

Environmental Services Division
Sydney East Joint Regional Planning Panel meeting of 11 March 2015

390-398 Pacific Highway, Lane Cove - DA14/175 - 2014SYE131

Property: 390-398 Pacific Highway, Lane Cove

DA No: DA14/175

Date Lodged: 22 October 2014

Cost of Work: \$20,914,146

Owner: Tepazo Pty Ltd, Thamdale Pty Ltd, & Vaughan Investments Pty Ltd

Applicant: Tepazo Pty Ltd

DESCRIPTION OF PROPOSAL TO APPEAR ON DETERMINATION	Demolition of existing commercial building on the site, construction of a residential flat building comprising 69 units and parking for 107 cars	
ZONE	R4 – High Density Residential	
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	Class 2 and Class 7	
STOP THE CLOCK USED	Yes, 26 stop days for the submission of further information	
NOTIFICATION	Neighbours	382, 388 Pacific Highway, 1-20 Gatacre Avenue (inclusive), 2-10 & 9 Mafeking Avenue, 2-20 Kimberley Avenue (even numbers), 6-28 Longueville Road (even numbers)
	Ward Councillors	East Ward
	Progress Association	Osborne Park Residents Association
	Other Interest Groups	Willoughby Council

REASON FOR REFERRAL

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

EXECUTIVE SUMMARY

- The site is located on the southern side of the Pacific Highway between Gatacre Avenue and Longueville Road, is regular in shape with an area of 2,575.60m² and falls from north to south by approximately 7.0m.
- The applicant seeks consent to demolish the existing commercial buildings and construct a residential flat building comprising 69 units (38 x 1 bed, 22 x 2 bed and 9 x 3 bed) and on-site parking for 107 vehicles.
- The original application was notified to surrounding properties and twenty-six (26) submissions were received. Notification of the amended plans was carried out and two additional submissions were received. Concerns raised included:
 - Suitability of the development for the site
 - Scale of the proposal
 - Non-compliance with LEP objective “to ensure amenity is respected”
 - Non-compliance with DCP controls, particularly building depth and setbacks to Mafeking Avenue
 - Overshadowing
 - Loss of privacy
 - Traffic congestion from the proposal and the lack of a comprehensive traffic study for the up-zoned area as a whole
 - Loss of existing vegetation
 - Inclusion of exotic plants in the proposed landscaping
 - Air quality impacts
 - Noise and traffic impacts from construction
 - Poor design and aesthetics, excessive height of parking podium
 - Burden on existing infrastructure
 - Impact on available on-street parking
 - Impact on retaining walls and land slippage on neighbouring properties
 - 3 tonne weight limit for vehicles on Mafeking Avenue
- Following preliminary assessment and notification, the applicant was advised on 26 November 2014 of the concerns raised by the nearby properties and several matters that required amendments and/or the submission of further information, including: setbacks, traffic matters, BCA compliance, SEPP 65 matters, and clarification of solar access.
- Amended plans were submitted to Council on 19 December 2013 with supporting information submitted in the following weeks. The amended plans included alterations to some of the proposed setbacks (southern side and Mafeking Avenue), sought to address BCA matters and increased the size of some of the balconies and terraces to increase compliance with DCP requirements.
- Additional information was provided regarding traffic matters, acoustic information, and construction noise and vibration management. These amended plans and supporting information form the basis of this assessment.
- The proposal complies with Council’s Local Environmental Plan 2009 (LEP) with regard to the maximum permissible height and floor space ratio.
- The proposal does not meet the requirements of Council’s Development Control Plan as follows:

- C3.3 Maximum Building Depth
- C3.5 Minimum Setbacks: Basement and Parking Podium, Northern side setback – Levels 5-7, and Western (Mafeking Avenue) setback
- C3.8 Extent of Excavation
- C3.11 Minimum Private Open Space to units 106,107,109, 206, 207, 209, 306, 307, 309, 406, 407, 409, 506, 507, 509 (depth only) and units Unit 108, 208, 308, 408, 508, and 604 (size and depth)
- C3.15 Minimum Solar Access
- The following external referrals have been considered.
 - Consulting Architect for SEPP 65.
 - NSW Roads and Maritime Services
- On 20 January 2015 the JRPP was briefed on the proposal.
- The proposal has been assessed having regard to the relevant planning instruments and development controls and, on balance, is considered to be acceptable.
- The proposal is recommended for approval, subject to the draft conditions.

SITE

The site is located on the south-western side of the Pacific Highway, between Gatacre Avenue and Longueville Road. The site is identified as Lots 13, 14 and 15 in DP 1056023. The site is regular in shape, has a frontage of 42.27m to the Pacific Highway, a rear frontage of 42.25m to Mafeking Avenue, a depth of 60.96m with an area of 2,575.60m². The site falls from the Pacific Highway frontage to the Mafeking Avenue frontage by approximately 7.0m.

The site contains a one to two storey brick office building and 2 x 2 storey shop/office buildings orientated towards the Pacific Highway. Vehicular access to each allotment is available via Mafeking Avenue. There are several trees adjoining the rear boundary of the site with easements for the Lane Cove Tunnel situated underneath the site towards the south-eastern and south-western boundary.

A Council walkway 3.5m in width runs parallel to the site along the Pacific Highway frontage. Willoughby City Council adjoins the opposite side of the Pacific Highway. The developments along this side of the Pacific Highway include a recently approved residential flat building and commercial development.

Towards the north west of the site are commercial and retail developments. A development application has been approved immediately north of the site at 9 Mafeking Avenue for a seven-storey residential flat building comprising of 58 units (DA13/143). The land to the north and north west of the site fronting the Pacific Highway is zoned R4 High Density Residential, with the exception of 10 Longueville Road which is zoned RE1 Public Recreation.

Towards the south east of the site fronting onto the Pacific Highway is a two storey commercial premise of masonry construction and along the northern side of Gatacre Avenue between the Pacific Highway and Mafeking Avenue are three single storey dwelling houses. A two storey motel is located at the Pacific Highway end of Gatacre Avenue. This land is zoned R4 High Density Residential. The remainder of Gatacre Avenue to the south-west of the site comprises single storey and two storey dwelling houses of varying ages and styles. This land is zoned R2 Low Density Residential.

PROPOSAL

The applicant seeks consent to carry out the following works at 390-398 Pacific Highway, Lane Cove:

- Demolition of all structures on site
- Construction of:-
 - 69 residential apartments
 - Three (3) basement parking levels comprising 107 car spaces (including 18 visitor and 15 accessible), 8 motorcycle spaces and 8 bike racks and 20 bike lockers
- Vehicular ingress and egress from Mafeking Avenue
- Pedestrian ingress and egress from the Pacific Highway
- Landscaping
- Consolidation of three (3) allotments (2575.6m²)

PREVIOUS APPROVALS/

A review of Council's records indicates the site has been used for commercial purposes since 1982.

DA13/205: Demolition of existing commercial buildings and the construction of a residential flat building comprising 123 units and on-site parking for 196 vehicles.

This application was refused by the Joint Regional Planning Panel in its meeting of 26 March 2014. DA13/205 proposed 123 dwellings within a 15 storey residential flat building with parking for 192 cars in three basement levels with a proposed building height of 58.15m and FSR 4.1:1. The reasons for refusal of the application were principally the excessive height of the proposal and also the building was considered to be out of context with its surroundings and did not comply with planning controls contained within the *Lane Cove Development Control Plan 2010*, the design principles for scale, built form, resource, energy and water efficiency and amenity contained in *State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development* and was not in the public interest.

The application was the subject of an appeal to the Land and Environment Court [Land and Environment Court proceedings No. 10062 of 2014] and this appeal was dismissed.

PROPOSAL DATA/POLICY COMPLIANCE

Site area: 2,575.60m².

Local Environmental Plan 2009

	Proposed	Control	Complies
Floor Space Ratio	2.36:1	2.4:1	Yes
Height of Buildings	22.6m-25m (max)	25m	Yes

Lane Cove Development Control Plan

Part B – General Controls

Clause	DCP	Proposed	Complies/ Comment
B7 – Development near busy Roads	LAeq levels: (i) In any bed room	The building design limits openings in the	The acoustic report submitted provides

Clause	DCP	Proposed	Complies/ Comment
and Rail Corridors	35dB(A) 10.00pm to 7.00am. (ii) anywhere else 40dB(A)	front façade.	further recommendations for noise attenuation, however these are not reflected in the current plans. Compliance with the noise attenuation recommendations of this report and amended plans are required prior to CC. Addressed by draft condition 2.
B8 – Safety & security	Required	Crime Prevention Through Environmental Design (CPTED) principles including passive surveillance are achieved in the design.	The proposal is acceptable.

Part C3 – Residential Flat Buildings

Clause	Requirement	Proposed	Complies/ Comment
3.2 Density	Minimum site area 1500m ²	2,575.60m ²	Yes
3.3 Building depth	18m exclusive of any balcony	22m	No. Considered acceptable due to adequate cross-ventilation being achieved.
3.4 Building width	40m maximum fronting the street	27.3m	Yes
3.5 Setbacks			
Pacific Highway	Minimum 7.5m	7.5m to building	Yes
Northern Side	6m up to 4 storeys 9m for 5-8 storeys	Basement 1, 2 & 3: Nil Ground to Level 4: Part 6m & Part 9m Levels 5-7: Part 6m & Part 9m	No. Considered acceptable as the nil setback mirrors the neighbouring approved development. Complies Partial non-compliance acceptable subject to condition 3 requiring highlight windows to levels 5-7

Clause	Requirement	Proposed	Complies/ Comment
Southern Side	6m up to 4 storeys 9m for 5-8 storeys	Basement 3: 5.2m-6m Basement 1 & 2: 6m Ground floor: 7m Levels 1-4: 9m Levels 5-7: 9m	No. Considered acceptable due to minor nature of variation (800mm). Complies Complies Complies Complies
Mafeking Avenue	Minimum 7.5m	Levels B2-B3: 6-6.8m Levels B1-6: 6.0-10.1m Level 7: 42m	No. Considered acceptable given the generous footpath reserve and the 6m setback of the neighbouring approved development. Partial non-compliance, considered acceptable due to minor nature of encroachment and majority compliance. Complies.
3.5.3 General Parking Podium Height within setback zone.	Encroachments into setback zone of up to 2m may be permitted for underground parking structures no more than 1.2m above ground level.	Basement levels 1 and 2 extend beyond 1.2m above ground and are proposed with a nil setback from the northern boundary Basement 3 has a nil setback to the northern boundary All basement levels: 5.5m set back to Pacific Highway boundary 5.7-6m setback to adjoining southern boundary 6m-8.3m setback to Mafeking Avenue boundary and southern boundaries	No. Considered acceptable given the constraints on excavation applying to the site warranting an alternative approach to parking design. No. Considered acceptable as the setback mirrors the neighbouring development Complies Complies Complies

