

Joint Regional Planning Panel Meeting 28 April 2016
SUPPLEMENTARY REPORT - 472-494 PACIFIC HIGHWAY, ST LEONARDS

Subject: Supplementary report - 472-494 Pacific Highway, St Leonards
Record No: DA14/222-01 - 13974/16
Division: Environmental Services Division
Author(s): Rebecka Groth

Property:	472-494 Pacific Highway, St Leonards
DA No:	DA2014/222
Date Lodged:	23/12/2014
Cost of Work:	\$239,800,000.00
Owner:	Mirvac St Leonards Pty Ltd (Formally Leightons)
Applicant:	Mirvac Projects Pty Ltd (Formally Leightons Pacific St Leonards Pty Ltd)

Executive Summary

This supplementary report follows from a Sydney East Joint Regional Planning Panel (JRPP) meeting held on 2 March 2016 and responds to the Panel's request to clarify and provide additional information. The supplementary report specifically addresses the issues raised by the Panel and finds the proposed design to be acceptable with regard to building separation, cumulative traffic impacts, view impacts, building height/roof feature, SEPP 65 and variations to the DCP.

In response to the deferred decision, the applicant amended their plans to reduce the height of the architectural blade elements to 3m (from 6m) on both Tower 1 and 2 and reduced the height of the lift over run on Tower 1 to 3m (from 6m). The applicant also provided a response to the items raised by the JRPP which is attached to this report.

The proposal has been assessed with regard to likely impacts, with careful consideration of the view loss anticipated from neighbouring properties in a northerly direction of the site including the Abode building.

A late submission was submitted to Council on 19 April 2016, prepared on behalf of the residents and owners of the Abode building. The submission was forwarded to the Panel and a response to the concerns raised in the submission is provided within this report.

In light of the further clarification to the Panel, it is considered the proposal is suitable for the site. It is recommended that the Panel support the revised application and determine the application as recommended.

JRPP Request for Further Information

On the 2 March 2016 the JRPP considered the matter 2015SYE021 – Lane Cove DA2014/222 and resolved to defer its decision. The Panel requested that the assessment officer provide the Panel with a supplementary report which addresses the following:

- a) *The two parts of the building are separated by 22m. What would be the impact on the effectiveness of the view corridor and sunlight access if the separation complied with the 24m separation required by the RFDC for the building height.*

- b) Information on cumulative traffic generation by this and neighbouring developments on which the RMS based its response to the application. The Panel requests comment from the Council engineer on the impact on Nicholson and Oxley Streets.*
- c) A view analysis of the impact on views, particularly the views of objectors living in the Abode. The Panel accepts that any development will inevitably impact significantly on those views; however, the Panel is required to have an assessment of that impact before it can determine it. That assessment should compare the impact of this application with the impact that would have occurred under the controls that applied to this site under LEP 2009.*
- d) As regards, the exceedance of the building height, the Panel requires either a justification under clause 4.6 which takes into account recent case law arising out of Four2Five v Ashfield, or a redesign of the screen rising 6m above the permissible building height, by making it much smaller and more like an architectural feature and not go all around the edges of the building making it 6m higher than it needs to be.*
- e) An explanation of how the issues raised in the Architectus SEPP 65 report have been dealt with.*
- f) In general, the assessment report needs to consider the impact of the proposal in more detail and justify the variations of standards more convincingly.*

Following the JRPP meeting, on the 14 March 2016 the Panel requested further clarification regarding the LEP amendment:

- g) Following the consideration of this application and the Panel's decision to defer the determination, it has come to the Panel's mind that the DA was submitted to council prior to the gazettal of the amending LEP. The LEP made the use permissible and changed the development standards. Is there a savings provision in the standard instrument? Please confirm that there are: either no savings and transitional provisions that would require this DA to be considered as if the amending LEP did not exist; or, alternatively, that they have been suspended for this DA; or that the DA was submitted after gazettal of the amending LEP.*

Background

Summary of the Proposed Development:

