to Clause 86(1) of the Infrastructure SEPP, a referral was sent to RailCorp as the proposal involved excavation within 25m from the rail corridor situated east of the site.

RailCorp advises as of 1 July 2014 the property functions of RailCorp have been transferred to Sydney Trains. Whilst RailCorp still exists as the legal land owner of the rail corridor, its concurrence function under the above SEPP has been delegated to Sydney Trains.

As such, Sydney Trains now advises that the proposed development is being assessed in accordance with the requirements of Clause 86(4) being:

- a) the potential effects of the development (whether alone or cumulatively with other development or proposed development) on:
 - (i) the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor, and
 - (ii) the safe and effective operation of existing or proposed rail infrastructure facilities in the rail corridor, and
- b) what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects.

Sydney Trains identified that the proposed development has been designed to provide a future connection to Council's proposed Plaza located predominantly over the rail corridor. Sydney Trains advises that the assumed level of this Plaza is at the applicant's risk given that Sydney Trains and/or Transport for NSW (TfNSW) may require the Plaza to be at a level which meets the standards and operational requirements of Sydney Trains and TfNSW. This could result in the proposed development being unable to interconnect with the Plaza.

Sydney Trains has granted its concurrence to the proposed development subject to Council imposing the deferred commencement condition and operational conditions. The deferred commencement condition which must be satisfied prior to the consent becoming operational (Part A). This advice was provided in a letter dated 19 January 2015 and included two deferred commencement conditions. Following discussions with council officers, Sydney Trains removed the following requirement from the concurrence letter:

The Applicant shall obtain confirmation from Transport for NSW (TfNSW) that the proposed development, and its need to connect to a future Plaza, can be accommodated should the Plaza proposal proceed.

The revised concurrence letter dated 6 February 2015 requires that the applicant prepare and provide to Sydney Trains for approval/certification the following items:

- i. Geotechnical and Structural report/drawings that meet Sydney Trains requirements. The Geotechnical Report must be based on actual borehole testing conducting on the site closest to the rail corridor.
- ii. Construction methodology with construction details pertaining to structural support during excavation. The Applicant is to be aware that Sydney Trains will not permit any rock anchors/bolts (whether temporary or permanent) within its land or easements.

- iii. Cross sectional drawings showing the tunnel easement, tunnel location, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the rail tunnel. All measurements are to be verified by a Registered Surveyor.
- iv. Detailed Survey Plan showing the relationship of the proposed developed with respect to Sydney Trains easement and tunnel location.
- v. If required by Sydney Trains, 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.

The above advice received from Sydney Trains was forwarded to the applicant (refer draft conditions 1 and 33-48).

A copy of the advice from Sydney Trains is provided in **ATT 5**.

NSW Roads and Maritime Services (RMS)

Pursuant to Schedule 3 of the Infrastructure SEPP the application was referred to the RMS who raised no objection to the proposal subject to the inclusion of four (4) conditions. The recommended conditions relate to the ingress and egress of vehicles, layout of parking spaces and swept path being compliant with AUSTRROADS (refer to draft conditions 52 - 55). A copy of the advice from RMS is provided in **ATT 6**.

Airports Act 1996 and Airports (Protection of Airspace) Regulations 1996

The application was referred to Sydney Airport pursuant to *s.186 of the Airports Act 1996 and Reg 8 Airports (Protection of Airspace) Regulations 1996* as the Tower component of the proposal would intrude into the airspace which, under the Regulations, is prescribed for Sydney Airport.

The Department of Infrastructure and Regional Development (the Department) reviewed the application and considered any submissions made by Civil Aviation Safety Authority (CASA), Airservices and Sydney Airport. The response received from the Department is summarised below.

The Outer Horizontal Surface of the OLS above the subject site is at a height of 156m Australian (AHD) and the prescribed airspace above the site commences at 156m. At a maximum height of 166.8m AHD, the Tower building would penetrate the OLS by 10.8m. The low rise building is below the OLS at a maximum height of 96.8m AHD.

The proposed construction of the development would constitute a controlled activity under Section 182 of the Airports Act 1996 (the Act). Section 183 of the Act requires that controlled activities cannot be carried out without approval.

Regulation 14 provides that a proposal to carry out a controlled activity must be approved unless varying out of the controlled activity would interfere with the safety, efficiency or regularity of existing or future air transport operations into or out of the airport concerned. Approval may be granted subject to conditions.

In resolving to grant approval, the Department had regard to the opinions of the applicant, CASA, Airservices Australia and SACL. The Department imposes the following conditions:

1. The building must not exceed a maximum height of 166.8m AHD, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lighting rods, any roof top garden plantings, exhaust flues etc.

2. Separate approval must be sought under the Airports (Protection of Airspace) Regulations 1996 for any cranes required to construct the building.
3. At completion of the construction of the building, a certified surveyor must notify in writing the airfield design manager of the finished height of the building.

The above conditions are included within the draft conditions (refer draft conditions 49- 51). A copy of this advice is provided in **ATT 7**.

THE PROVISIONS OF ANY PLANNING AGREEMENT THAT HAS BEEN ENTERED INTO UNDER SECTION 93F, OR ANY DRAFT PLANNING AGREEMENT THAT A DEVELOPER HAS OFFERED TO ENTER INTO UNDER SECTION 93F (Section 79 (C) (1) (a)(iii))

The development application is accompanied with a Voluntary Planning Agreement (VPA). A formal letter of offer has been provided to Lane Cove Council and sets out that the high rise (Tower) building of the proposal would exceed the 65m height of building development standard under the Lane Cove Local Environmental Plan 2009. The extent of the departure is 29m (or 9 storeys) above the 65m building height development standard. A clause 4.6 variation has also been submitted with the application. The offer to Lane Cove Council is for a monetary contribution of \$1,300 per m² of gross floor area located above the 65m height limit, this amounts to approximately \$8.36 million.

The letter of offer sets out that the VPA would not exclude the application of Section 94 (developer contributions), Section 94A (Fixed Developer Consent Levies) or Section 94EF (Special Infrastructure Contributions) of the Environmental Planning and Assessment Act 1979 and that the amount payable under the VPA would be in addition to any contribution payable under Council's Section 94 Plan. Therefore Section 94 contributions would also be levied on the units above 65m.

The letter of offer also sets out that if the development application is approved, the payment would be made for the purposes of contributing towards the funding of the construction of a proposed St Leonards Rail Plaza and Bus/Rail Interchange over the railway line in St Leonards. In the event the St Leonards Rail Plaza and Bus/Rail Interchange does not proceed, funds may be used for the provision of public infrastructure generally within the St Leonards area.

At its meeting on the 21 July 2014 full Council considered the VPA proposal. The General Manager's report highlights that when Council considered the Planning Proposal for the entire Marshall Avenue block, being 1-25 Marshall Avenue, resolved that council indicate it would only consider any further height increase if the applicant enters into a suitable VPA to enhance the public domain in the vicinity of the site. Council resolved to give notice of its intention to enter into a VPA with the developer and following community consultation a further report was submitted to council for determination.

The VPA was publicly exhibited from 17 September 2013 to 15 October 2013. Fifty three (53) of the submissions raised objections that related to the Voluntary Planning Agreement. Many of the submissions were based on a form submission. Council received two submissions on behalf of thirteen (13) property owners in support of the VPA. These properties in Marshall, and 1 Holdsworth and 1-5 Canberra, are the most affected by the overall development.

Following the close of the exhibition period, the matter was reported back to council at its meeting of 17 November 2014. Following the consideration of the report, the council resolved to endorse the VPA in respect of the Development at 1-13A Marshall Avenue, St Leonards.

A draft condition has been recommended regarding the VPA (refer draft condition 9). A copy of the signed VPA is provided in **ATT 8**.

THE PROVISIONS OF THE REGULATIONS (Section 79 (C) (1) (a)(iv))

There are no provisions within the regulations which are applicable to the development proposal.

THE LIKELY IMPACTS OF DEVELOPMENT (Section 79C (1) (b))

In addition to the likely environmental impacts previously discussed, including wind and reflectivity, the likely impacts on current views resulting from the proposal is discussed below.

View Sharing

The following provides an assessment of the view sharing principles stated by the Land and Environment Court.

Due to the height of the proposed Tower building it was not feasible to install height poles on the subject site. The views currently enjoyed by surrounding properties would be largely unaffected as a result of the low rise component of the proposal. The view loss assessment focuses on the Tower portion of the development proposal using photographs and photomontages which approximate the anticipated views as a result of the development proposal. The assessment has been undertaken with regard to the planning principles of view sharing in the *Tenacity Consulting v Waringah 2004* case.

1. Assessment of views to be affected

District views of the iconic Sydney Central Business District (CBD) are available from properties situated north-west of the site. The views include the Sydney Harbour Bridge, Sydney Tower, Anzac Bridge and Parramatta and Lane Cove Rivers and the interface between land and water. These distant district views are enjoyed from surrounding St Leonards properties including the Forum East building (3 Herbert Street) and Forum West building (1 Sergeants Lane), 207 Pacific Highway, the Northmark building (52 Christie Street) and the Shoremark building (54 Christie Street).