Clause	Requirement	Proposed	Complies/ Comment
3.6 Building separation within development	9m between non-habitable rooms and blank wall to any other window, well or balcony for 5-8 storeys up to 25m	There is only one building proposed on the site.	Not applicable
3.8 Excavation	a) All development is to relate to the existing topography of the land at the time of the adoption of this DCP.	The development steps from front to rear to relate to the topography of the land.	Yes
	b) Excavation for major development is to be contained as close as practicable to the footprint of the development.	Excavation extends beyond the footprint of the proposed building	No. Considered acceptable given the constraints on excavation applying to the site warranting an alternative approach to basement design.
	c) NA		
	d) Uses at ground level are to respond to the slope of the street by stepping frontages and entries to follow the slope.	Street frontages do not require stepping as the street frontage is relatively level.	Not applicable
	e) The extent of excavation proposed for underground uses should not compromise the provision of deep soil areas or landscaped areas for residential flat buildings.	Deep soil planting is provided in accordance with Part C3.19 of the DCP	Complies
3.9 Design of roof top area	Detailed landscape plan required for roof top area	Detailed landscape plan provided	Complies
3.10 Size & mix of dwellings	Minimum 40m ²	All dwellings are >40m ² in area	Complies
	A mixture of 1, 2, & 3 bedroom dwellings should be provided (at least 10% of each unit type is to be provided)	37 x 1 bed = 54% 22 x 2 bed = 32% 9 x 3 bed = 13%	Complies

Clause	Requirement	Proposed	Complies/ Comment
3.11 Private open space	Primary balconies - 10m ² with minimum depth 2m Primary terrace - 16m ² with minimum depth 4m	40 out of 61 balconies achieve the minimum 2m depth for at least 10 m ² in area, except: 106-109, 206-209, 306-309, 406-409, 506-509 and 604 All primary terraces >16 m ² with minimum depth 4m	No. Considered acceptable as usable private open space area is provided to all units. Yes
3.12 Number of car parking, motorcycle and bicycle spaces	Parking has been considered with regard to the requirements of the Lane Cove Development Control Plan Part R – Traffic and Transport which prevails over the parking requirements contained within other sections of the Plan. Please refer to Part R assessment table below.		
3.13 Ceiling heights	Minimum 2.7m	2.7m	Yes
3.14 Storage	6m ³ per 1 bedroom dwelling = 37 x 6m ³ = 222m ³ 8m ³ per 2 bedroom dwelling = 22 x 8m ³ = 176m ³ 10m ³ per 2 bedroom dwelling = 9 x 10 = 90m ³ Total required= 488m ³ 50% (453m ³) of the storage volume within the dwelling	Storage for units provided meets minimum requirements for each apartment type, totaling 586.7 m ² 334.7 m ³ (57%) is provided within the dwellings, 482m ³ within the basement	Complies Yes, storage additional to Council's requirements is provided within the basement
3.15 Solar access	Living rooms and private open spaces of 70% (48.3) of the units to receive 3 hours of direct sunlight between 9am – 3pm on 21 June	Approximately 67% (46 dwellings). This is in part due to the anticipated overshadowing of the lower levels caused by the adjoining development approved at 9 Mafeking Avenue. 12 units on the northern façade (out of 38 units) would not receive 3 hours of sun on 21 June.	No. Minor non-compliance considered acceptable given the site constraints of orientation and the neighbouring approved development.
	Maximum 10% dwellings with a southerly aspect (up to 7)	1 unit has a southerly aspect: Unit G09	Complies

Clause	Requirement	Proposed	Complies/ Comment
3.16 Natural ventilation	Minimum 60% (41.4 dwellings) of the dwellings should have cross ventilation.	Approximately 61% or 42 dwellings	Complies
	Minimum 25% (17.25 dwellings) of kitchens have access to natural ventilation	33 dwellings have access to natural ventilation on their kitchens (47.9%)	Complies
3.17 Visual privacy	Provide visual privacy between the adjoining properties	Visual privacy between dwellings is achieved through landscaping and use of design elements such as fin walls	Complies
3.18 Communal open space	Minimum 25% (643.90m ²)	915.2 m ² provided (35.5%), 649m ² proposed in deep soil zone (25.2%) and an additional 248.5 m ² on the rooftop level.	Complies.
3.19 Landscaped area	25% provided at ground level and up to 15% provided on structures (40% required)	Deep soil landscaping 649m ² (25.2%) Podium and roof top plantings 441m ² (17.1%)	Complies.

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	Details of the gradient of the access ramp to the Pacific Highway are not provided on the plans.	Compliance with AS 1428 is confirmed by way of a condition (draft condition 16)
3.5 Parking Provide 1 space for each adaptable housing unit.	DCP requires 14 adaptable dwellings and therefore 14 disabled car spaces	15 spaces provided on the plans (includes 1 visitor space)	Complies
3.6 Adaptable and Visitable housing	Adaptable housing to be provided at the rate of 1 dwelling per 5 dwellings	14 adaptable units (20%)	Complies

	which would be 13.8 dwellings		
	Adaptable housing to be equitably distributed throughout all types and sizes of dwellings	Adaptable units are provided on all levels and across all apartment types	Complies
	80% of the dwellings are to be visitable (55.2 dwellings)	59 proposed (85.5%)	Complies
3.7 Access to and within buildings	Access is required to common areas and all dwellings	Disabled access considered to be acceptable.	Confirmed by draft condition 7

Part R – Traffic and Transport

Clause	DCP	Proposed	Complies/ Comment
2.2 Car Parking Rates	<p>37 x 1 bedroom dwellings @ 1 = 37 spaces 22 x 2 bedroom dwellings @1.5 = 33 spaces 9 x 3 bedroom dwellings @ 2 = 18 spaces</p> <p>Resident spaces required = 88 spaces</p> <p>Visitor: 1 space per 4 units = 17.25 spaces Disabled Visitor: 1 disabled space per 50 visitor spaces (minimum 1 disabled space) = 1 space</p> <p>Required car parking spaces (total) = 106.25 spaces</p>	<p>89 resident spaces provided</p> <p>18 visitor spaces (includes 1 disabled visitor space)</p> <p>Total car spaces provided: 107</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
2.6 Bicycle Parking	<p>Residents: 1 per 4 dwellings = 17.25</p> <p>Visitors: 1 rack + 1 rack per 10 dwellings = 7.9 racks</p>	<p>Bike lockers = 20</p> <p>Bike rack/rail = 8</p>	<p>Complies</p> <p>Complies</p>
2.7 Motorcycle Parking	1 motorcycle parking space per 15 car spaces = 7.13 spaces	8 spaces provided	Yes
2.8 Disabled	Comply with Table 1	Complies with Table 1	Yes

Clause	DCP	Proposed	Complies/ Comment
parking	requirement	requirement	
2.9 Tandem and mechanical stacked parking	Tandem parking does not exceed 10% of the overall parking stock	No tandem parking proposed	Yes
2.10 Parking and Access for Service Vehicles	<p>Parking areas to allow for access and loading by Council's waste collection contractor.</p> <p>All parking areas for delivery and service vehicles must be in accordance with AS 2890.2:2002 Parking facilities—Off-street commercial vehicle facilities</p>	<p>Access provided within basement 1</p> <p>May be addressed by way of condition</p>	<p>Yes</p> <p>Addressed by draft condition 74</p>
2.11 Parking Area Access and Design	Comply with AS/NZS 2890.1:2004 Parking facilities—Off-street car parking	Development complies with Australian standard. To be reinforced by conditions.	Yes.
R3 Public Transport	Public transport options must be considered	STrAP analysis to be provided prior to Occupation	Addressed by draft condition 95
R4 Pedestrian and Bike Facilities	<p>Pedestrian facilities must be incorporated</p> <p>Bicycle facilities to be provided in accordance with Table 3</p>	<p>No information provided. May be addressed by condition requiring separate pedestrian entry to Mafeking Avenue and upgrading of pedestrian access along the site frontage</p> <p>Adequate bicycle facilities provided</p>	<p>Addressed by draft condition 4</p> <p>Yes</p>
R6 – Traffic Impact Assessment	Submission of acceptable TIA in accordance with Part R and the TIA checklist	Acceptable, subject to conditions. Refer to Transport Planner comments below.	Addressed by draft conditions 85-104
R7 – Construction Traffic Management Plan	Required prior to CC	To be finalized prior to CC	Addressed by conditions 96-104

REFERRALS:

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

The proposal was referred to Council's Consulting architect for comment. Concern was raised regarding the following matters:

- Accuracy of the solar access assessment submitted was questioned, as the model used appeared to only include a floor plate model for the development to the North West rather than including parapet and protrusions, and did not allow for an accurate

representation of the amount of direct sun which will reach the proposal on the subject site. Concern was raised that this inaccuracy could potentially involve 7 or 8 North West facing apartments on levels 3,4 and 5 at various times during the day.

- Access to the communal private open space on the north-west corner of the site is unclear
- The balconies to Apartments 108, 208, 308, 408, and 508 are only 6.6 m² which is below the minimum 8 m² for a one-bedroom apartment. The balconies to apartments 103, 110, 203, 210, 303, 310, 403, 410, 503, 510, are barely 8 m². The minimum size for a three-bedroom apartment is 10 m².
- A range of 1, 2 and three-bedroom units with good cross ventilation and solar access amenity should be included as adaptable units.
- Safe play areas for children should be provided in a development of this scale.

The amended plans and supporting information were sent to Council's Consultant Architect for further comment and the following summarised observations and concerns with the amended proposal with regards to SEPP 65 remain:

Solar Access

Council's calculation of solar access is 67%. Council's Consultant Architect's assessment of compliance of the amended proposal with the 70% solar access requirement includes some apartments which have 2 hours solar access and some apartments which count hours after 3pm. Given the constraint of the approved development to the north of the site, this amount of solar access is considered to be acceptable.

Acoustics

Council's consultant Architect requested acoustic analysis be undertaken to assess the potential amenity of the units facing the Pacific Highway, particularly those of lower levels. The acoustic report has been provided and includes recommendations for the treatment of the affected units. These recommendations are included in draft condition 2.

Cross ventilation

The amended proposal has 61% cross-ventilated units, which is acceptable, however, the acoustic measures recommended in the acoustic report raises concerns about the required 'alternative ventilation' systems required for all but 8 units.