- Demolition
- Construction of a podium comprising specialty retail and restaurant/cafe tenancies.
- Construction of two (2) buildings, Tower 1 being 28 storeys and Tower 2 being 36 storeys including:
 - o Three levels accommodating commercial uses including offices within Tower 1
 - o Communal indoor and outdoor areas
 - o Commercial/retail, office and supermarket space
 - o Residential communal facilities including gym, swimming pool, spa,
- Seven (7) basement parking levels comprising:
 - o 672 car spaces (14 car share spaces), motorcycle spaces and bike racks
 - o Vehicular ingress and egress from Nicholson Street
- Landscaping
- Subdivision - Consolidation of allotments and strata subdivision

- Termination of Strata Plan SP73071
- Excavation
- A Voluntary Planning Agreement (VPA)

The proposal would comprise 539 dwellings:

- 41 x studio units
- 108 x 1 bedroom dwellings.
- 324 x 2 bedroom dwellings.
- 66 x 3 bedroom dwellings.

Of these dwellings, 108 dwellings would be adaptable.

Planning Control History

At the time of the Lane Cove Local Environmental Plan 2009 (LEP) gazettal, the site's controls were:

- B3 Commercial core zone
- Floor Space Ratio (FSR) of 12:1
- Building height of 65m

The current DA responds to site specific LEP amendments and an accompanying site specific DCP.

The approved Planning Proposal 18 amends the zoning of the site under the LEP from B3 Commercial Core to B4 Mixed Use. It amends the LEP by increasing the site's height controls from 65m to 91m (building fronting the Pacific Highway) and from 65m to 115m (building at rear, Nicholson Street), from the highest point of the existing ground level. The amendment introduced a Development Control Plan site specific minimum non-residential floor space ratio control of 1.5:1.

The rezoning process was the subject of a thorough and detailed assessment by Council and the State Government. The Planning Proposal was informed by an in-depth urban design analysis and schematic architectural designs prepared by the applicant, which supported the change in zoning and building height. The analysis was independently reviewed on behalf of Council by the Principal of Architectus. The objectives of Planning Proposal 18 were to facilitate development which achieve the following:

- Positively respond to the changing nature of the St Leonards precinct as a mixed use centre and its focus as a specialist health precinct accommodating smaller scale office based health businesses supporting RNSH, NSPH and Mater.
- Provides a proposal which responds to stagnation of development in the centre in the Lane Cove LGA which is a long term market trend of low office tenant and investor demand that has failed to capitalise on the current height and FSR controls.
- Establishes a mixed use development on the subject site without impacting on the potential achievement of overall employment targets for the centre.
- Facilitates development activity in St Leonards, supporting the diverse mixed use nature of the precinct to act as a catalyst for investment interest in Council's nearby bus interchange vision.
- Leverages the site strategic location proximate to rail bus networks by demonstrating consistency with TOD principles and providing high levels of accessibility for residents to the broader metropolitan area.

- Acts on the opportunity to invigorate the precinct south of the Pacific Highway and east of the railway station through improved public domain treatment, at the discretion of Council.

The amendment to the LEP was gazetted in May 2015 by the planning Minister to allow for revised heights across the site and a zoning change from commercial to mixed use:

- Rezone the site from B3 Commercial Core to B4 Mixed Use Development
- Increase the building height from 65m to Tower 1 RL 180.46 and Tower 2 RL 204.46

The Panel deferred determination of the application and requested clarification and additional information. The following report responds to each item identified in the JRPP deferral notice issued on 2 March 2016.

Supplementary Information

Item A

The two parts of the building are separated by 22m. What would be the impact on the effectiveness of the view corridor and sunlight access if the separation complied with the 24m separation required by the RFDC for the building height.

Response

SEPP 65 and the RFDC which are applicable to the application require the following separation distances:

- 12m between habitable rooms/balconies up to four storeys/12 metres
- 18m separation between habitable rooms/balconies for five to eight storeys/25m
- 24m separation between habitable rooms/balconies for nine storeys and above/25m

Notwithstanding the above, the DCP controls for the site permit a building separation of 22m. The 22m is maintained for the fixed blade wall elements at the ends of the building however, the proposed scheme includes an internal building separation of 22m balcony to balcony on Levels 9-13.