The Forum East and Forum West buildings and 207 Pacific Highway are situated on the northern side of the Pacific Highway and are situated within the Willoughby Council Local Government Area.

The Northmark building was inspected. The views of the city currently enjoyed would be unaffected from the Shoremark and Northmark buildings given the buildings are situated south-east of the subject site.

The view loss assessment would therefore focus on the buildings situated north of the Pacific Highway, the Forum East, Forum West and 207 Pacific Highway.

2. From what part of the property the views are obtained

Forum East

The Forum East building is situated north-east of the subject site. Apartments orientated south on Levels 17, 20 and 29 were inspected.

Level 17

Views of the distant Sydney CBD, Sydney Harbour Bridge, Sydney Tower and small portions of the Sydney Harbour are enjoyed from the most southern section of the primary living areas and the most southern portion of the balcony on Level 17 whilst standing.

Level 20

Angled views of distant Sydney Harbour, Anzac Bridge and Parramatta River are enjoyed from the primary living areas and the western balcony on Level 20 whilst standing. From the western balcony, angled views of the Sydney CBD, a section of the Sydney Harbour Bridge, Sydney Tower and Sydney Harbour are enjoyed whilst standing.

Level 29

Panoramic views of the distant Sydney CBD, Sydney Harbour Bridge, Sydney Tower and Sydney Harbour, Anzac Bridge and Parramatta River are enjoyed from the primary living areas on Level 29 whilst standing. Views of the Sydney CBD, Sydney Harbour Bridge, Sydney Tower and Sydney Harbour, Anzac Bridge and Parramatta River are enjoyed from the primary balcony on Level 29 whilst standing.

Forum West

Forum West building is situated north-east of the subject site. Apartments orientated south on Levels 18 and 24 (2 level, penthouse level) were inspected.

Level 18

Angled views of the distant Sydney CBD, the majority of Sydney Harbour Bridge, Sydney Tower, Sydney Harbour, Anzac Bridge and Parramatta River are enjoyed from the primary living area and most southern balcony whilst sitting and standing on Level 18.

Level 24

Views of the distant Sydney CBD, Sydney Harbour Bridge, Sydney Tower, Sydney Harbour, Anzac Bridge and Parramatta River are enjoyed from the primary living areas, master bedroom and most southern balconies whilst sitting and standing on Level 24.

Angled views of the distant Sydney Harbour Bridge, Sydney CBD and Sydney Tower, Anzac Bridge and Parramatta River are obtained from the secondary bedrooms and secondary western balcony on the upper level whilst sitting and standing.

207 Pacific Highway – Building B

207 Pacific Highway is north of the subject site and is a commercial building. Views enjoyed from Levels 3 to 10 within Building B include the distant Sydney CBD, Sydney Harbour Bridge and Sydney Tower from the southern section of the building whilst standing. Views from Levels 6 to 10 also enjoy a distant views of Sydney Harbour whilst sitting and standing.

Photomontages were prepared by the applicant following council officer's inspections of the above properties having regard to the RL of the buildings inspected, with the exception of 207 Pacific Highway. The submission received on behalf of 207 Pacific Highway incorporated a photograph of the view enjoyed from Level 6 of Building B and this photograph has been used by the applicant in the photomontage. The photomontages prepared by the applicant are included in **ATT 9** and provide an indication of views likely to be impacted.

3. Assess the extent of the impact

Forum East

Level 17

Views of the distant Sydney CBD, Sydney Harbour Bridge, Sydney Tower and small portions of the Sydney Harbour would continue to be enjoyed from the most southern section of the primary living areas and the most southern portion of the balcony on Level 17 whilst standing. The photomontage submitted demonstrates a small section of the Sydney Harbour being lost as a result of the Tower building. This view loss is considered to be minor, given the iconic views enjoyed remain unobstructed.

Level 20

Angled distant views of Sydney Harbour, Anzac Bridge and Parramatta River are enjoyed from the primary living areas and the western balcony on Level 20 would continue to be enjoyed. From the western balcony, angled views of the Sydney CBD, a section of the Sydney Harbour Bridge, Sydney Tower and Sydney Harbour would continue to be enjoyed. The photomontage submitted demonstrates a small section of Sydney Harbour being lost as a result of the Tower building. This view loss is considered to be minor, given the iconic views enjoyed remain unobstructed.

Level 29

Panoramic views distant of the Sydney CBD, Sydney Harbour Bridge, Sydney Tower and Sydney Harbour, Anzac Bridge and Parramatta River would continue to be enjoyed from the primary living areas on Level 29 whilst standing. Views of the Sydney CBD, Sydney Harbour Bridge, Sydney Tower and Sydney Harbour, Anzac Bridge and Parramatta River would continue to be enjoyed from the primary balcony on Level 29 whilst standing. The photomontage submitted indicates a small section of the Sydney Harbour being lost as a result of the Tower building. It is noted that the additional height is responsible for the loss of this portion of view. This view loss is considered to be minor, given the iconic views enjoyed remain unobstructed.

Forum West

Level 18

Angled views of the distant Sydney CBD, the majority of Sydney Harbour Bridge, Sydney Tower, Sydney Harbour, Anzac Bridge and Parramatta River are enjoyed from the primary living area and most southern balcony whilst sitting and standing on Level 18. A portion of the city skyline and Sydney Harbour would be lost as a result of the Tower. The portion of the Sydney Harbour Bridge and Sydney Tower currently enjoyed would remain. It is noted that some of the view loss of the city skyline and Sydney Harbour would also occur in the case of a compliant Tower height. This view loss is considered to be moderate however the highly valued iconic views enjoyed remain unobstructed.

Level 24

Views of the distant Sydney CBD, Sydney Harbour Bridge, Sydney Tower, Sydney Harbour, Anzac Bridge and Parramatta River would continue to be enjoyed from the primary living areas, master bedroom and most southern balconies whilst sitting and standing on Level 24. A portion of Sydney Harbour would be lost as a result of the additional Tower height. The view loss would not occur in the case of a compliant Tower building. This view loss is considered to be minor, given the iconic views enjoyed remain unobstructed.

Angled views of the distant Sydney Harbour Bridge, Sydney CBD and Sydney Tower, Anzac Bridge and Parramatta River would continue to be enjoyed from the secondary bedrooms and secondary western balcony on the upper level whilst sitting and standing. A portion of Sydney Harbour would be lost as a result of the additional Tower height and this loss is considered to be minor. The view loss would not occur in the case of a compliant Tower building. This view loss is considered to be minor, given the iconic views enjoyed remain unobstructed.

207 Pacific Highway

Views enjoyed from Levels 3 to 10 within Building B include the distant Sydney CBD, Sydney Harbour Bridge and Sydney Tower from the southern section of the building whilst standing. Views from Levels 6 to 10 also enjoys distant views of Sydney Harbour whilst sitting and standing.

The submitted photomontage, prepared based on a photograph from Level 6, anticipates approximately half of the iconic Sydney Harbour Bridge and district water views would be lost as a result of the Tower building. Whilst this view loss is significant, it is noted that a compliant Tower building would cause this loss. The additional building height of the Tower would have no consequence on this view. The view loss is considered to be significant however the remainder of the iconic views enjoyed are unobstructed.

4. Assess the reasonableness of the proposal causing the impact

The proposed development as a whole complies with the maximum permissible floor space ratio. The proposed Tower departs from the height of building development standard by 29m, approximately 9 storeys above the 65m building height development standard. The proposal would affect a portion of angled views obtained the residential buildings however it would not obstruct iconic views towards of the distant Sydney CBD, Sydney Tower, Anzac Bridge and Parramatta and Lane Cove Rivers. Parts of the Sydney Harbour Bridge would be obstructed from the Forum West building. Some of the view loss of the city skyline and Sydney Harbour would be experienced, even in the case of a compliant Tower height.

Iconic views from the commercial building at 207 Pacific Highway would be affected. The view enjoyed of the distant Sydney Harbour Bridge would likely be lost as the result of a fully compliant Tower building. Despite this the siting of the proposal Tower and low rise would permit the majority of the existing view of the Sydney Harbour Bridge to be retained.

It is noted that the properties immediately north of the subject site which address the Pacific Highway are largely underdeveloped. The maximum building height permitted as per the Lane Cove LEP for these properties is 36m. Should these properties be developed to this maximum height, loss of iconic views of the city would likely occur.

In light of the above assessment, it is considered that the loss of views as a result of the current Tower proposal is reasonable and acceptable given the character of the St Leonards precinct.