Balcony sizes

Have generally been increased where possible and are now considered acceptable by Council's Consulting Architect. Council's calculations demonstrate that 40 out of the 61 units with balconies (66%) achieve the minimum balcony size and overall 48 out of the 69 units (70%) achieve the required private open space size.

Setback to Mafeking Ave

Setback to Mafeking Avenue has not been altered and remains at 6m from the North West corner, where Council's minimum set back is 7.5 m. Council's Consulting Architect noted that the amount of landscaped area in the road reserve between the road and the property boundary that gives the visual impression of a larger set back, and that the encroachment proposed results in additional overshadowing 2 properties on the western side of Mafeking Avenue. It is also noted that the approved development at 9 Mafeking Avenue immediately adjacent to the site features a 6m setback to the Mafeking Avenue frontage at car park level.

Comment:

As noted in the comments above, the proposal generally meets the objectives of the principles of good design, however the acoustic report has implications with respect to how acoustic performance and cross ventilation can both be achieved. Council's Consulting

Architect advised that the detail of the required acoustic solutions should be verified by a suitably qualified person prior to CC to confirm that adequate cross-ventilation remains achievable with the inclusion of the required acoustic treatment on the plans. A draft condition has been included in the recommendation of this report to address this matter (draft Condition 2) and as such the proposal is considered to be acceptable.

NSW Roads and Maritime Services

The proposal was referred to the NSW Roads and Maritime Services for their concurrence in accordance with Clause 101 of the State Environmental Planning Policy (Infrastructure) 2007. NSW Roads and Maritime Services provided the following comments for Council's consideration in the determination of the application:

- 1. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 28901– 2004 and AS 2890.2 – 2002 for heavy vehicle usage. The required sight lines to pedestrians or other vehicles in or around the car park or entrances should not be compromised by landscaping, signage, fencing or display materials. Minimum sight lines for pedestrian safety are outlined in AS2890.1 (Figure 3.3).*
- 2. All vehicles are to enter and leave the site in a forward direction.*
- 3. The swept path of the longest vehicle (including garbage trucks) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.*
- 4. The car parking provision and manoeuvrability to and from car parking spaces is to be to Council's satisfaction.*

In addition, a number of draft conditions were provided by the RMS for inclusion in the recommendation of this report. Following the submission of additional information and amended plans, the proposal was referred back to the RMS for further comment. RMS advised on 15 January that no further comment or concerns were raised regarding the proposed development and that the draft conditions recommended in the RMS correspondence of 25 November should stand. These have been included in the recommendation of this report (Draft conditions 39-48).

Manager Strategic Planning

The proposal was referred to Council' Strategic Planning section for comment regarding the proposal's compliance with the strategic objectives for the area. No objections were raised by Council's Strategic Planners regarding the proposed residential flat building.

The proposed development for 390-398 Pacific Highway includes 69 residential apartments with a maximum floor space ratio of 2.36:1 and building height ranging from 22.6 to 25 metres which complies with current Local Environmental Plan provisions.

Strategic Planning has reviewed the amended plans for the proposed development and raises no objection.

Manager Community Services

The proposal was referred to Council's Community Development Officer for comment regarding accessibility. Concerns were raised regarding the proposal as the adaptable units consisted solely of one-bedroom and three-bedroom dwellings. The amended plans submitted included two-bedroom adaptable dwellings and Council's Community

Development Officer is satisfied that adaptable units would be available across all dwelling types and the matter has been addressed.

Manager Urban Design and Assets

Development Engineer

The proposal was referred to Council's Development Engineer for comment regarding stormwater and construction matters. Council's Development Engineer noted the following with regard to the proposed development:

- The site has an RMS easement for tunnels and appurtenant structures covering the whole site below the horizontal plane at RL 88.9m AHD. An RMS easement for ground anchors exists below a plane at RL90m. In order for Council to be able to support this proposal, a detailed analysis of the proposed development needs to be prepared and approved by the RMS to demonstrate that there will be no adverse effects on their infrastructure.
- As a result of the above mentioned easements the information provided with this application is inconclusive whether this proposal is achievable from a structural perspective and concurrence from RMS is required prior to granting any approval.
- The stormwater concept plan provided with this application proposes an adequate system including on site detention and rainwater reuse. The concept plan has been conditioned.
- A new driveway on Council property is proposed and has been conditioned.
- The proposed bulk excavation has been conditioned in the interest of all adjoining structures.
- The upgrade of Council infrastructure adjacent the site has been conditioned.
- All parking and driveway ramps need to be assessed and approved by Council's Traffic Section.

Comment:

- Regarding the easement for the tunnel, the RMS has granted concurrence to the development subject to the imposition of appropriate draft conditions as provided.
- Council's Traffic and Transport section have reviewed the proposal and have provided draft conditions to address the compliance of the proposed parking and driveway ramps.
- Matters regarding stormwater, excavation and site management have been addressed in the draft conditions provided by Council's Development Engineer have been included in the recommendation of this report (Draft conditions 49-84).

Manager Traffic and Transport

Transport Planner

The proposal was referred to Council's Transport Planner for comment regarding traffic and parking matters. Upon review of the proposal and the supporting documentation, further information and amendments to the proposal were requested including:

Updating of the Construction Traffic Management Plan to address inconsistencies; swept path analyses; work zone details; traffic counts; intersection operations information; and a review of proposed parking arrangements to reduce reliance on tandem parking, remove small car spaces, and provide adequate motorcycle and bicycle parking.

Additional information was provided including amended plans, further traffic information and a Construction Traffic Management Plan. The following was noted by Council's Transport Planner in response to the additional information provided:

- SIDRA intersection analysis has now been provided and intersection operations for both existing and with project are satisfactory with good levels of service.
- The parking area has now been reconfigured. Only one (1) additional car parking space is now provided with additional secure bike parking and bike racks being provided over the required rate.
- All tandem and small car spaces have now been removed.
- The matters relating to pedestrian and bike access have been address by way of conditions
- Additional discussion has been supplied regarding public transport and conditions have been provided
- With regard to the Construction Traffic Management Plan submitted:
 - The routes and text for truck movements are now consistent. Heavy vehicles propose to use Gatacre-Mafeking Avenues to enter the site and Mafeking-Kimberley Avenues to exit the site which eliminates the requirement for two lanes of the Pacific Highway to be affected by vehicles turning left from Gatacre Avenue.
 - The revised letter and construction plan seeks to eliminate the previous request from the RMS to limit truck movements during the AM peak period. While it is feasibly true that most traffic travels in a southerly direction on Pacific Highway during the AM peak period, the remaining northbound traffic on Pacific Highway can still be congested and truck movements should still be restricted during this period. This matter may be dealt with prior to CC stage when the CTMP is reviewed by RMS.
 - New Construction Traffic Management plan provided outlining the proposed number of workers for each part of the construction process. Car-pooling initiatives between workers from the same company have been suggested along with tool drop off options.
 - Small trucks have been suggested for use on this site. This has been included in the recommended conditions.
 - The revised construction traffic management plan addresses the question regarding Work Zones on Mafeking Avenue.
 - New traffic counts were not conducted due to time period. However justification is provided about the peak hour trip generation for the site which is considered minor.

Comment:

The matters raised in Council's assessment of the original proposal have been addressed in the amended plans submitted to the point where the proposal may be supported on traffic and transport grounds, subject to the imposition of appropriate draft conditions. Council's Transport Planner provided these draft conditions that have been included in the recommendation of this report (draft conditions 85-104).

Manager Open Space

Tree Assessment Officer

The proposal was referred to Council's Senior Tree Assessment Officer for comment regarding the existing vegetation on the site and Council's footpath reserve. Council's Senior Tree Assessment Officer noted that the subject site and adjoining nature strip does not contain trees worthy of retention given the scale of the proposed development. It was also

noted that there is a stand of native trees on the Mafeking side of the site, however these trees were considered to have limited amenity value. In the opinion of Council's Senior Tree Assessment Officer, establishing a new landscape is the correct management strategy for this development site. Draft tree protection conditions were provided by Council's Senior Tree Assessment Officer, and these have been included in the recommendation of this report (Draft conditions 152 & 153).

Landscape Architect

The original proposal was forwarded to Council's Landscape Architect for comment. While the proposal was, on balance, considered to be acceptable, concerns were raised regarding the usability of the communal open space proposed, the level of detail on the landscape plans submitted, and the level of significant plantings at ground floor level. Concern was also raised regarding the lack of separation between private open space and communal open space for several dwellings.

The amended proposal and accompanying landscape plan (Revision B, dated 16/12/14) was referred to Council's Landscape Architect for comment. The following was noted in response to the amended plans:

- The deep soil landscape area allowed for in the proposed development is (25% of the site area) which complies with the DCP;
- The ground floor level provides adequate landscape area which has been nominated as communal open space and the revised plans now offer an allocated communal open space lawn area as an optional kids play area on the northern side of the property which will be a much more usable space;
- Matters raised previously regarding bulk and scale of the proposal and the provision of clearly defined communal open space with appropriate screening from the usable private open space have been adequately addressed;
- The revised landscape concept plans dated 16/12/14 Rev B offer improved landscape detail and convey an improved landscape concept with a design intent for this type of development ;
- Clearly defined communal open space (under the requirements) and what should be allocated as usable private open space with appropriate screening from the communal areas;
- There is no detail for cross sectional on – structure planting therefore this type of detail must be provide at CC level in accordance with Council DCP for on structure planting depths;
- The soft landscape proposal is primarily native however there are a number of exotic species indicated on the plans and in the planting schedule. Due to the fact that this site is not in close proximity to bushland and the highly urbanized location of subject site the plant species in this instance are considered acceptable under Lane Cove Councils Landscape Policy;
- There is no detail for cross sectional on – structure planting therefore this type of detail must be provide at CC level in accordance with Council DCP for on structure planting depths;
- Aspect, site conditions, on-structure planting profiles and soil volumes are some of the site constraints that are relevant in terms of appropriate plant selection. In determining the appropriateness of the landscape design intent, Lane Cove Council gives priority to suitable provision for large and medium native canopy trees, visual softening of a bulky built form as well as the overall amenity and quality of communal open space for the future residents;
- These are all aspects that are taken into consideration when accepting high density residential landscape and planting proposals as well as being mindful of the general site

context for perimeter planting and the restrictive nature of some courtyard and terrace style private open space; and

- The landscape provisions as shown on the submitted plan LP01 and LP02 prepared by Site Design Studios are found to be satisfactory, subject to the draft conditions as recommended.

Comment:

The amended plans addressed the initial concerns of Council's Landscape Architect and the proposal is now supported, subject to the imposition of appropriate draft conditions. The draft conditions provided by Council's Landscape Architect have been included in the recommendation of this report (draft Conditions 140-151).