- The proposal complies with the DCP and comprises the following balcony to balcony separation distances:
 - o Greater than the RFDC of 12m and 18m for Levels 3 to 8
 - o Greater than the RFDC of 24m for Levels 15 and above
 - o 26m for the high rise Levels 15 to 28 (30m glass to glass)
- The proposal does not meet the 24m distance for Levels 9 to 13. The proposal comprises 22m balcony to balcony.

The separation distances are detailed in the submitted *Amended DA Design Report Tower Separation Diagrams* prepared by Sissons Architects **ATT 1**.

Sissons Architects provided an updated View Study showing the potential effect on views across the site from the Abode if the building separation was increased to 24m **ATT 2**. The View Study shows that whilst there would be minimal material increase in the extent of the view realised, this view would not enable residents north of the site additional views of iconic elements.

Council engaged Architectus to undertake a review of the application with regards to SEPP 65 and the RFDC. Architectus informed the Planning Proposal and subsequent site specific planning controls. The Architectus review involved working with Sissons Architects to resolve areas of concern. With regards to separation distances, Architectus concluded:

'The separation distance (balcony glass line to balcony glass line) of plaza facing apartments on levels 9-13 do not achieve the recommended 24 metres separation distance defined by RFDC design controls. However, it is considered that operable louvered screens specified in the revised architectural drawings enable residents to achieve a good degree of privacy.

On levels 9-13, the distance between the glass line of internal facing apartments is 22m'.

Architectus report is provided in **ATT 3**.

With respect to sunlight access, Mr. King who undertook the solar studies for the development application has also undertaken a review of the results of increasing the separation to 24m. The review incorporates the revised roof elements as described in Item D of this report. The results of Mr. King's review are summarised below:

Increased Building Separation:

Increasing the separation of the two towers by 2m would allow the sun to reach lower on the elevation of Tower 2 in the morning at June 21. This results in a slightly larger sunpatch on the glazing of one unit in the centre of the façade of Tower 2 and another living room window at the southern corner. Neither apartment would become compliant with receiving 2 hours of sun between 9am and 3pm June 21. There is no identifiable afternoon benefit of increasing the separation of the buildings.

Variation to Roof Architectural Elements:

Tower 1 is not sensitive to afternoon shadow from the roof architectural elements on Tower 2. The only sensitivity is in the mornings, when the lower Tower 1 shades Tower 2.

The proposed reduction in the roof architectural elements represents approximately one floor reduction in height for each tower (Tower 1 RL 186.460 to RL 183.700, 2.76m reduction; and Tower 2 RL 210.460 to RL 209.300, 1.16m reduction). The same apartments discussed above would benefit by having morning sun, as do from the 2m additional separation. Neither apartment becomes compliant with solar access between 9am and 3pm as the relevant east façade loses sun by 10.30am. Increasing the building separation by two metres would not change the previously reported solar access compliance. However, for completeness, the proposed reduced roof elements have been tested and found to make no significant difference to solar access. Steve King's full report dated 10 March 2016 is provided in **ATT 4**.

Council's comment:

The proposal complies with the 24m separation distances, with the exception of Levels 9 to 13. Council supports this variation. As demonstrated within the response to Item A, an increased separation distance would not materially improve views nor would it improve compliance with solar access.

Council's expert consultant, Architectus confirms the 22m separation distances for levels 9 to 13 although not meeting the prescriptive guide of 24m building separation, provides an alternative solution that achieves the privacy and aesthetic objectives of the DCP and SEPP 65. The proposed solution is satisfactory and supported by Council.

Item B

Information on cumulative traffic generation by this and neighbouring developments on which the RMS based its response to the application. The Panel requests comment from the Council engineer on the impact on Nicholson and Oxley Streets.