THE SUITABILITY OF THE SITE (Section 79C (1) (c))

The Strategic planning documents relating to the site, including the Lane Cove LEP, the Metropolitan Strategy, draft Inner North Subregion Strategy 2007 and the St Leonards Strategy have determined the suitability for the site for mixed use development and more intensive forms of residential development. Further the proposal would result in increased housing and retail/commercial floor space near established transport nodes.

The site has been considered by experts in relation to contamination and geotechnical investigations, vibration and acoustic investigations, urban design, solar access, and accessibility and is found to be suitable for the proposed development.

Given the strategic planning direction for St Leonards, consideration of the relevant planning instruments and policies and the assessment of likely environmental impacts, the site is considered suitable for the proposed development.

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

The proposal was notified in accordance with Council's notification policy. The application was notified on 17 September 2014 to the 14 October 2014.

A total of 115 individual submissions were received as a result of the notification period and two (2) petitions with 64 signatures for the proposal. All submissions received were provided to the JRPP for its review.

The issues raised in the submissions are largely addressed in the body of the assessment report, however the objections to the proposal are summarised below:

- *The proposal pre-empts the planning for the St Leonards South Precinct*

The draft St Leonards South Strategy has regard for the subject site however the development application for the redevelopment of this site has been assessed independent of this.

- *Suitability of the development for the site*

The strategic planning policies for St Leonards encourage increased residential accommodation and employment generating development within proximity to established transport nodes. The proposal has been designed with regard to the protection of the residential amenity of surrounding properties. The proposal would allow for acceptable solar access to residential properties south of the site and to public open spaces including a future public plaza site. The proposal would also not unreasonably reduce iconic views of distant Sydney CBD. The assessment of the proposed development concludes the development is suitable for the site.

- *Bulk and scale of the proposal is not suitable for the area being opposite dwelling houses*

The proposal does not achieve the maximum permissible FSR for the site. The proposal redistributes the building height from the low rise building to the Tower to ensure solar access to surrounding residential properties is maintained. The low rise and Tower are well articulated, in particular the low rise building presents as a two storey development similar to a townhouse development. The upper levels of the low rise building are setback from Marshall Avenue to reduce the bulk of the building.

- *Noise*

It is acknowledged that the construction associated with the development proposal would result in additional noise for residential and commercial properties. This noise is anticipated to be experienced during the construction phase of the proposal only. Draft conditions have been recommended to ensure construction noise is kept to a minimum.

The submitted Acoustic Report found that the occupation of the proposal would not unreasonably reduce the amenity of surrounding properties. Plant equipment is proposed to be situated on the roof levels of the development to reduce noise impacts and is subject to noise limits through draft conditions of consent.

- *Overshadowing*

The submitted shadow diagrams prepared by the applicant demonstrate the cumulative impact of the current proposal and the mixed use development under construction at the western section of Marshall Avenue. The shadow diagrams demonstrate, that the development including the additional height of Tower, does not affect any residential property for more than one hour during mid winter. Reasonable access to sunlight is maintained as a result of the proposal.

- *View loss*

The proposal would not unreasonably obstruct views towards iconic of the Sydney CBD. The proposal would affect a portion of the views enjoyed by the residential buildings situated north of the site on the opposite side of the Pacific Highway. The view loss assessment found that some of the view loss of the city skyline and Sydney Harbour would be experienced in the case of a compliant Tower height.

Iconic views of the Sydney Harbour Bridge from the commercial building at 207 Pacific Highway would be affected however this would likely be lost as the result of a fully compliant Tower building.

The properties immediately north of the subject site which address the Pacific Highway are largely underdeveloped. The maximum building height permitted as per the Lane Cove LEP for these properties is 36m. Should these properties be developed to this maximum height, views of the city from the properties to the north of the site would likely be affected.

- *Is the Voluntary Planning Agreement (VPA) a legal process*

Section 93(f) of the Environmental Planning and Assessment Act 1979 provides that a VPA may be entered into under which the developer is required to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit, or any combination of them, to be used for or applied towards a public purpose. The VPA can deliver significant public benefits through the offer to enter into a VPA with council.

- *No approval has been given for the public plaza and the VPA may never occur*

The letter of offer from the applicant sets out that if the development application is approved, the payment would be made for the purposes of contributing towards the funding of the construction of a proposed St Leonards Rail Plaza and Bus/Rail Interchange over the railway line in St Leonards. In the event the St Leonards Rail Plaza and Bus/Rail Interchange does not proceed, funds may be used for the provision of public infrastructure generally within the St Leonards area.

- *Traffic congestion*

The proposed development would generate additional vehicular movements within the St Leonards precinct, however the anticipated traffic generation is not deemed to be unreasonable or unacceptable in the circumstance.

- *Insufficient on-site parking is provided*

The proposed on-site parking is considered to be acceptable given the site is situated within an accessible location, being within 400m walking distance to public transport which is regularly serviced with trains and buses.

THE PUBLIC INTEREST (Section 79C (1) (e))

The proposed development meets the objectives of Lane Cove Council's Local Environmental Plan 2009 and generally meets the provisions of Development Control Plan.

The proposed development would not result in adverse environmental impacts namely, the proposal would not unreasonably reduce iconic views enjoyed from surrounding residential and commercial developments and solar access would not be unreasonably reduced to residential dwellings situated south of the site.

The proposal is consistent with the desired future character of St Leonards. The proposal is a high quality design which responds well to the constraints of the site and to the future public plaza.

The additional height does not give rise to unreasonable environmental impacts and can deliver significant public benefits through the offer to enter into a VPA with council. Accordingly it is considered the proposal is in the public interest and can be approved subject to appropriate draft conditions.

CONCLUSION

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

The proposal complies with the provisions of Lane Cove Council's Local Environmental Plan 2009 with regards to the FSR and seeks to vary the building height relating to the Tower building by transferring floor space from the low rise to the eastern portion of the site.

The proposed development generally complies with the provisions of the Lane Cove Development Control Plan. The proposal seeks to provide an alternative to visitable access

within bathrooms of the visitable units by providing an accessible bathroom in the ground floor of each building and increase the general accessibility through the building for residents and visitors. The proposal is accompanied by expert advice in this regard detailing its compliance with the relevant Australian Standards and the application Discrimination Act.

The issues raised by neighbours within Lane Cove Council LGA and Willoughby Council's LGA have been considered and discussed in the body of the report.

The proposal generally meets the objectives of the 10 planning principles of SEPP 65 and is considered to represent a high quality development that would not impinge upon the future character of the area. The proposal responds well to the surrounding commercial and residential developments. A transition in height is provided between the proposal and the low density residential properties situated opposite the site in Marshall Avenue. This proposal maintains adequate solar access to the residential properties surrounding the site, particularly those to the south and to Newlands Park. Despite a portion of views of the distant Sydney Harbour Bridge and Sydney Harbour being lost, in particular from residential dwellings, the proposal maintains reasonable access to existing iconic views of the CBD given the character of St Leonards.

The DA is accompanied with a VPA which is a formal letter of offer to Lane Cove Council for a monetary contribution of \$1,300 per m² of gross floor area located above the 65m height limit, this amounts to approximately \$8.36 million. The VPA would be in addition to any contribution payable under Council's Section 94 Plan for the development in its entirety.

If the development application is approved, the payment would be made for the purposes of contributing towards the funding of the construction of a proposed St Leonards Rail Plaza and Bus/Rail Interchange over the railway line in St Leonards. In the event the St Leonards Rail Plaza and Bus/Rail Interchange does not proceed, funds may be used for the provision of public infrastructure generally within the St Leonards area.

At its meeting of 17 November 2014 the council resolved to proceed with the Voluntary Planning Agreement in respect of the Development at 1-13A Marshall Avenue, St Leonards. The VPA is considered to be in the public interest.

The development proposal would make a positive contribution to the St Leonards Precinct and Lane Cove Local Government Area generally. The proposal is recommended for approval subject to conditions.

RECOMMENDATION

That pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act, 1979, as amended, the Sydney East Joint Regional Planning Panel grant development consent to Development Application DA13/32 for the construction of a mixed use development comprising of 269 residential units and retail/commercial, subdivision and the Voluntary Planning Agreement at 1-13A and part 15 and 15A Marshall Avenue, St Leonards subject to the following conditions:

Sydney Trains (RailCorp)

Deferred Commencement Condition

This consent is not to operate until the Applicant satisfies the Council, within 12 months of the date of this consent, that it has obtained approval/certification from Sydney Trains as to the following matters and the approval/certification has been forwarded to the Council:

1. **A1**

The Applicant shall prepare and provide to Sydney Trains for approval/certification the following items:

- vi. Geotechnical and Structural report/drawings that meet Sydney Trains requirements. The Geotechnical Report must be based on actual borehole testing conducting on the site closest to the rail corridor.
- vii. Construction methodology with construction details pertaining to structural support during excavation. The Applicant is to be aware that Sydney Trains will not permit any rock anchors/bolts (whether temporary or permanent) within its land or easements.
- viii. Cross sectional drawings showing the tunnel easement, tunnel location, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the rail tunnel. All measurements are to be verified by a Registered Surveyor.
- ix. Detailed Survey Plan showing the relationship of the proposed developed with respect to Sydney Trains easement and tunnel location.
- x. If required by Sydney Trains, 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.