Environmental Health Officer

The proposal was referred to Council's Environmental Health officer for comment regarding noise, contamination and construction matters. Following the submission of an additional acoustic assessment as requested, the proposal was considered to be acceptable, subject to the imposition of appropriate draft conditions. The draft conditions provided by Council's Environmental Health Officer have been included in the recommendations of this report (draft conditions 105-135).

Waste Co-ordinator

The proposal was referred to Council's Waste Co-ordinator for review. The additional information requested in response to the original proposal included: amended plans showing the labelled compaction units, detail of the garbage chute systems in combination with a carousel and interim recyclable storage facilities, amendments to the basement waste and recycling storage rooms, information regarding the proposed paths of travel for both waste collection vehicle and movement of bins to the collection point, identification of the internal waste/recycling with sufficient space for one day's garbage and recycling generation. These matters were addressed in the amended plans submitted to Council and the only remaining outstanding matter is the identification of an open-air access point for the collection of bulky goods. It was considered that this matter may be dealt with by way of a condition. Furthermore, conditions reinforcing the clearance requirement for the path of travel for the waste truck and the requirement for a new waste service application to be made to Council.

Comment:

The proposal is considered acceptable with regard to waste management, subject to the draft conditions as recommended (draft conditions 136-139).

Building Surveyor

The proposal was referred to Council's Principal Building Surveyor for review. Concerns were raised regarding the compliance of the proposal with the requirements for exits from sole-occupancy dwellings and the size of the proposed fire control room. The applicant provided supplementary information indicating that an alternative solution would be provided regarding the exits from dwellings and this was considered acceptable. The outstanding issues relating to the ground floor fire control rooms is dealt with by way of a draft condition (draft condition 5) and the proposal is considered to be acceptable with regard to building matters, subject to draft conditions 5-38.

LANE COVE LOCAL ENVIRONMENTAL PLAN 2009 (Section 79C(1)(a))

The proposal has been assessed under the relevant provisions of LEP2009, and is neither contrary to the aims of the Plan, nor the aims, objectives and controls relating to the R4 High Density Residential zone. The proposal is therefore considered to be satisfactory.

LANE COVE SECTION 94 CONTRIBUTIONS PLAN

The existing use and structure is commercial and as such generates a Section 94 credit in the following terms:

Credit for existing retail/commercial development on the site:

2628m² @\$97.34 per m² = \$255,809.52

Residential Contributions

Dwelling Type	Number of dwellings	Persons per dwelling	Total Number of persons	Contribution payable @\$9636/person
1 bedroom	38	1.2	45.6	\$439,401.60
2 bedroom	22	1.9	41.8	\$402,784.80
3 bedroom	9	2.4	21.6	*\$180,000.00
Total	69	N/A	109	\$842,186.40

***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. 9 dwellings x \$20,000 = \$180,000

Total Section 94 Contributions Payable

Contribution Type	Amount
Residential:	\$1,022,186.40
(Credit for Commercial/Retail):	(\$255,809.52)
Total Contribution:	\$766,376.88

Draft condition 6 requires the payment of a Section 94 contribution of \$766,376.88 prior to the issue of a Construction Certificate.

OTHER PLANNING INSTRUMENTS

State Environmental Planning Policy (Infrastructure) 2007

The site has a frontage to the Pacific Highway which is a classified road. As such, the proposal has been considered having regard to the provisions of Part 3, Division 17, Subdivision 2 of State Environmental Planning Policy (Infrastructure) 2007 (the Infrastructure SEPP) for development in or adjacent to road corridors and road reservations.

The proposal has been considered having regard to the provisions of Clause 101 of the Infrastructure SEPP. Council is satisfied that, subject to the draft conditions as recommended, the proposal meets the objectives of the Clause in that it does not compromise the effective and ongoing operation and function of the Pacific Highway, and that the potential impact of traffic noise and vehicle emission on development adjacent to classified roads is acceptable, with measures identified to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

The proposal has been considered having regard to the impact of road noise or vibration on non-road development as the Pacific Highway has an anticipated daily traffic volume of >40,000 vehicles and the proposal involves a building for residential use. An acoustic report was submitted with the development and it demonstrated that the proposal may utilize acoustic treatment to achieve acceptable noise levels within the dwellings in accordance with Clause 102 of the Infrastructure SEPP and is considered to be acceptable, subject to the implementation of the recommendations of the acoustic report (draft condition 2).

The proposal involves excavation of at least 3m on land that is affected by the Lane Cove Tunnel road corridor. The application was forwarded to the NSW Roads and Maritime Services for concurrence in accordance with Clause 103 of the Infrastructure SEPP. Discussion regarding the response received is included above, and the draft conditions provided by the RMS are included in the recommendation of this report (draft conditions 39-48).

It is noted that the proposal does not involve the construction of 75 or more dwellings and as such was not required to be considered under Clause 104 of the Infrastructure SEPP regarding Traffic-generating development.

State Environmental Planning Policy - Design Quality of Residential Flat Development (SEPP65)

Part 2 of SEPP 65 sets out ten design quality principles as a guide to assess a residential flat development. The 'Residential Flat Design Code' (The Code) is referred to as an accepted guide as to how the principles are to be achieved.

Council's Consulting Architect has advised that the proposed design meets, partially meets, or was capable of meeting with all ten principals relating to context, scale, density, landscape, amenity, safety and security, social dimensions and aesthetics. Concerns remain regarding the impact of the acoustic treatment required to address amenity on cross-ventilation within the units, however it is considered that this matter may be addressed by way of a draft condition (draft condition 2) requiring the ventilation performance of the required acoustic solution to be verified by a suitably qualified person prior to the issue of the Construction Certificate. Council is satisfied that the proposal is acceptable with regard to the Code, subject to the draft conditions as recommended.

State Environmental Planning Policy No 55 – Contaminated Lands

Clause 7 of the SEPP requires Council to consider whether the land is contaminated. Site investigations have been carried out by the applicant indicate a history of commercial development on the site and adjoining sites and does not indicate any potential contamination. This review has been carried out to the satisfaction of Council's Manager, Environmental Health, and further investigation is not required in this instance.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The plans were accompanied by BASIX Certificate 580687M, and the commitments required to be noted at the development application stage are shown on the accompanying plans. The proposal therefore satisfies the policy and raises no further issues.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The proposal raises no issues regarding the provisions of policy.

APPLICABLE REGULATIONS

Environmental Planning and Assessment Regulation 2000

The proposal involves demolition of the existing structures on the development site. Under Clause 92 of the Environmental Planning and Assessment Regulation 2000, Council must take into consideration Australian Standard (AS2601-2001): The Demolition of Structures. The matter is addressed by draft conditions included in the recommendation of this report.

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

The preceding policy assessment table identifies those controls that the proposal does not comply with. Each of the departures is discussed below.

3.3 Building depth

The building depth controls requires a maximum of 18m, and the proposed depth of 22m does not meet this requirement. The building depth control is intended to control the thickness of the building for the purposes of ensuring that adequate light and ventilation can penetrate the building from the external openings. The control should not be measured based on the orientation of the overall development site, as has been the subject of several submissions received which cite the building as being up to 45m in depth.

The proposal is considered to accord with the objectives of the control in that:

- the bulk of the development is considered to be in scale with the context of the existing approved development on the neighbouring site and the anticipated future context of the locality.
- adequate amenity for building occupants in terms of sun access, daylight and natural ventilation is provided.
- dual aspect dwellings have been achieved as part of the development.

The proposal is therefore considered to be acceptable in this regard.

3.5 Setbacks

Basement and Parking Podium Setback

The proposal features a nil setback to the northern side of the basement. This mirrors the setbacks approved in the neighbouring development and is considered to be acceptable. The non-compliance in the setbacks to the southern side is considered to be minor in nature (800mm) and would not materially affect the amenity of the neighbouring property or its future development potential. The non-complying setback to the western (Mafeking Avenue) frontage is considered to be minor (0.7-1.5m) and does not compromise the provision of landscaping and deep soil planting to the Mafeking Avenue setback, in keeping with the objectives of the control. This non-compliance is lessened in its impact by the generous footpath reserve on the Mafeking Avenue frontage and is considered to be acceptable.

Northern side setback – Levels 5-7

The wing facing the Pacific Highway frontage features a northern side setback of 6m for the entire northern elevation, resulting in a non-compliance for levels 5 to 7 as the required setback for these levels is 9m. The non-complying setback is to the northern side and as such would not result in any overshadowing impacts for the neighbouring development. The majority of the development complies with the northern side setback requirement, with just 2 out of the 39 apartments on the northern side not achieving the required setback. The proposal is considered to accord with the objectives of the setback requirements in that the

development defines the street edge and provides a transition between public and private space, with the wing fronting the street acting as a buffer for the remainder of the development.

The neighbouring development at 9 Mafeking Avenue features living areas on the southern side of the building in the vicinity of the area of non-compliance. As such, it is considered appropriate that the window openings of the levels with the non-complying northern side setback be required to feature high sill levels of at least 1500mm above finished floor levels to reduce potential for overlooking to the living areas of the neighbouring development. A draft condition has been included in the recommendation of this report (draft condition 3) to address this and, subject to the amended upper level openings, the proposal is considered to be acceptable.

Western (Mafeking Avenue) setback

The proposal involves a setback of between 6.0m-10.1m to Mafeking Avenue, resulting in a partial non-compliance of up to 1.5m and partial excess of up to 3.1m. The area of non-compliance consists of the service vehicle entryway and nearby attached apartments and is located on the northern side of the building. It is not considered that this area of non-complying rear setback would result in any undue amenity impacts on neighbouring properties and is lessened in its impact by the generous footpath reserve on Mafeking Avenue. The majority of the proposal complies with and exceeds the setback requirements and on balance the proposal is considered to be acceptable.

3.8 Excavation

The proposal is considered having regard to the objectives of the excavation requirements and is to be acceptable as follows:

- the development is considered to relate to the existing topography of the land as much as possible in that the built form above ground level relates to the existing levels on the site and the street. However development of this nature necessitates the provision of underground parking, storage and service areas that make it impractical to relate the entirety of the development to the topography of the site.
- Excavation for the northern side of the basement extends beyond the footprint of the development, however it mirrors the approved basement arrangements at 9 Mafeking Avenue which is yet to commence work.
- The extent of excavation proposed for underground uses does not compromise the provision of deep soil areas or landscaped areas as the proposal complies with these requirements.