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

Operational

General

2. (20) That the development be strictly in accordance with the following drawings prepared by:

Nettleton Tribe Partnership Pty Ltd

4264_DA001	Site Plan, dated 28.08.2014
4264_DA003_1	Basement Level 3 Plan, Rev A, dated 20.11.2014
4264_DA004_1	Basement Level 2 Plan, Rev A, dated 20.11.2014
4264_DA005_1	Basement Level 1 Plan, Rev A, dated 20.11.2014
4264_DA006_1	Ground level – overall Plan, dated 20.11.2014
4264_DA007_1	Level 1 – Overall Plan, Rev A, dated 20.11.2014
4264_DA008_1	Level 2 – Overall Plan, Rev A, dated 20.11.2014
4264_DA009_1	Level 3 – Overall Plan, Rev A, dated 20.11.2014
4264_DA010_1	Typical Overall Level Plan, Rev A, dated 20.11.2014
4264_DA011	Low Rise Building – Ground Level Plan, dated 28.8.2014
4264_DA012_1	Low Rise Building – Level 1 Plan, Rev A, dated 20.11.2014
4264_DA013_1	Low Rise Building – Level 2 Plan, Rev A, dated 20.11.2014
4264_DA014_1	Low Rise Building – Level 3 Plan, Rev A, dated 20.11.2014

4264_DA015_1	Low Rise Building – Level 4 Plan, Rev A, dated 20.11.2014
4264_DA016_1	Low Rise Building – Level 5 Plan, Rev A, dated 20.11.2014
4262_DA17_1	Low Rise Building – Level 6 Plan, Rev A, dated 20.11.2014
4264_DA018	Low Rise Building – Roof Plan, dated 28.8.2014
4264_DA019_1	High Rise Building – Ground Level Plan, Rev A, dated 20.11.2014
4264_DA020_1	High Rise Building – Level 1 Plan, Rev A, dated 20.11.2014
4264_DA021	High Rise Building – Level 2 Plan, dated 28.8.2014
4264_DA022	High Rise Building – Level 3 Plan, dated 28.8.2014
4264_DA023_1	High Rise Building – Midrise Level 4-7 Plan, Rev A, dated 20.11.2014
4264_DA024_1	High Rise Building – midrise level 8-13 Plan, Rev A, dated 20.11.2014
4264_DA025_1	High Rise Building - Level 14 Plan, Rev A, dated 20.11.2014
4264_DA026_1	High Rise Building – High Rise Level 15-25 Plan, Rev A, dated 20.11.2014
4264_DA027_2	High Rise Building – High Rise Level 26-27 Plan, dated 25.11.2014
4264_DA028_1	High Rise Building – Penthouse Level 28 Plan, Rev A, dated 20.11.2014
4264_DA029	High Rise Building –Plant Level Plan, dated 28.8.2014
4264_DA030	High Rise Building Roof Plan, dated 28.8.2014
4264_DA031_1	Overall North Elevation, dated 27.11.2014
4264_DA032_1	Overall South Elevation, dated 27.11.2014
4264_DA033_1	High Rise Building East/West Elevation, dated 27.11.2014
4264_DA036_1	East-West Overall Section, dated 27.11.2014
4264_DA037	Sections – Low Rise Building, dated 5.9.2014
4264_DA038	Sections – High Rise Building, dated 27.11.2014
4264_DA061	Adaptable Units – Sheet 1, dated 28.8.2014
4264_DA062	Adaptable Units – Sheet 2, dated 28.8.2014
4264_DA063	Adaptable Units – Sheet 3, dated 28.8.2014

Site Image, Landscape Architects

SS14-2817 000	Cover Sheet, Rev B, dated 24.7.2014
SS14-2817 100	Landscape Masterplan, Rev B, dated 24.7.2014
SS14-2817 101	Landscape Masterplan Marshall Street Frontage, Rev B, dated 24.7.2014
SS14-2817 102	Landscape Masterplan Marshall Lane Frontage, Rev B, dated 24.7.2014
SS14-2817 501	Landscape Details, Rev B, dated 24.7.2014
SS14-2817 502	Landscape Details, Specification Notes and Plant Schedule, Rev B, dated 24.7.2014

except as amended by the following conditions.

3. Prior to the issue of the construction certificate, details of external lighting and the operation system shall be submitted to the Private Certifying Authority and shall be implemented prior to the issue of an occupation certificate.
4. Prior to the issue of a construction certificate the applicant shall submit amended plans to the Private Certifying Authority demonstrating 56 accessible car spaces within the basement. The spaces shall be clearly marked as accessible spaces and be implemented within the basement prior to the issue of an occupation certificate.
5. Prior to the issue of the construction certificate the applicant shall implement the recommendations of the Acoustic Report prepared by Renzo Tonin and Associates and dated 27 June 2014 (Revision 1).

6. Prior to the issue of the construction certificate the applicant would be required to submit amended plans for the adaptable units detailing compliance with the requirements of AS4299 in accordance with the Access Review prepared by Morris-Goding Accessibility Consulting and dated 21 November 2014 and submitted to the Certifying Authority.
7. Prior to the issue of the construction certificate, the recommendations within the Access Review, prepared by Morris-Goding Accessibility Consulting and dated 21 November 2014 shall be implemented on the plans and submitted to the Certifying Authority.
8. Prior to the issue of the construction certificate the applicant shall submit amended plans of the Tower building to the certifying authority detailing the conversion of the winter balconies into balconies to Units 03 and Units 07 on Levels 4 to 7.
9. A Voluntary Planning Agreement (VPA) shall be entered into between Lane Cove Council and Loftex Pty Ltd for 1-13A and part of 15 and 15A Marshall Avenue, which is consistent with the VPA dated 5 March 2015. The VPA shall be satisfied as per the VPA requirements.
10. (1) The submission of a Construction Certificate and its issue by Council or Private Certifier PRIOR TO CONSTRUCTION WORK commencing.
11. (2) All building works are required to be carried out in accordance with the provisions of the Building Code of Australia.
12. (11) 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 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.
13. (12) Approval is subject to the condition that the builder or person who does the residential building work complies with the applicable requirements of Part 6 of the Home Building Act 1989 whereby a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy Council or the PCA that they have complied with the applicable requirements of Part 6. **Council as the PCA will not release the Construction Certificate until evidence of Home Owners Warranty Insurance or an owner builder permit is submitted.** THE ABOVE CONDITION DOES NOT APPLY TO COMMERCIAL/INDUSTRIAL CONSTRUCTION, OWNER BUILDER WORKS LESS THAN \$5000 OR CONSTRUCTION WORKS LESS THAN \$20,000.
 14. (21) THE PAYMENT OF A CONTRIBUTION FOR AN ADDITIONAL **446.4 PERSONS AND 327M² OF RETAIL/COMMERCIAL FLOOR SPACE** 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 \$3,680,917.38 AT THE CURRENT RATE OF \$9636 PER PERSON AND \$97.34 PER M² RETAIL/COMMERCIAL FLOOR SPACE (CALCULATED AT 2014/2015 RATES).** THIS AMOUNT INCORPORATES THE CREDIT FOR PREVIOUS DEVELOPMENT.

NOTE: PAYMENT MUST BE IN BANK CHEQUE. PERSONAL CHEQUES WILL NOT BE ACCEPTED.

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

15. (145) **Critical concrete pours**

The applicant may apply to undertake critical concrete pours outside of normal working hours provided all of the following requirements are satisfied:

- the submission, at least seven (7) working days prior to the critical concrete pour, to Council of an application along with the prescribed fee, in the prescribed Council form, that includes a written statement of intention to undertake a critical concrete pour and that also contains details of the critical concrete pour, the number of such pours required, their likely time duration, impact statement and how foreseeable impacts will be addressed (i.e light spill/ noise/ traffic etc);
- adjoining and nearby affected residents being notified in writing at least two (2) working days prior to the pour, and a copy of this notice to be provided to Council for review prior to issue;
- no work and deliveries to be carried out before 7.00am and after 10pm;
and
- no work occurring on a Sunday or any Public Holiday.

All other relevant requirements relating to critical concrete pours that are the subject of other conditions of this development consent remain relevant at all times.

Following any critical concrete pour, the applicant must advise Council in writing no later than seven (7) working days after the completion of the pour, what measures were actually undertaken by the applicant with a view to minimising any potential adverse impacts as a result of the pour, including but not limited to impacts with respect to noise, light spillage, and the positioning of the required vehicle(s), so that all related matters can be reviewed and any potential adverse events and/or impacts addressed in future critical concrete pours.

NOTE:

- **There is a critical concrete pour application fee**
- **A critical concrete pour application and prior approval is required**
- **No work shall be undertaken outside standard working hours without prior written approval from Council.**
- **Council reserves the right to refuse the application with or without reason.**

16. (17) An Occupation Certificate being obtained from the Principal Certifying Authority before the occupation of the building.

17. (24) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the “Your Business” section of the web site www.sydneywater.com.au then follow the “e-Developer” icon or telephone 13 20 92 for assistance.

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

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

18. All building construction work, including earthworks, deliveries of building materials to and from the site to be restricted as follows:-

Monday to Friday (inclusive) 7am to 5.30pm **High noise generating activities, including rock breaking and saw cutting must not be carried out continuously for longer than 3 hours without a 1 hour break.**

Saturday 8am to 12 noon **with NO excavation, haulage truck movement, rock picking, sawing, jack hammering or pile driving to be undertaken. Failure to fully comply will result in the issue of a breach of consent P.I.N.**

Sunday No work Sunday or any Public Holiday.

A Notice/Sign showing permitted working hours and types of work permitted during those hours, including the applicant’s phone number, project manager or site foreman, shall be displayed at the front of the site.

19. 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.
20. 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.
21. Continuous balustrading is to be provided to all balconies, decks, terraces, landings and the like where more than 1m above the ground or floor surface beneath. Such balustrading is to have a minimum height of 1m. Openings in the balustrade must not allow a 125mm sphere to pass through and where the floor is more than 4m above the ground or floor surface below, any horizontal or near horizontal elements within the balustrade between 150mm and 760mm above the floor must not facilitate climbing.
22. 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.

23. Prior to the commencement of any construction work associated with the development, the Applicant shall erect a sign(s) at the construction site and in a prominent position at the site boundary where the sign can be viewed from the nearest public place. The sign(s) shall indicate:
- a) the name, address and telephone number of the Principal Certifying Authority;
 - b) the name of the person in charge of the construction site and telephone number at which that person may be contacted outside working hours; and
 - c) a statement that unauthorised entry to the construction site is prohibited.

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

24. 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) upper level floor framing;

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

- a) The pier holes/pads before filling with concrete.
- b) All reinforcement prior to filling with concrete.
- c) The dampcourse level, ant capping, anchorage and floor framing before the floor material is laid.
- 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.

26. A check survey certificate is to be submitted at completion of the development.

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.

27. Noise from domestic air conditioners is not to be audible in any adjoining dwelling between the hours of 10:00pm and 7:00am on weekdays or between the hours of 10:00pm and 8:00am on weekends and public holidays.

If the noise emitted from the air conditioning unit results in offensive noise, Council may prohibit the use of the unit, under the provisions of the Protection of the Environment Operations Act 1997.

28. (67)
- (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.**

29. An *automatic* fire detection and alarm system, designed to ensure the occupants are given adequate warning so they can evacuate the building in an emergency, must be installed in the dwelling.

This requirement is satisfied by:-

- (a) Smoke alarms installed in—
 - (i) Class 1a buildings in accordance with 3.7.2.3 of the Building Code of Australia; and
 - (ii) in Class 1b buildings in accordance with 3.7.2.4 and 3.7.2.5 of the Building Code of Australia
- (b) Smoke alarms complying with AS 3786.
- (c) Smoke alarms connected to the consumer mains power where consumer power is supplied to the building.

Location – Class 1b buildings

In a Class 1b building, smoke alarms must be installed on or near the ceiling—

- (a) in every bedrooms; and
- (b) in every corridor or hallway associated with a bedroom, or if there is no corridor or hallway, in an area between the bedrooms and the remainder of the building; and
- (c) on each other storey.

30. The site being properly fenced to prevent access of unauthorised persons outside of working hours.
31. **BASIX** - Compliance with all the conditions of the BASIX Certificate lodged with Council as part of this application.
32. **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.**

Sydney Trains (RailCorp)

33.
 - B1. If required by Sydney Trains, 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 is to be carried out by representatives from Sydney Trains 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 Sydney Trains.
34.
 - B2. Unless advised otherwise the Applicant shall comply with the following items:
 - All excavation works within 25m of the rail corridor are to be supervised by a geotechnical engineer experienced with such excavation projects.
 - No rock anchors/bolts are to be installed into RailCorp's property or easements.
 - On completion of the basement slab works all temporary rock anchors/bolts along the rail corridor boundary are to be destressed in accordance with the Geotechnical and Structural Reports.
 - The project engineer is to conduct vibration monitoring during the course of the excavation.

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 specifications. Prior to the commencement of works the Principle Certifying Authority is to provide verification to Sydney Trains that this condition has been complied with.

35.
 - B3. The following items are to be submitted to Sydney Trains for review and endorsement prior to the issuing of a Construction Certificate:
 - Machinery to be used during excavation/construction.

- If required by Sydney Trains, track monitoring plan detailing the proposed method of track monitoring during excavation and construction phases.
- If required by Sydney Trains, a rail safety plan including instrumentation and the monitoring regime.

The Principle Certifying Authority is not to issue the Construction Certificate until it has received written confirmation from Sydney Trains that this condition has been complied with.

36.

B4. Sydney Trains and Transport for NSW, 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.

37.

B5. Copies of any certificates, drawings or approvals given to or issued by Sydney Trains must be submitted to Council for its records.

38.

B6. Prior to the issuing of an Occupation Certificate the Applicant is to submit the as-built drawings to Sydney Trains, Transport for NSW and Council. The Principal Certifying Authority is not to issue the Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

39.

B7. Prior to the issue of a Construction Certificate the Applicant must hold current public liability insurance cover for a sum to be determined by Sydney Trains. This insurance shall not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure. The Applicant is to contact Sydney Trains Rail Corridor Management Group to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains written advice to the Applicant on the level of insurance required.

40.

B8. Prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains Rail Corridor Management Group to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.

41.

B9. In exercising its functions in relation to any Sydney Trains conditions, Sydney Trains reserves the right to liaise with Transport for NSW and impose any requirements (as advised by those entities) on their behalf as if they were Sydney Trains requirements.

42. B10. 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".
43. B11. 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.
44. B12. 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 Sydney Trains. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
45. B13. If required by Sydney Trains, 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 Sydney Trains for review and comment on the impacts on rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
46. B14. Prior to the issuing of a Construction Certificate the Applicant is to submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from the Sydney Trains confirming that this condition has been satisfied.
47. B15. The Sydney Trains corridor access gates located opposite the development site shall be unobstructed at all times.
48. B16. No construction vehicles (including staff vehicles), equipment, bins or building material shall occupy the land used for car parking purposes located opposite the development site.

Department of Infrastructure and Regional Development

49. The building must not exceed a maximum height of 166.8m AHD, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lighting rods, any roof top garden plantings, exhaust flues etc.
50. Separate approval must be sought under the Airports (Protection of Airspace) Regulations 1996 for any cranes required to construct the building.

51. At completion of the construction of the building, a certified surveyor must notify in writing the airfield design manager of the finished height of the building.

NSW Roads and Maritime Services

52. All vehicles should enter and leave the site in a forward direction.
53. All vehicles should be wholly contained on site before being required to stop.
54. The layout of the proposed car parking areas associated with the subject development (including driveway, grades, turn paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions) should be in accordance with AS2890.1-2004 and AS2890.2-2002 for heavy vehicle usage.
55. The swept path of the longest vehicle (including garbage trucks) entering and exiting the site, as well as maneuverability through the site, shall be in accordance with AUSTROADS.

Traffic and Transport

56. The car park design shall comply with AS 2890.1-2004 including parking spaces, ramps, aisles, disabled parking and loading areas. All other aspects of the car parking areas shall comply with AS 2890.2-2002 for Loading Facilities and Services Vehicles.
57. The access to the public car park shall comply with Australian Standards AS 2890.1-2004.
58. All disabled car spaces in the public car park shall be adequately signposted and line marked, and provided in accordance with AS2890.6. The garbage collection area shall be clearly signposted and line marked, and provided in accordance with AS2890.2
59. Pedestrians shall be accommodated for on all approaches of the roundabout in Marshall Avenue including on the driveway with the inclusion of a pedestrian refuge. A stop line and stop sign shall be included in the edge of the property to ensure pedestrian safety along the northern side of Marshall Street.
60. Pedestrian access, including disabled and pram access shall be maintained throughout the course of the construction as per AS-1742.3, Part 3 - Traffic control devices for works on roads.
61. Prior to the issue of the occupation certificate the applicant shall construct, at their cost, a shared zone for the entire length of Marshall Lane to a design and specification approved by Lane Cove Council.
62. Provision shall be made for on-site visitor cycle parking, in addition to the cycle parking in the basement car park. The public cycle parking shall be clearly signposted, well lit and easily accessible by bike.