3.11 Private open space

Variations are sought for the following non-compliances:

- non-compliance with minimum depth requirement only (units 106,107,109, 206, 207, 209, 306, 307, 309, 406, 407, 409, 506, 507, 509), and
- non-compliance with both size and depth requirements (Unit 108, 208, 308, 408, 508, and 604)

The applicant seeks a variation to the requirements for the above units, all of which face the Pacific Highway, on the grounds that there is limited amenity to private open space on the highway frontage and that the use of these areas will therefore be less than those on the side and rear elevations. The usable (ie, ~2m depth) areas of these balconies are 6.7 m² and they service one-bedroom units. Given the lower occupancy rates of one-bedroom units, it is considered that 6.7 m² is adequate for use by the anticipated occupants of these

dwelling and can provide for a small table and chairs, should they choose to. The variation sought is therefore considered to be acceptable in the circumstance.

3.15 Solar access

Council's calculation of solar access results in 46 dwellings achieving the solar access requirements of the DCP, or approximately 67%, which does not meet with the 70% requirement of the DCP. Council's Consultant Architect assessed the development as achieving the solar access requirements of SEPP 65, but that this compliance relied on solar access received after 3pm or for greater than 2 hours, rather than the 3 hours required between 9am and 3pm at mid-winter. It is noted that 12 units on the northern façade (out of 38 north-facing units) would not receive 3 hours of sun on 21 June. This is in part due to the anticipated overshadowing of the lower levels caused by the adjoining development approved at 9 Mafeking Avenue and in part due to the orientation of the site which is almost purely east-west and is challenging to achieve solar access in accordance with the requirements of the DCP. The non-compliance is minor in nature and the proposal has been considered having regard to the objective of the control and the qualitative assessment undertaken by Council's Consultant Architect. It is also noted that the proposal has been designed with the entries, lift and stair core located on the southern side of the building, meaning that not one of the proposed units fails on light, ventilation and private open space grounds in combination, 3 out of 69 units fail on solar access and private open space size in combination (4.3%) and 8 out of 69 units fail on solar access and cross-ventilation in combination (11.6%). Given the orientation of the site and the bulk of the approved development to the north it is considered that the solar access achieved for the development is acceptable.

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

First notification

The original proposal was notified to neighboring properties and was renotified to correct the property description. Submissions from 26 properties were received in respect of the proposal. The concerns raised included:

Suitability of the development for the site

Comment: The site is zoned R4 – High Density Residential and the proposed residential flat building is permissible within the zone. The proposal is considered to be suitable for the proposed site.

Scale of the proposal and non-compliance with 25m height limit

Comment: The proposal complies with the height requirements of the LEP and the scale of the development is therefore considered to be acceptable. It is noted that the submissions seek to measure the building height from the lowest point on the site to the highest point on the building, which would be in excess of 30m. This is not how the building height is measured, rather it is in relation to ground level (existing) at any point on the site. This explains why the proposed building is stepped down the slope to accommodate the fall in the site.

Non-compliance with LEP objective "to ensure amenity is respected"

Comment:

The objective within Clause 1.2(2)(b) of the LEP states the aim "to preserve and, where appropriate, improve the existing character, amenity and environmental quality of the land to

which this Plan applies in accordance with the indicated expectations of the community". At the transition of zones between high density and low density development, the preservation and improvement of the existing amenity to the neighbouring properties is difficult to achieve.

However the proposal sites the higher portion of the building away from the rear frontage, the proposal complies with the height and FSR requirements of the LEP, and it is considered that the design would contribute to the character of the area in line with the expected future development type within the High Density zone. The proposal is considered to be acceptable in this regard.

Non-compliance with DCP controls, particularly building depth and setbacks to Mafeking Avenue

Comment:

The non-compliance with the DCP controls in terms of setbacks is discussed hereover. On balance, and considering the particular features of the site and its locality, the development is considered to be acceptable and the non-compliance with the DCP controls including the Mafeking Avenue Setbacks is supported.

Overshadowing

Comment:

The shadow diagrams submitted with the development application indicate that the dwelling houses to the rear of the site on Mafeking Avenue would have reduced solar access between 9am and 12 noon as a result of the proposed development and including the shadows cast by the neighbouring development at 9 Mafeking Avenue. The properties fronting onto Gatacre Avenue would not be affected until between 2pm and 3pm. As such, the shadows cast by the proposal are considered to be acceptable.

Loss of privacy

Comment:

The land to the rear of the site drops away and the sites on the western side of Mafeking Avenue are oriented so that their front yards face the proposed development. Given the topography of the area, the existing dwelling houses on Mafeking Avenue shield the view lines into the rear yards of those properties. It is therefore considered that the proposal would not result in unacceptable overlooking impacts on the neighbouring properties from either the proposed balconies or the roof terrace areas.

Traffic congestion from the proposal and the lack of a comprehensive traffic study for the up-zoned area as a whole

Comment:

The concern regarding cumulative traffic impacts from the upzoned properties and their intended development was referred to Councils Traffic Manager for comment. It was noted by the Traffic Manager that each individual development application is accompanied by a Traffic Impact Assessment to demonstrate that traffic and parking impacts will be acceptable, and that the development controls in this area have recently been strengthened to ensure that a rigorous assessment occurs and to ensure that applicants consider practical means of facilitating non-car travel associated with their development.

It is acknowledged that traffic and parking will be impacted upon in Mafeking Avenue and the adjoining streets by this proposal and others within the R4 zone in this locality. Council's Traffic Manager advised that a traffic and parking study for the Osborne Park / Gore Hill area

is underway, which includes all of the residential streets adjoining Pacific Highway as far west as Kimberley Ave and includes the site and locality. The Traffic Manager advised that it is anticipated that the report would include recommendations to improve parking amenity for existing residents.

Whilst it would have been preferable for this information be collated prior to the change in zoning of the area, the development application has been lodged prior to the completion of this study and Council is obliged to consider the proposal on its merits. The proposal provides parking for cars, motorbikes and bicycles in accordance with the requirements of the DCP Part R – Traffic and Transport, and as such is it not anticipated that there would be any undue impact on the traffic and parking in the locality. The proposal was accompanied by a traffic study and the information was considered to be acceptable subject to the imposition of appropriate draft conditions.

Loss of existing vegetation

Comment:

The proposal, including the removal of the vegetation on the Mafeking Street frontage, has been considered by Council's Senior Tree Assessment Officer. Although the existing stand of trees on this frontage provides a vegetation buffer between the subject site and the dwelling houses to the west, the amenity value of these trees was not considered to warrant their retention given the scope of the proposed works. A landscaping plan was submitted as part of the application and is considered to be acceptable, subject to the imposition of appropriate draft conditions. The draft conditions include minimum pot size requirements for specific species to ensure that the planting is advanced and of high quality (draft conditions 141 and 142).

Inclusion of exotic plants in the proposed landscaping

Comment:

Council's Landscape Architect considered the landscaping plan submitted and noted that as the area is not within a bushland setting, it may be appropriate for exotic species to be included in the landscape plans. However, draft conditions (Draft conditions 140-151) have been included in the recommendation of this report requiring the provision of additional native species, such as the replacement of the proposed sweet viburnum with a native tree species up to 7m in height (draft condition 140). Draft conditions 141 and 142 requiring minimum pot sizes for the landscape planting ensure that the plants would be advanced and of high quality.

Air quality impacts

Comment:

Draft conditions have been included in the recommendation of this report to ensure that any dust generated by the development is mitigated and managed appropriately, including the requirement for a fine water spray (draft conditions 105 and 106). It is not considered that the finished development would give rise to any undue air quality impacts, particularly compared with the existing busy roads surrounding the locality.

Noise and traffic impacts from construction

Comment:

The proposal was accompanied by a construction noise and vibration management plan which was assessed by Council's Environmental Health Officer and was considered to be acceptable. Draft conditions have been included in the recommendation of this report to confirm the expectations of the noise generated by the construction and restrict noise to

acceptable levels (draft Conditions 126 & 127). With regards to traffic impacts arising from construction, these too have been considered by Council's Transport Planner and are the subject of draft conditions, one of which requires the approval of a Construction Traffic Management Plan by both Council and the RMS prior to the issue of a Construction Certificate (draft conditions 96-104). Subject to the draft conditions as recommended, the proposal is considered to be acceptable.

Poor design and aesthetics, excessive height of parking podium

Comment:

The proposal has been considered by Council's Consulting Architect having regard to the design requirements of the Design Code for Residential Flat Buildings and on balance is considered to be acceptable. The height of the parking podium, while greater than 1.2m above ground level (existing), seeks to accommodate service vehicles such as garbage trucks as well as resident and visitor vehicles on a site which is constrained in its excavation by the Lane Cove Tunnel which is located underneath the rear portion of the site. Given the constraints of the site and the materials and articulation included in the design, the proposed parking podium is considered to be acceptable.

Burden on existing infrastructure

Comment:

Infrastructure such as the water and sewer system, electricity, public schools, and transport services as mentioned in the submissions received are all governed by state authorities and are consulted at the LEP stage. Notwithstanding such, the proposal will be sent to Sydney Water for consideration prior to the issue of a Construction Certificate and a Section 73 developer certificate is required under draft condition 11.

Impact on the limited available on-street parking

Comment:

It is acknowledged that traffic and parking will be impacted upon in Mafeking Avenue and the adjoining streets by this proposal and others within the R4 zone in this locality, however the proposal provides parking for cars, motorbikes and bicycles for residents and visitors in accordance with the requirements of the DCP Part R – Traffic and Transport and as such is it not anticipated that there would be any undue impact on the traffic and parking in the locality.

Impact on retaining walls and land slippage on neighbouring properties

Comment:

Council's Development Engineer provided draft conditions 69-73 which requires confirmation of the zone of influence of the development and dilapidation surveys to be carried out for structures on neighbouring sites within the zone of influence and construction methodology reports to be submitted to the Certifier prior to the issue of the Construction Certificate. It is considered that these measures should ensure that no undue impacts on neighbouring structures should arise as a result of the development and that any damage that does occur is appropriately documented in accordance with standard practise.

3t weight limit on Mafeking Avenue

Comment: Council's Traffic Section have advised that the 3t weight limit is less about the carrying capacity of the street and more intended as a disincentive for large trucks using the streets in the residential area as a thoroughfare. In accordance with the RMS policy and the NSW road rules, if the trucks have a final destination on the street and there is no alternative

route, vehicles may use the road notwithstanding the weight limit. There is an acknowledged need for a review of the local traffic conditions and on-street parking arrangements for the locality and Council's Traffic Manager advised that this review for the Osborne Park/Gore Hill area is currently underway.

Potential for outside of hours work with critical pours

Comment:

The critical concrete pour condition has been included in the recommendation of this report. The intent of this condition is to acknowledge that some elements of the construction process take longer than the standard hours, but that in the event that extended hours are required for the pouring of large slabs at critical stages of construction, Council and the affected properties are made aware of the event occurring and appropriate measures to mitigate impact are undertaken.