63. A Construction Traffic Management Plan (CTMP) shall be lodged with Council prior to the issue of a Construction Certificate. The CTMP shall be prepared in accordance with the requirements of the *Lane Cove Development Control Plan, Part R – Traffic Transport and Parking*. The CTMP shall specify proposed Work/Construction Zones and the impact of the construction traffic activities to all road users including pedestrians and cyclists.
64. Work Zone Permit Applications shall be submitted to Council prior to the commencement of works. No works shall commence on site until the Work Zone signs have been installed Council.
65. Prior to the issue of the construction certificate detailed drawings of the proposed roundabout at Marshall Avenue and Holdsworth Avenue and the proposed location of the driveway shall be submitted to Lane Cove Council for Local Traffic Committee for endorsement.

Tree Protection

66. 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.
67. The applicant shall obtain written authority from Council prior to the pruning of any street trees or trees in neighbouring properties. Tree 33 (the Forest Oak street tree) is exempt from this condition and may be removed by the developer.
68. There shall 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.
69. Excavation within 6 metres of street trees directly adjacent to the site shall be carried out under the supervision of the project arborist (Level 5). Any tree roots encountered during excavation must be cut cleanly by the arborist.
70. The footings supporting the front boundary walls shall remain in place as a root protection measure. Machinery usage in close proximity to the wall footings shall be carried out in such a way that the footings are not disrupted.
71. A 1.8m high chain mesh fence shall be erected encompassing the entire nature strip between the footpath and the street gutter. Adequate room must be provided to allow car passengers to exist parked cars. The tree protection zones must not enclose the parking metres. The tree protection area shall not be used for the storage of building

materials, machinery, site sheds, or for advertising and soil levels within the tree protection area shall remain undisturbed.

72. A waterproof sign must be placed on tree protection zones at 6 metre intervals stating 'NO ENTRY TREE PROTECTION ZONE – this fence and sign are not to be removed or relocated for the work duration.' Minimum size of the sign is to be A4 portrait with NO ENTRY TREE PROTECTION ZONE in capital Arial Font size 100, and the rest of the text in Arial font size 65.
73. All tree protection measures and signage must be erected **PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE OR THE COMMENCEMENT OF WORKS, WHICHEVER OCCURS FIRST.** This includes demolition or site preparation works, and tree protection measures must remain in place for the duration of the development, including construction of the driveway crossing.

BOND ON STREET AND COUNCIL TREES

74. Pursuant to Section 80A(6)(a) and (7) of the Environmental Planning and Assessment Act 1979, the applicant must, prior to the issue of the first construction certificate, provide security in the amount of \$15,000 (by way of cash deposit with the Council, or a guarantee satisfactory to the Council) for the payment of the cost of making good any damage caused, as a consequence of the doing of anything to which this development consent relates, to all street trees that are on the public road reserve immediately adjoining the land subject of this development consent.

The Council may apply funds realised from the security to meet the cost of making good any damage caused, as a consequence of the doing of anything to which this development consent relates, to the said trees. If the cost of making good any damage caused to the said trees as a consequence of the doing of anything to which this development consent relates exceeds the amount of the security provided by the applicant additional security must be provided by the applicant to the Council to cover that cost and the Council may apply funds realised from the additional security to meet the total cost of making good the damage.

The bond shall be refundable following issue of the Final Occupation Certificate. The owner must notify Council's Senior Tree Assessment Officer who will inspect the street trees and organize the bond refund.

Landscaping

75. The applicant shall submit detailed landscape working drawings for construction which achieve the overall landscape design intent and comply with the conditions of the development consent. The plans shall be submitted to the private certifier prior to the issue of a Construction Certificate. Each plan/ sheet is to be certified by a qualified landscape architect / environmental designer or horticulturist. The landscape plan for construction shall show the treatment of common open space areas, front, rear and side setbacks, balconies or on-structure plantings, any decking and raised screening or general landscaping treatment (including sections, elevations, landscape profiles and specifications, consistent with Councils Landscape Checklist and landscape policy).
76. The applicant shall submit detailed landscape working drawings for construction including sections, elevations and landscape profiles and specifications of the

proposed public open space that comply with the conditions of the development consent, and are to be submitted to the private certifier prior to the issue of a Construction Certificate.

Each plan/ sheet is to be certified by a qualified landscape architect / environmental designer or horticulturist. The detailed landscape construction plans shall show the treatment of open space areas, level changes, treatment of all built form/ pedestrian interfaces, detailed hard and soft material selection and any other general landscaping treatment, within the communal open space and any future open space connections and linkages.

77. Provision shall be made for on-structure landscaping to have adequate soil depth, volume and suitable profile to support the number of trees and shrubs indicated on the plans by Site image.
78. A sufficient number of groundcovers and low shrubs which are planted at appropriate distances and depths shall be planted within twelve (12) months of completion of all landscaping works. Where screen planting is required throughout the development, plants must have a height of 2 m at planting as per Landscape Documentation Package prepared by Site Image.
79. All landscape works is to be completed to a professional standard, free of any hazards or unnecessary maintenance problems and that all plants are consistent with NATSPEC specifications.
80. The proposed tree plantings shall have a mature height of no less than 6m at maturity, to be installed in pot sizes no smaller than 45 litres in accordance with the Landscape Documentation Package prepared by Site Image.

MATTERS TO BE SATISFIED PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

81. A qualified practising landscape architect, Landscape / environmental designer or horticulturist, shall certify that the proposed subsoil drainage and any associated waterproofing membrane, have been installed in accordance with the details shown on the landscape working drawings and specification. Works are not to progress until the principal certifying authority has confirmed that this condition has been satisfied.
82. A landscape practical completion report shall be prepared by a consultant landscape architect and submitted to Council or the accredited certifier within 7 working days of the date of practical completion of all landscape works. This report shall certify that all landscape works have been completed in accordance with the approved landscape working drawings. A copy of this report is to accompany a request for the issue of an Occupation Certificate
83. Prior to the issue an Occupation Certificate, the applicant / developer shall submit evidence of an agreement for the maintenance of all site landscaping by a qualified horticulturist, landscape contractor or landscape architect, for a period of 12 months from date of issue.
84. At the completion of the landscape maintenance period, the consultant landscape architect/ designer shall submit a report to Council or the accredited certifier, certifying that all plant material has been successfully established and that all of the outstanding maintenance works or defects have been rectified prior to preparation of the report and that a copy of the 12 month landscape maintenance strategy has been provided to the Strata Managers /Owners/ Occupiers.

Engineering

General Engineering Conditions

85. **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.
86. **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.
87. **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.**
88. **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.
89. **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.
90. **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.
91. **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*'.
92. **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.
93. **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.
94. **Overland Flow around Buildings:** To prevent stormwater from entering the building the finished habitable ground floor level of the building must be a minimum of 150mm above the adjacent finished ground level.

95. **Overland Flow:** Overland flows generated from a 1 in 100 year storm event must be accepted at the upstream boundary and conveyed through the site. A hydraulic evaluation of the overland flow path shall be prepared by a suitably qualified engineer the hydraulic evaluation is to comply with Council's DCP- Stormwater Management.
96. **Work Zone:** A Traffic Construction Management Plan and an application for a Work Zone adjacent the development shall be submitted to Lane Cove Council for determination, prior to the commencement of the demolition and prior to any works that require construction vehicle and machinery movements to and from the site. If the development has access to a State Road, the Construction Management Plan and Work Zone need to be referred to RMS for approval. The approval of the Traffic Construction Management Plan and application for a Work Zone by Council's Traffic Section must be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**
97. **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.

98. **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.
99. **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.
100. **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.

101. **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.
102. **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.
103. **Stormwater Requirement:** The following details need to be added to the amended stormwater design plans:
- The design needs to incorporate an adequate gross pollutant trap (GPT).
 - Discharge directly to the kerb and gutter is prohibited. The stormwater discharge from the development needs to drain directly into the nearest Council pipe line system. The extension of the Council stormwater system will require a minimum diameter 375mm reinforced concrete pipe.
 - All sub-soil drainage systems for the basement car park areas are to be connected to a pit and not directly to the Kerb and gutter.
 - Details of the pump-out drainage details for the basement car park areas of seepage water.

The design and construction of the drainage system is to fully comply with, AS-3500 and part O Council's DCP-Stormwater Management. The design shall ensure that the development, either during construction or upon completion, does not impede or divert natural surface water so as to have an adverse impact upon adjoining properties.

Engineering conditions to be complied with prior to Construction Certificate

104. **(X1) 88B Instrument:** An instrument under 88B of the conveyancing Act 1919 plus two copies is to be submitted to Council prior to the release of subdivision certificate. The 88B instrument shall properly reflect the requirements of the conditions of the development consent, plans forming part of the consent and Council's policies. Where Council, inter-allotment drainage lines or services are located within the development, drainage easements and easements for services shall be created in accordance with Council's minimum widths as set out in Council's DCP-Stormwater Management. Part 2 of the 88B instrument shall contain a provision that any easements, rights of way, covenants shall not be extinguished or altered without the written consent of Council.
105. **(X2) Linen Plan of Subdivision:** A Linen Plan of Subdivision for the lot consolidation are required plus 5 copies are to be submitted to Council prior to the release of subdivision certificate.