Second notification

The amended plans submitted included increased setbacks to the southern and Mafeking Avenue frontages, amendments to the private and communal open space arrangements, parking arrangements and BCA information. The amended plans were notified to the nearby properties for their information. Two submissions were received from previous objectors in response to the amended plans and for the most part reiterated the concerns raised in the submissions lodged by the objectors regarding the first notification. Points raised specifically in response to the amended plans and supporting information are summarised below:

Concern regarding lack of noise information for Mafeking Avenue frontage and ongoing noise impact resulting from mechanical ventilation, air conditioning, etc.

Comment:

The acoustic report was considered by Council's Environmental Health Officer and was considered to be acceptable. Draft conditions 109-112 address the ongoing management of noise generated by ventilation, air conditioning, carpark grilles and the like and subject to the conditions as recommended, the proposal is considered to be acceptable with regard to noise.

Construction vehicles arrival times anticipated at 5.00am and 6.00am

Comment:

Draft condition 12 restricts the construction hours to 7.00am to 5.30pm, Monday to Friday and 8.00am to 12.00pm Saturdays and draft condition 96 further restricts the delivery and removal of building material to and from the site to off-peak hours between 9.30am to 3.30pm to reduce the potential impact of these vehicle movements on the Pacific Highway traffic. Should construction vehicles arrive prior to the approved hours of construction for the development, the matter should be raised with Council's Rangers for investigation and action.

Refute the applicants assertion in their supporting documentation that the proposal would improve amenity

Comment:

The proposal would result in an increase in vehicle movements, reduce solar access and increase potential noise impacts compared with the existing commercial development. However, on balance, the proposal is considered to be acceptable.

The 7.5m setback to Mafeking Avenue should be met

Comment:

The proposal has been considered on its merits and meets the objectives of the setback requirements. Given the lesser setbacks to Mafeking Avenue approved for the neighbouring development at 9 Mafeking Avenue and the majority of the building being well in excess of the 7.5m required on the Mafeking Avenue frontage, the proposal is considered to be acceptable.

CONCLUSION

The Development Application has been assessed in accordance with matters for consideration outlined in Section 79C of the Environmental Planning & Assessment Act 1979, and having regard to all of the relevant instruments and policies.

The proposal complies with the objectives of the Lane Cove Local Environmental Plan 2009, will not result in any undue adverse impacts for the locality and is not considered to be contrary to the public interest. The site is constrained by its Pacific Highway frontage in terms of both vehicular access and noise impacts, and is limited in excavation potential by the Lane Cove Tunnel which traverses a significant portion of the rear of the site. Notwithstanding the site's challenges, the proposal complies with the majority of the DCP provisions and the non-compliances proposed are considered to be acceptable. The proposal has been designed in response to the topography and constraints of the site and accords with the SEPP 65 design requirements. Given the constraints of the site the design is considered to be appropriate. Accordingly, the application is recommended for approval, subject to the conditions listed below.

RECOMMENDATION

THAT pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act, 1979, as amended, the Council grants development consent to Development Application DA14/175 for the construction of a residential flat building comprising 69 units and parking for 107 cars on Lots 13, 14 & 15 in DP1056023 and known as Nos. 390-398 Pacific Highway, Lane Cove, subject to the following conditions:

General Conditions

1. (20) That the development be strictly in accordance with following drawings and supporting documentation, except as amended by the conditions hereunder.

Document	Prepared by	Number	Rev	Dated
Basement 3 Floor Plan	Nettletontribe Partnership Pty Ltd	4336_DA-04A	6	17.12.2014
Basement 2 Floor Plan	Nettletontribe Partnership Pty Ltd	4336_DA-05A	6	17.12.2014
Basement 1 Floor Plan	Nettletontribe Partnership Pty Ltd	4336_DA-06A	8	17.12.2014
Ground Floor Plan	Nettletontribe Partnership Pty Ltd	4336_DA-07A	7	17.12.2014
Level 1 Floor Plan	Nettletontribe Partnership Pty Ltd	4336_DA-08A	7	17.12.2014
Level 2 Floor Plan	Nettletontribe Partnership Pty Ltd	4336_DA-09A	7	17.12.2014
Level 3 Floor Plan	Nettletontribe Partnership Pty Ltd	4336_DA-10A	7	17.12.2014

Level 4 Floor Plan	Nettletontribe Partnership Pty Ltd	4336_DA-11A	7	17.12.2014
Level 5 Floor Plan	Nettletontribe Partnership Pty Ltd	4336_DA-12A	7	17.12.2014
Level 6 Floor Plan	Nettletontribe Partnership Pty Ltd	4336_DA-13A	7	17.12.2014
Level 7 Floor Plan	Nettletontribe Partnership Pty Ltd	4336_DA-14A	5	09.12.2014
Elevations - East & South	Nettletontribe Partnership Pty Ltd	4336_DA-21A	5	17.12.2014
Elevations – West & North	Nettletontribe Partnership Pty Ltd	4336_DA-22A	5	17.12.2014
Section A & Section B	Nettletontribe Partnership Pty Ltd	4336_DA-31A	4	17.12.2014
Landscape Plan Ground Floor Plan & Level 1	Site Design + Studio	LP 01	B	16/12/14
Landscape Plan Basement 1 & 2	Site Design + Studio	LP 02	B	16/12/14

2. The approved plans shall be amended to incorporate the recommendations of the Acoustic Report by PKA Acoustic Consulting dated October 2014. An accredited acoustic engineer shall verify that these plans would achieve the noise reduction performance as recommended in the Acoustic Report, prior to the issue of the Construction Certificate.

Once the required acoustic measures required have been included in the amended plans required under this condition, the plans shall be verified by a suitably qualified environmental consultant to certify that not less than 60% of the apartments achieve cross-ventilation. This verification must be submitted to the Certifier prior to the issue of the Construction Certificate.

3. The northern side window openings of the portion of the building fronting onto the Pacific Highway shall include high sill levels (min 1500mm above FFL) for levels 5 to 7(inclusive).
4. A dedicated pedestrian entry shall be provided to the Mafeking Avenue frontage.
5. The fire control centre located on the ground floor is required to comply with clause EP1.6 of the Building Code of Australia.
6. **(21) The payment of a contribution for an additional 87.4 persons in accordance with Council's Section 94 Contributions Plan, plus an amount capped at \$20,000.00 for each 3 bedroom dwelling (i.e 9 x \$20,000.00 = \$180,000.00) imposed under the *Reforms of Local Development Contribution*. 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 \$766,376.88 at the current rate of \$9636.00 per person, and includes the capped amount. Note: payment must be in bank cheque. Personal cheques will not be accepted.**

This contribution is for community facilities, open space/ recreation and road under the Lane Cove Section 94 Contributions Plan which is available for inspection at the customer service counter, Lane Cove Council, 48 Longueville Road, Lane Cove.

7. (1) The submission of a Construction Certificate and its issue by Council or Private Certifier PRIOR TO CONSTRUCTION WORK commencing.
8. (2) All building works are required to be carried out in accordance with the provisions of the Building Code of Australia.
9. (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.
10. (17) An Occupation Certificate being obtained from the Principal Certifying Authority before the occupation of the building.
 11. (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.

12. (35) All demolition, 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.

13. (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.**

14. (36) 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.
15. (37) 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.
16. (43) Access and parking spaces for disabled persons being provided in accordance with Part D.3 of the Building Code of Australia.
17. (48) 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.

18. (49) 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.
19. Standard Condition (56) Where Lane Cove Council is appointed as the Principal Certifying Authority, it will be necessary to book an inspection for each of the following stages during the construction process. Forty eight (48) hours notice must be given prior to the inspection being required:-
 - a) All reinforcement prior to filling with concrete.
 - b) The dampcourse level
 - c) Framework including roof and floor members when completed and prior to covering.
 - d) Installation of steel beams and columns prior to covering
 - e) Waterproofing of wet areas
 - f) Stormwater drainage lines prior to backfilling
 - g) Completion.
20. Standard Condition (57) 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) floor framing;
21. (60) A temporary connection to be made to the sewers of Sydney Water (where available) with an approved toilet structure and toilet fixtures being provided on the site BEFORE WORK IS COMMENCED. Where the Sydney Water sewer is not available a "Chemical Closet" type toilet shall be permitted.
22. Standard Condition (64) A check survey certificate is to be submitted at the completion of:-
 - a Prior to pouring concrete to each floor level;
 - b The roof framing; and
 - c The completion of works.

Note: All levels are to relate to the reduced levels as noted on the approved architectural plans and should be cross-referenced to Australian Height Datum.
23. (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.

- 24. (72) The demolition works being confined within the boundaries of the site.
- 25. (74) All demolition works being completed within a period of three (3) months from the date of commencement.
- 26. (75) Use of explosives is not permitted.
- 27. (76) All machinery used on the site during demolition shall have a noise emission no greater than 75dB(A) when measured at a radius of 7.0 metres from the specified item.
- 28. (77) All spillage deposited on the footpaths or roadways to be removed at the completion of each days work.
- 29. (78) The site being properly fenced to prevent access of unauthorised persons outside of working hours.
- 30. (79) Compliance with Australian Standard 2601 - The Demolition of Structures.
- 31. (86) An approved type of hoarding being erected along the street frontage.
- 32. (128) Submission of documentation detailing the destination of materials in accordance with the Waste Management Plan approved under this application. These details are required PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE.

33. (132) It should be understood that this consent in no way relieves the owners or applicant from any obligation to obtain any other approval which may be required under any covenant affecting the land or otherwise nor relieve a person from the legal civil consequences of not complying with any such covenant.
34. (137) Lane Cove Council charges a fee for the registration of any Part 4A Certificates (compliance, construction, occupation or subdivision certificates) issued by an accredited certifier under the Environmental Planning and Assessment Act.
35. (139) A copy of Sydney Water's Notice of Requirements must be submitted to the Principal Certifying Authority **PRIOR TO THE CONSTRUCTION CERTIFICATE BEING ISSUED.**
36. (140) If at the commencement of, or during the demolition stage of the development, it becomes apparent that all or any of the existing structures that were to be retained may require demolition, works are to cease immediately. The Principal Certifying Authority is to advise Council of the status of the works and the proposed method of rectification. It should be noted that any variations to the approved consent will require the lodgement of a new Development Application.
37. (141) **Long Service Levy** Compliance with Section 109F of the *Environmental Planning and Assessment Act 1979*; payment of the Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 (or, where such a levy is payable by instalments, the first instalment of the levy) – All building works in excess of \$25,000 are subject to the payment of a Long Service Levy at the rate of 0.35%.