The linen plan of subdivision shall be suitable for endorsement by the general manager pursuant to Section 327 of the local government act and shall properly reflect the requirements of the conditions of the development consent, plans forming part of the consent and Council's policies

106. **Drainage Plans Amendments:** The stormwater drainage plan **numbered** H0000:H1011/Rev 02 prepared by **Cardno Pty Ltd** dated **June 2014** is to be amended to reflect the above condition titled '*Stormwater requirement*'. The amended design is to be certified that it fully complies with, AS-3500 and part O Council's

DCP-Stormwater Management; certification is to be by a suitably qualified engineer. The amended plan and certification shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**

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

107. **Positive Covenant Bond 1:** The applicant shall lodge with Council a \$1000.00 cash bond to cover the registration of the required positive covenants for OSD. Lodgement of this bond is required **prior to the issue of the Construction Certificate.**
108. **Positive Covenant Bond 2:** The applicant shall lodge with Council a \$1000.00 cash bond to cover the registration of the required positive covenants for the Pump-Out System. Lodgement of this bond is required **prior to the issue of the Construction Certificate**
109. **Positive Covenant Bond 3:** The applicant shall lodge with Council a \$1000.00 cash bond to cover the registration of the required positive covenants for maintenance of overland flow path. Lodgement of this bond is required **prior to the issue of the Construction Certificate**
110. **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.**
111. **Geotechnical Report:** A geotechnical report is to be completed for the excavation and ground water impacts associated with this 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.
112. **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.

113. **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.

114. **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**.

115. **Road Dilapidation Survey:** The applicant is prepare a dilapidation survey and a dilapidation report detailing the existing state of repair / condition of the road surfaces along Marshall Avenue, Marshall Lane, Berry Road and Canberra Street, adjacent the site. The survey and report need to be submitted to the Council prior to the issue of the first **Construction Certificate**. Following completion of construction of the development and prior to the issue of the first Occupation Certificate, the applicant is to prepare a second dilapidation survey and a dilapidation report that includes details of all changes and damage caused to the surface of the said public roads as a consequence truck movements associated with the construction of the development. The Council may apply funds realised from the security referred to in applicable condition to meet the cost of making good any damage caused to the surface of the said public road as a consequence truck movements associated with the construction of the development to which the consent relates. The dilapidation surveys and reports must be prepared by an engineer registered with the Institute of Engineers.

116. **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.**

117. **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.**
118. **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 garage or carport shall be determined by Council.
119. **Council infrastructure damage bond:** The applicant shall lodge with Council a **\$50,000.00** cash bond or bank guarantee with no expiry date. The bond is to cover the repair of damage or outstanding works 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.**
120. **Council Construction Requirements:** The applicant shall construct / reconstruct the following:
1. New 1.5m wide footpath adjacent the entire frontage of Marshall Ave and Marshall Lane.
 2. New Kerb and Gutter along the entire frontage of the Marshall Ave and Marshall Lane.
 3. Reinstate all adjustments to the road surface to Council's satisfaction.
 4. Reinstate all existing nature-strips with turf and soil 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.

121. **Council Inspection Requirements:** The following items shall require Council inspections.
- All new footpaths on Council Property
 - New kerb and gutter on Council Property
 - All asphalt adjustments to the roadway
 - All the approved stormwater drainage works on Council property

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

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

122. **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

123. **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*'. The devices shall be maintained during the construction period and replaced when necessary.

Soil and water management control: The applicant shall install appropriate sediment control devices **prior to the start of any works on the site.** The devices are to be installed in accordance with the approved plan satisfying condition '(C1) *Erosion and sediment control plan*' [OR] '(C1) *Soil and Water Management Plan*'. The devices shall be maintained during the construction period and replaced when necessary.

Engineering Condition to be complied with prior to Occupation Certificate

124. **Stormwater System Engineering Certification:** On completion of the drainage system a suitably qualified engineer shall certify that the drainage system and overland flow path have 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 and
 - (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.**

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.**

125. **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.**

126. **Positive Covenants for Overland Flow Path and Restriction on the use of Land:** A Restriction and Positive Covenant shall be registered on the title for the maintenance of the overland flow path system. An evidence of such registration should be submitted to Council prior to issue of the **Occupation Certificate.**

127. **Positive Covenants OSD and Pump Out System:** Documents giving effect to the creation of a positive covenants over the on-site detention system and over the basement pump out system shall be registered on the title of the property **prior to the issue of the Occupation Certificate**. The wordings of the terms of the positive covenants shall be in accordance with part O Council's DCP-Stormwater Management.

Environmental Health

General

128. **Dust Control**

The following measures must be taken to control the emission of dust:

- a) Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the work
- b) Any existing accumulations of dust (e.g. in ceiling voids and wall cavities) must be removed using an industrial vacuum cleaner fitted with a high efficiency particulate air (HEPA) filter
- c) All dusty surfaces must be wet down and any dust created must be suppressed by means of a fine water spray. Water used for dust suppression must not be allowed to enter the street or stormwater system
- d) All stockpiles of materials that are likely to generate dust must be kept damp or covered
- e) Demolition work must not be carried out during high winds, which may cause dust to spread beyond the boundaries of the site.

129. **Stabilised Access Point**

A stabilised all weather access point is to be provided prior to commencement of site works, and maintained throughout construction activities until the site is stabilised. These requirements shall be in accordance with Managing Urban Stormwater – Soils and Construction produced by the NSW Department of Housing (blue Book).

130. **Registration of water cooling and warm water systems**

All water cooling and warm water systems regulated under the *Public Health Act 1991* must be registered with Council's Environmental Services Unit within one month of installation.

131. **Clean water only to stormwater system**

Only clean unpolluted water is permitted to enter Council's stormwater drainage system.

132. The works shall not give rise to environmental pollution or public nuisance or, result in an offence under the *Protection of the Environment Operations Act 1997* or *NSW Occupational Health & Safety Act (2000) & Regulations (2001)*.

Operational

133. **Garbage storage area – Commercial/Industrial**

All garbage shall be stored in a designated garbage area, which includes provision for the storage of all putrescible waste and recyclable material emanating from the premises. The area is to be constructed with a smooth impervious floor graded to a floor waste and connected to the sewer. The garbage area/room is to be well

ventilated and fitted with fire sprinklers and meet fire safety standards in accordance with the Building Code of Australia. Detailed plans and specifications for the construction of the designated garbage area are to be submitted with the Construction Certificate.

134. Garbage collection – Commercial/Industrial

Liquid and solid wastes generated on the site shall be collected, transported and disposed of in accordance with the Protection of the Environment Operations Act 1997. Records shall be kept of all waste disposal from the site. Waste and recycling material, generated by the premises, must not be collected between the hours of 10pm and 6am on any day.

135. Litter Control

A sufficient number of garbage bins shall be provided on the premises for garbage disposal. Such bins shall be made of impervious material and shall have close – fitting, vermin – proof, fly – proof lids. All waste bins are to be stored in designated garbage/trade refuse areas which must be maintained in a satisfactory condition at all times and must not be stored in designated garbage/trade refuse areas which must be maintained in a satisfactory conditions at all times and must not be stored or permitted to overflow into car parking or gardens areas.

136. Garbage Room Location & Access

Garbage rooms shall:

- be located in positions which will permit easy, direct and convenient access for the removal of garbage without creating a nuisance from dust, litter, odour and noise.
- not contain any fittings, facilities or matter not associated with the treatment, storage or disposal of garbage.
- where possible be located within the main building. Where this is not practicable due to noise levels or other exceptional circumstances, the garbage room shall be located in a position approved by the Principal Certifying Authority. If it is proposed to make application to construct a detached structure, special attention shall be given to the aesthetics of the structure and its siting.

Details of appropriate recycling facilities must be provided, both in the communal garbage room and individual units.

137. Construction Requirements – Garbage Room

Garbage rooms used for the storage of garbage, and rooms used for the washing and storage of garbage receptacles, remain subject to the following requirements:

- Floors of garbage rooms shall be constructed of concrete at least 75mm thick or other approved solid impervious material, graded and drained to an approved drainage outlet connected to the sewer, and shall be finished to a smooth even surface covered at the intersection with walls and plinths
- Walls of garbage rooms shall be constructed of approved solid impervious material and shall be finished to a smooth even surface covered at all intersections
- Ceilings of garbage rooms shall be finished with a rigid smooth faced non-absorbent material capable of being easily cleaned.