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

38. (142) **BASIX** - Compliance with all the conditions of the BASIX Certificate lodged with Council as part of this application.

NSW ROADS AND MARITIME SERVICES CONDITIONS

39. Land was previously acquired for the Lane Cove Tunnel (LCT) beneath the subject property (DP 1056023). Title to the subject property (Lots 13–15 DP 1056023) is therefore limited in stratum in the manner described in DP 1056023.
40. All buildings or structures, together with any improvements integral to the future use of the site are to be clear of the LCT and the Pacific Highway road reserve (unlimited in height or depth).
41. Prior to the issue of a Construction Certificate, the proponent is to provide a geotechnical design review to ensure that the Lane Cove Tunnel (LCT) infrastructure is not effected by the proposed works, the geotechnical design review shall include but not limited to the following:
 - a. Confirm the dimensions of the proposed development do not penetrate the LCT stratum at any point (it appears the proposed development is in close proximity to the limit of depth),
 - b. Potential impact of excavations (stress relief within rock stratum) on the LCTs
 - c. Potential impacts of temporary shoring loads and grouting operations on the LCTs. In addition any temporary anchors within the stratum should be

- destressed and disconnected from their permanent structures (note that LCT and Roads and Maritime will not normally permit such anchors within stratum)
- d. Detail of potential impacts of foundation loads on the tunnel and compliance with any predefined limits set by the original designer
 - e. Details of potential impacts of vibration caused by construction methodologies, which can impact upon shotcrete adhesion
 - f. Potential impacts on water tables
 - g. Additional impacts arising from the inclusion of the elevated roadway/driveway off Epping Road
 - h. Details of timing of initial inspection, ongoing monitoring, and final inspection and report is required in the LCTS to validate all of the above.
42. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.
43. The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime. The report and any enquiries should be forwarded to:
 Project Engineer, External Works
 Sydney Asset Management
 Roads and Maritime Services
 P0 Box 973 Parramatta CBD 2124.
 Telephone 8849 2114
 Fax 8849 2766
- If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.
44. The proposed development should be designed such that road traffic noise from the Pacific Highway is mitigated by durable materials in order to satisfy the requirements for habitable rooms under Clause 102 (3) of State Environmental Planning Policy (Infrastructure) 2007.
45. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.
 Details should be forwarded to:
 The Sydney Asset Management
 Roads and Maritime Services
 P0 Box 973 Parramatta CBD 2124.
 A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.
46. A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for approval prior to the issue of a Construction Certificate.
47. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on the Pacific Highway.

48. All works/regulatory signposting associated with the proposed development are to be at no cost to Roads and Maritime.

ENGINEERING CONDITIONS

General Engineering Conditions

49. **(A1) 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.
50. **(A2) 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.
51. **(A3) 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**.
52. **(A4) 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.
53. **(A5) 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.
54. **(A6) 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.
55. **(A7) 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*'.
56. **(A8) 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.
57. **(A9) 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.
58. **(A11) 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.**

59. **(H3) 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.

60. **(H4) 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.
61. **(H5) Covering Heavy Vehicle Loads:** All vehicles transporting soil material to and from the subject site shall ensure that the entire load is covered at all times. 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.
62. **(O3) 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.
63. **(K2) 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.
64. **(O4) 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.

65. **(R1) Rainwater Reuse Tanks:** The proposed rainwater tank is to be installed in accordance with Council's rainwater tank policy and relevant Australian standards.
- Note:
- Rainwater draining to the reuse tank is to drain from the roof surfaces only. No "on - ground" surfaces are to drain to the reuse tank. "On - ground" surfaces are to drain via a separate system.
 - Mosquito protection & first flush device shall be fitted to the reuse tank.
 - The overflow from the rainwater reuse tank is to drain by gravity to the receiving system.

Engineering conditions to be complied with prior to Construction Certificate

66. **(D3) Drainage Construction:** The stormwater drainage on the site is to be constructed generally in accordance with plan numbered **13839 Rev A** prepared by **Sparks & Partners Engineers** dated **September 2014**. Certification by a suitably qualified engineer of the above plans is to be submitted to the Principal Certifying Authority stating that the design fully complies with, AS-3500 and Part O, Council's DCP-Stormwater Management. The plans and certification shall be submitted **prior to the issue of the Construction Certificate**. The Principal Certifying Authority is to satisfy themselves of the adequacy of the certified plans for the purposes of construction. They are to determine what details, if any, are to be added to the Construction Certificate plans, in order for the issue of the Construction Certificate.
67. **(O1) Positive Covenant Bond:** The applicant shall lodge with Council a \$2000.00 cash bond to cover the registration of the required positive covenants. Lodgement of this bond is required **prior to the issue of the Construction Certificate**.
68. **(T1) Design of Retaining Structures:** All retaining structures greater than 1m in height are to be designed and certified for construction by a suitably qualified engineer. The structural design is to comply with, all relevant design codes and Australian Standards. The design and certification shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate**.
69. **(D2) Geotechnical Report:** **A geotechnical report is to be completed for the excavation proposed for the development. The Geotechnical Report and supporting information are to be prepared by a suitably qualified geotechnical engineer and be submitted to Principal Certifying Authority prior to issue of a Construction Certificate.**
70. **(D3) 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.

71. (D4) Construction Methodology Report: **There are structures on neighbouring properties that are deemed to be in the zone of influence of the proposed excavations. A suitably qualified engineer must prepare a Construction Methodology report demonstrating that the proposed excavation will have no adverse impact on any surrounding property and infrastructure. The report must be submitted to Principal Certifying Authority** prior to issue of a Construction Certificate. **The details must include a geotechnical report to determine the design parameters appropriate to the specific development and site.**
The Report must include recommendations on appropriate construction techniques to ameliorate any potential adverse impacts.
The development works are to be undertaken in accordance with the recommendations of the Construction Methodology report.
72. **D5) Dilapidation Report** The applicant is to provide a dilapidation report of all adjoining structures, properties and any of Council and RMS 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.**
73. **(H1) Road Dilapidation Survey:** The applicant shall prepare a dilapidation survey and a dilapidation report detailing the existing state of repair / condition of the road surfaces along Mafeking Avenue and Pacific Hwy 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.
74. **(V4) Car Parking Certification:** The plans and supporting calculations of the internal driveway, turning areas, ramps, garage opening widths, parking space dimensions and any associated vehicular manoeuvring facilities shall be submitted to the Principal Certifying Authority.
The plans shall be prepared and certified by a suitably qualified engineer. The design is to be certified that it fully complies with AS 2890 Series and Council's standards and specifications. The design and certification shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**

75. **(V1) 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**.
76. **(A10) 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.
77. **(B1) Council infrastructure damage bond:** The applicant shall lodge with Council a \$50,000.00 cash bond or bank guarantee. The bond is to cover the repair of damage to Council's roads, footpaths, kerb and gutter, drainage or other assets as a result of the development. The bond will be released upon issuing of the Occupation Certificate. If Council determines that damage has occurred as a result of the development, the applicant will be required to repair the damage. Repairs are to be carried out within 14 days from the notice. All repairs are to be carried in accordance with Council's requirements. The full bond will be retained if Council's requirements are not satisfied. Lodgement of this bond is required **prior to the issue of the Construction Certificate**.
78. **(K1) Council Construction Requirements:** The applicant shall construct / reconstruct the following:
1. New 1.5m wide footpath adjacent the site to Council's Satisfaction.
 2. New Kerb and Gutter adjacent the site to Council's Satisfaction.
 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.
79. **(K4) 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**.

Engineering condition to be complied with prior to commencement of construction

80. **(C2) 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 plan numbered **13839 Rev A** prepared by **Sparks & Partners Engineers** dated **September 2014**. The devices shall be maintained during the construction period and replaced when necessary.

Engineering Condition to be complied with prior to Occupation Certificate

81. **(M1) Stormwater System Engineering Certification:** On completion of the drainage system a suitably qualified engineer shall certify that the drainage system has been constructed in accordance with the approved plans, part O Council's DCP-Stormwater Management and AS-3500. The certification is to include a work as executed plan. The work as executed plan shall:
- (a) be signed by a registered surveyor, &
 - (b) clearly show the surveyor's name and the date of signature.
- All documentation is to be submitted to the Principle Certifying Authority **prior to the issue of the Occupation Certificate**.
82. **(V3) Redundant Gutter Crossing:** All redundant gutter and footpath crossings shall be removed and the kerb, gutter and footpath reinstated to the satisfaction of Council's Urban Services Division. These works shall be carried out **prior to the issue of the Occupation Certificate**.
83. **(D6) Certification of Retaining Structures and Excavations:** A suitably qualified engineer shall provide certification to the principal certifying authority that all retaining structures and excavations have been carried out in accordance with the relevant Australian Standards and Codes of 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**.
84. **(O2) 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.

TRAFFIC AND TRANSPORT CONDITIONS

General

85. The Car Park design shall comply with AS 2890.1-2004. This includes all parking spaces, ramps, aisles, disabled parking and loading areas. All other aspects of the Car Parking areas are required to comply with AS 2890.2-2002 for Loading Facilities and Services Vehicles.
86. The access to the public car park shall comply with Australian Standards. AS 2890.1-2004.
87. All disabled car spaces in the public car park are to be adequately signposted and linemarked, and provided in accordance with AS2890.6. The garbage collection area is to be clearly signposted and linemarked, and provided in accordance with AS2890.2.

Pedestrians / Cycling

88. Pedestrian access on both Pacific Highway and Mafeking Avenue, 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'.
89. The Lane Cove Pedestrian Access and Mobility Program (PAMP) and Lane Cove Bicycle plan encourages developments to improve pedestrian and cycling amenity within the area to encourage walking and cycling within the Council area. All footpaths within 25m, including Pacific Highway outside the site and Mafeking Ave, will need to be upgraded ensuring a consistent width and surface treatment. The minimum footpath width for all footpaths in the area is 1.2m and this should be clear of any obstructions including tree branches.
90. Bicycle storage facilities are to be provided in the development as shown in the ground level plan. The bicycle facilities are to be clearly labelled, and advisory/directional signage is to be provided at the car park entry and throughout the car park identifying their locations, to the satisfaction of Council's Traffic section.
91. All cycling racks and secure bike parking provided on-site must meet the minimum standards as outlined in Section 4.3 in Part R of the DCP and designed in accordance with AS 2890.3. Alternative designs as shown in Annexure D that exceed the Australian Standards will be considered appropriate.
92. Resident cycle parking in the basement car park shall be located as close to the car park entrance as possible so as to be both convenient and safe for cyclists to use. Secure bike lockers or a bike cage should be provided for residents' bikes.
93. The development shall include provision for 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.