Construction

138. Compliance with the Waste Management Plan approved under application D14/143.

Contamination

139. Any soils proposed for removal from the site are to be initially classified in accordance with the "Waste Classification Guidelines, Part 1: Classifying Waste" NSW DECC (2009) and in accordance with the Preliminary Stage 2 Environmental Site Assessment report prepared by EIS, dated June 2014, which itself shall be taken within the context of the previous reports prepared by EIS for the Stage 1 DA pertaining to the development of 15-25 Marshall Avenue. Details of waste classification shall be submitted to Council prior to the issue of a Final Occupation Certificate.
140. **Storage of Potentially Contaminated Soils**
All stockpiles of potentially contaminated soil must be stored in an environmentally acceptable manner in a secure area on the site.
141. **Assessment of Potentially Contaminated Soils**
All stockpiles of potentially contaminated soil must be assessed in accordance with relevant NSW Environment Protection Authority guidelines, such as the publication titled *Environmental Guidelines: Assessment, Classification and Management of Liquid and Non – Liquid Wastes* (EPA, 1999).
142. **Offsite Disposal of Contaminated Soil**
All contaminated soil removed from the site must be disposed at a waste facility that can lawfully receive that waste.

Copies of all test results and disposal dockets shall be retained for at least 3 years and be made available to authorised Council officers on request.

Noise

143. **Noise Control – Offensive Noise**
To minimise the noise impact on the surrounding environment, the use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to an offensive noise as defined under the provisions of the Protection of the Environmental Operations Act 1997.
144. **Noise Control – Residential Air Conditioning units**
To minimise the impact of noise from the air conditioning unit, it shall be located 3 meters from the boundary and/or attenuated so that noise generated does not exceed 5db(A) above the ambient background level between 7am and 10pm on weekdays and 8am and 10pm on Weekends and Public Holidays.
- Any noise emitted by the air conditioning unit shall not be audible within a room of any residential dwelling or sole occupancy unit at any time within the hours of 10pm and 7am on weekdays and 10pm and 8am on weekends and public holidays.
145. **Noise Control – Car Park Security Grills**
To minimise the impact on the amenity of surrounding residents, all sound producing plant, equipment, machinery or fittings within or forming part of the proposed security door fitted to the car parking area entrance shall be acoustically attenuated so that the noise emitted does not exceed 5db(A). Notwithstanding the above any noise that is emitted shall not be audible within any premises and comply with the Protection of the Environmental Operations Act 1997.

146. **Noise Control**

Noise must be minimised as far as practicable, by the selection of appropriate methods and equipment, and by the use of silencing devices where practicable.

147. **Noise Monitoring**

Noise monitoring must be carried out by a qualified acoustical consultant if complaints are received, or if directed by Council, and any control measures recommended by the acoustical consultant must be implemented during the demolition work

148. **Road Traffic Noise**

The residential flat building must be constructed so that road traffic noise levels comply with the satisfactory design sound level in *Australian/New Zealand AS/NZS 2107:2000 Acoustics – Recommended design sound level and reverberation times for building interior*, with windows and doors closed.

149. **Mechanical Ventilation of Rooms**

If the noise level with the windows and doors open exceeds the above noise criteria by more than 10dB(A), an approved system of mechanical ventilation must be provided.

Compliance with NSW Industrial Noise Policy

150. Noise mitigation measures must be implemented to ensure noise from the developments demolition, excavation and construction works are in accordance with the requirements of the NSW EPA Industrial Noise Policy.

Ventilation

151. To ensure that adequate provision is made for ventilation of the premises, mechanical and/or natural ventilation systems shall be designed, constructed and installed in accordance with the provision of:

- a) The Building Code of Australia
- b) AS 1668 Part 1 and 2 – 1991
- c) Protection of the Environment Operations Act 1997

A certificate prepared by a suitably qualified mechanical engineer shall be submitted to the certifying authority certifying that the design and operation of the mechanical ventilation system meets the requirements of AS 1668 Parts 1 and 2.

152. **Ventilation – Garbage Rooms**

Garbage rooms shall be ventilated by:-

- a) an approved system of mechanical exhaust ventilation in accordance with the requirements of the Building Code of Australia and *Australian Standard AS 1668*
- b) permanent unobstructed natural ventilation openings with contact direct to the external air, having an aggregate area of not less than 1/20th of the floor area. One half of the openings shall be situated at or near the floor level and one half at or near the ceiling level
- c) Where permanent natural ventilation openings are provided the openings shall be designed to prevent the entry of rainwater.

153. Car Park Ventilation

The covered car park must be provided with an adequate system of permanent natural ventilation or an approved system of mechanical ventilation.

154. Fresh air intake vents

All fresh air intake vents must be located in a position that is free from contamination and at least 6 metres from any exhaust air discharge vent or cooling tower discharge.

155. Exhaust air discharge vents

All exhaust discharge vents must be located in a position where no nuisance or danger to health will be created and at least 6m from any fresh air intake vent or natural ventilation opening.

156. Exhaust air discharges

The composition, direction and velocity of the exhaust air discharged from the exhaust vents must be such that no nuisance or danger to health will be created.

Waste Conditions

Garbage Chutes

157. Prior to the issue of the construction certificate amended plans shall be submitted to the Private Certifying Authority detailing the location of the garbage chute and compaction unit in the Tower building.

158. Garbage chute systems and interim recyclable storage facilities shall be provided to the development.

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

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

Garbage Chute Service Rooms

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

Waste and Recycling Storage Rooms

160. Prior to the issue of the construction certificate amended plans shall be submitted to the Private Certifying Authority detailing the location of the Waste and Recycling Storage Rooms.
161. Basement waste and recycling storage rooms shall be provided with each garbage chute and be of sufficient size to accommodate garbage chute systems and a total of 49x240l garbage bins and 47x240l recycling bins with adequate space for maneuvering garbage and recycling bins.
- Minimum clearance between bins of 300mm;
 - Minimum door openings of 1700mm; &
 - Minimum distance of 1700mm between rows of bins (where bins are located on either side of the room).
162. The floor of waste and recycling storage rooms (including bulky waste storage rooms) shall be constructed of either:
- Concrete which is at least 75mm thick; or
 - Other equivalent material; and
 - Graded and drained to a floor waste which is connected to the sewer

163. All floors must be finished to a smooth even surface, coved at the intersection of walls and floor.
164. The walls of waste and recycling storage rooms, bulky waste storage areas and waste service compartments must be constructed of solid impervious material and must be cement rendered internally to a smooth even surface coved at all intersections.
165. All waste and recycling storage rooms and bulky waste storage rooms shall be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock.
166. A close-fitting and self-closing door that can be opened from within the room shall be fitted to all waste and recycling and bulky waste storage rooms.
167. All waste and recycling and bulky waste storage rooms shall be constructed to prevent the entry of vermin.
168. All waste and recycling and bulky waste storage rooms must be ventilated by either:
 - Mechanical ventilation systems exhausting at a rate of 5L/s per m² of floor area, with a minimum rate of 100l/s; or
 - Permanent, unobstructed natural ventilation openings direct to the external air, not less than 1/20th of the floor area.
169. All waste and recycling and bulky waste storage rooms must be provided with artificial light controlled by switches located both outside and inside the rooms.
170. Clearly printed "No Standing" signs shall be affixed to the external face of each waste and recycling and bulky waste storage room.

Bulky Waste Storage Room

171. A readily accessible bulky waste storage room(s) located near the main garbage rooms must be provided for the use of all residents.
 - A bulky waste storage room(s) with a minimum floor area of 30m² shall be provided and be of sufficient size to practically accommodate a minimum of 10m³ of bulky waste at any given time. Doorways and travel paths must be a minimum width of 1700mm and of sufficient height and be free of obstructions to permit easy transport from individual units to the storage area, and from the storage area to collection point.

Access to Waste Collection Point

172. Prior to the issue of the construction certificate amended plans shall be submitted to the Private Certifying Authority detailing the path of travel for waste collection vehicle.
173. All waste must be collected on-site via on-site access by Council's garbage collection vehicles.
 - The location(s) of waste and recycling rooms and bulky waste storage areas must be conveniently accessible for both occupants and Council's waste collection contractors.

- The minimum finished ceiling height must be 2.6m along the path of travel from the street to the residential waste and recycling collection point and maneuvering area. This clearance must be kept free of any overhead ducts, services and other obstructions.
- The maximum grade of any access road leading to the waste and recycling collection point must not be more than 1:5 (20%). The turning area at the base of any ramp must be sufficient for the maneuver of a 6.0m rigid vehicle to enter and exit the building in a forward direction.
- Where security gates are proposed, a Council master key system shall be installed to permit unimpeded access.

Indemnity

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

Provision of Waste Services

175. Prior to the issue of any Occupation Certificate, the applicant shall make written application to Council for the provision of domestic waste services.
176. Prior to the issue of a construction certificate amended plans shall be submitted to the Certifying Authority demonstrating that the RL of the Ground Floor Level of the high rise building shall be amended from RL 69.70 to RL 69.05 in order to relate to the existing footpath levels on Marshall Avenue and facilitate disabled access to the main entry lobby.



Michael Mason
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Environmental Services Division