Public Transport

94. Workers to the site should be encouraged to catch public transport or car-pool with other workers from the same company in order to minimise the impact on local amenity.
95. A Sustainable Transport Action Plan (STrAP) showing the proposed mode shares, relevant bike routes and bus route frequencies will need to be and Approved by the Traffic and Transport Manager in Lane Cove Council prior to Occupation Certificate.

Construction Traffic Management Plan

96. All construction deliveries and removal of building materials to and from the site will be restricted to the following off/peak hours:-
 - Monday to Friday (inclusive): 9.30am to 3.30pm
 - Saturday: 8.00am to 12.00pm
97. All truck movements accessing or departing the site should be undertaken in a forward direction.
98. Due to the narrow nature of the local streets in this area, trucks with trailers are not permitted for this site. Smaller single unit trucks as proposed by John Coady in the letter dated 19 December are the only permissible trucks for this site.

99. It is noted that all loading is proposed on-site without needing the use of works zones on Mafeking Avenue. If works zones are required, any proposed Work Zones should be clearly shown on plans and application be made to Council in accordance with approvals required for the Works Zones, Crane Permits and other associated works. Wherever possible, construction vehicle parking should be contained within the site. Proposed Work Zones will require the approval of the Lane Cove Traffic Committee.
100. Works zones / construction zones will not be permitted on the Pacific Highway at any time during the development or construction process. Instead a No Stopping restriction will be enforced along Pacific Highway at all times.
101. The primary truck route to the site will be via Pacific Highway, left into Gatacre Avenue, right into Mafeking Avenue and right into the site. Trucks that are using this route will then exit the site by turning right onto Mafeking Ave, right into Kimberley Ave and then left onto Longueville Road.
- The secondary truck route (for small trucks and vans only) to access the site will be via Longueville Road / Epping Road, left into Kimberley Avenue, left into Mafeking Avenue and left into the site. These trucks and vans will exit the site via left turn into Mafeking Ave, left into Gatacre Avenue and left into Pacific Highway as per the map and discussion shown in the Construction Traffic Management Plan dated February 2015.
102. Any construction vehicles exiting the site during demolition/construction shall have their tyres washed in order to avoid any construction material, dust, etc coming in contact with the road pavement.
103. The traffic and parking activity during the construction phases shall be conducted in such a manner so as not to interfere with the amenity of the surrounding properties in respect of noise, vibration, dust and safety.
104. Any construction related machinery or trucks, (other than in an approved loading Zone), that are required to stand on the road or footway, (including unloading and loading of trucks and standing of any demolition or construction related machinery or plant), must be covered by an approved Stand Plant permit. Application for the permit is to be made 10 working days before the day of the related works.

ENVIRONMENTAL HEALTH CONDITIONS

General:

105. (402) **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.
106. (403) **Dust During Construction**
Dust suppression techniques are to be employed during works to reduce any potential nuisances to surrounding residences
107. (404) **Erosion and Sedimentation Controls – Major Works**
Erosion and sediment control devices are to be provided. All devices are to be established prior to the commencement of engineering works and maintained for a minimum period of six months after the completion of all works. Periodic maintenance of the erosion and sedimentation control devices is to be undertaken to ensure their effectiveness.
108. (406) **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)
109. (408) **Stockpiles**
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.
110. (485) **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.
111. (491) **Clean water only to stormwater system**
Only clean unpolluted water is permitted to enter Council's stormwater drainage system.
112. (493) 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)*.

Contamination:

113. 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 Phase 1 Environmental Assessment from JBS&G, dated December 2013. Details of waste classification must be submitted to Council prior to the issue of a Final Occupation Certificate
114. (401) **Demolition Works and Asbestos Removal/Disposal**
The demolition of any existing structure is to be carried out in accordance with *Australian Standards AS 2601-1991: The Demolition of Structures*. All vehicles leaving the site carrying demolition materials are to have the loads covered and are

not to track any soil or waste materials into the road. Pursuant to Section 27A of the Occupational Health and Safety Act 1983 “notification to Commence Demolition Work” form is to be submitted to Workcover at least seven days prior to work commencing. All asbestos, hazardous and/or intractable wastes are to be disposed of in accordance with the Workcover Authority and EPA guidelines and requirements. The asbestos must be removed by a bonded asbestos licensed operator. Dockets/receipts verifying recycling/disposal must be kept and presented to Council when required.

115. (466) 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.

116. (467) 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).

117. (468) 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 must be retained for at least 3 years and be made available to authorised Council officers on request.

Noise and vibration:

118. (441) Operation of Plant or Equipment

To minimise the impact of noise from the development, all sound producing plant, equipment, machinery, mechanical ventilation systems and or refrigeration systems, shall be designed and or located so that the noise emitted does not exceed 5db(A) above the ambient background level when measured from the boundary of any affected premises between the hours of 8am to 10pm. Between the hours of 10pm and 8am, noise shall not exceed the ambient background level when measured at the boundary of an affected premises.

All sound producing equipment shall comply with the Protection of the Environmental Operations Act 1997.

119. (442) 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.

120. (443) 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.

121. **(444) 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.
122. **(445) Noise Control – Demolition Works**
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.
123. **(447) 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
124. **(448) Road Traffic Noise**
The residential flat building must be designed and 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.
125. **(449) 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.
126. Noise Mitigation Measures detailed in 7.1 and 7.2 of the Acoustic Management Plan prepared by PKA Acoustic Consulting must be implemented.
127. The Vibration Mitigation Measure detailed in 8.2.2 of the Acoustic Management Plan prepared by PKA Acoustic Consulting must be implemented. In the event of a complaint regarding vibration, vibration monitoring must be conducted during times of operation of vibration causing equipment, regardless of the operation location within the site.

Ventilation:

128. **(450) Ventilation**
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 shall be submitted from a practicing mechanical engineer certifying that the design and operation of the mechanical ventilation system meets the requirements of AS 1668 Parts 1 and 2.
129. **(451) Odour Control**
To ensure that adequate provision is made for the treatment of odours, the mechanical exhaust system shall be fitted with sufficient control equipment to prevent

the emission of all offensive odours from the premises, as defined by the Protection of the Environment Operations Act, 1997.

130. (453) 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.

131. (454) 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.

132. (455) Landscaping not to Impede Ventilation of Car Park

The proposed landscaping must not impede the free flow of air through any natural ventilation openings for the car park.

133. (457) 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.

134. (458) 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 6 metres from any fresh air intake vent or natural ventilation opening

135. (459) 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:

136. Open Air Collection Point

An open air collection point must be identified within the site for the collection of bulky goods. This area must be accessible via Council's waste collection vehicle.

137. Car Park Entry Height

The clearance height of the car park entry must be no less than 2.6 metres. This minimum clearance must also be maintained for all pipeworks and ceiling fixtures located within the travel path and stationary locations of the waste collection truck.

138. (143) Prior to the issue of an Occupation Certificate, the applicant must make written application to Council for the provision of new domestic waste services.

139. Indemnity

Prior to the issue of an Occupation Certificate, the applicant must enter into a suitable Deed indemnifying Council and its contractors against claims for loss or damage to

common property, liabilities, losses, damages and any other demands arising from any on-site collection service.

LANDSCAPE ARCHITECT CONDITIONS

140. **NEW** – *Viburnum odoratissimum* (Sweet Viburnum) on the west elevation (Mafeking Ave) be replaced with a native species capable of achieving a mature height of up to 7m
141. **NEW** – Two (2) medium canopy and Three (3) large canopy native trees must be planted as per DA Landscape Plan LP 02 Rev B 16/12/14 on the Basement 1 & 2 Plan. Plantings to be distributed across the west and southwest corner of subject site on Mafeking Ave as shown on the Landscape Plan Basement 1,2 (LP02) the planting must include 3 x *Angophora costata* (Sydney Red Gum) in a pot size no smaller than 75L and 2 x *Elaeocarpus reticulatus* (Blueberry Ash)
142. **NEW** – Twelve (12) medium canopy and Two (2) large canopy native trees must be planted as per DA Landscape Plan LP 01 Rev B 16/12/14 on the ground floor landscape plan. Plantings to be distributed across the north, east and south eastern building elevations in the planting areas shown on the landscape plan (LP01) and must include 12 x *Elaeocarpus reticulatus* (Blueberry Ash) to be in pot sizes no smaller than 45 litres and 2 x *Angophora costata* (Sydney Red Gum) in a pot size no smaller than 75L with 3 x ornamental feature trees indicated as *Prunus cerasifera* ‘Nigra’
143. 378 - revised) Detailed landscape documents for construction are to be prepared by a qualified landscape architect, environmental designer or horticulturist and submitted to the Principal Certifying Authority (PCA) prior to the issue of a Construction Certificate. The detailed landscape drawings are to include plans, sections, construction details, and specifications as necessary for the implementation of the landscape works, including any pavements, landscape structures, soil profiles and soil preparations, planting works, and maintenance schedule, and are to comply in all respects with the conditions of the development consent. The plans and specifications are to be certified by the author as meeting the requirements of the conditions of consent.
144. 379) – Provision must be made for on-structure landscaping to have adequate soil depth, volume and suitable soil profile to support the number of trees and shrubs indicated on the DA plans LP01 and LP02 prepared by Site Design Studios and as amended by any conditions of consent.
145. 382) A sufficient number of locally indigenous groundcovers and low shrubs species must be planted at appropriate distances and depths, to eliminate bare mulched gardens areas within twelve (12) months of completion of all landscaping works. Where screen planting is required throughout the development, plants must have a height of 2 m at planting
146. 383) 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.
147. 386) The proposed tree plantings are to have a mature height of no less than 6 m at maturity, to be installed in pot sizes no smaller than 45 litres in accordance with Landscape Plans prepared by Site Design + Studios DWG Nos: DA LP 01-02 Rev A 13/10/14

MATTERS TO BE SATISFIED PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

148. 394) A qualified practising landscape architect, Landscape / environmental designer or horticulturist, is to 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.
149. 395) A landscape practical completion report is to be prepared by a consultant landscape architect and submitted to the Principal Certifying Authority within 7 working days of the date of practical completion of all landscape works. This report is to 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
150. 396) Prior to the issue an Occupation Certificate, the applicant / developer is to 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.
151. 371) At the completion of the landscape maintenance period, the consultant landscape architect/ designer is to submit a report to the Principal Certifying Authority, 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.

TREE PROTECTION CONDITIONS

152. (300) 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. 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.
153. (303) There must be no stockpiling of topsoil, sand, aggregate, spoil or any other construction material or building rubbish on any nature strip, footpath, road or public open space park or reserve.