Response

Calibre Consulting acting for the applicant submitted a letter confirming the following studies include the cumulative impact of the subject site and the adjoining development at 500-520 Pacific Highway.

- 472-486 and 504-520 Pacific Highway, St Leonards - Traffic Report dated 8.11.2013
- 472-486 and 504-520 Pacific Highway, St Leonards - Traffic, Parking and Accessibility Report, Rev B, dated 20.5.2014
- 472-486 and 504-520 Pacific Highway, St Leonards - Traffic, Parking and Accessibility Report, Rev E, dated 7.11.2014
- 472-494 Pacific Highway, St Leonards - Traffic and Parking Assessment dated 7.8.2015
- Letter of response to Council dated 23.12.2015
- Letter addressing modified development proposal dated 7.1.2016

The Calibre Consulting letter is provided in **ATT 5**.

The proposal was referred to and discussed with the NSW Roads and Maritime Services (RMS). The application was referred to the RMS pursuant to Schedule 3 of the *State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)*. As discussed within the original assessment report forwarded to the panel (refer to page 48) the RMS raised no objection to the proposal subject to the inclusion of conditions including the upgrade of the intersection of Pacific Highway and Oxley Street. The RMS advised it had previously provided comments in the letter dated 8 December 2014 regarding the planning proposal for this site. In particular, it was recommended that intersection of Oxley Street and Pacific Highway be upgraded to a critical site in SCATS from existing minor site to improve traffic congestions at this location.

A copy of Council's assessment report provided to the JRPP and the advice from RMS is provided in **ATT 6 and 7**.

It is clear from the RMS letter the cumulative impacts of the proposal and neighbouring developments were considered in their response. The recommendations raised by the RMS have been implemented into the draft conditions (refer to draft conditions 51-59).

As discussed in the original assessment report forwarded to the panel (refer to pages 38 and 39) the cumulative impact of traffic generation by this development and neighbouring developments on the Pacific Highway and Oxley Streets is discussed. Council's Transport Planner advises the Trip Generation rates used by Calibre Consulting appear to be at the low end of the range recommended in the RMS Technical Direction TDT (August 2013) and the RTA Guide to Traffic Generating Developments (2002). The Transport Planner and Council do not support the applicant's view that traffic generation would improve as a result of the development. However, given the traffic generation is within the range forecast by the traffic model developed for Lane Cove Council by TMA, the rates are considered acceptable, provided the intersection of Oxley Street and the Pacific Highway upgrade is undertaken.

Lane Cove Council shares the concerns of RMS (refer to RMS letters dated 8 December 2015) that additional traffic at the Oxley Street / Pacific Highway intersection generated from this

development is likely to exacerbate queue lengths and average delays at the Oxley Street west approach to the intersection.

RMS clearly outlined that the subject development would represent around 50% of the traffic on the Oxley Street West approach.

To improve the performance of the Pacific Highway / Oxley Street intersection, RMS suggests upgrading the intersection from a 'minor site' on SCATS to a 'critical site' on SCATS. This would require installation of pavement loop detectors in the Pacific Highway approaches so that traffic flow data on all approaches at this junction can be provided to Sydney Coordinated Adaptive Traffic Systems (SCATS) for optimisation of phase splits. Due to the increased pedestrian activity the development would generate, RMS recommends that a pedestrian crossing facility across Pacific Highway at the intersection should be investigated to improve pedestrian amenity.

The estimate given by RMS Network Operations to upgrade the Oxley Street / Pacific Highway intersection on the 5 February 2016 was \$500,000. Therefore, it is recommended to equally split the total \$500,000 signal upgrade work between Mirvac and the other development included in LEP amendment 18 (494-496, 500, 504-520 Pacific Highway) sites.

The Panel requests comment from the Council engineer on the impact on Nicholson and Oxley Streets

Council's Transport Planner provided the following comment with respect to the impact on Nicholson and Oxley Streets:

'The Mirvac development comprises 539 Residential units, Office floor space of 4901sqm, Shop/restaurant floor space of 1204sqm and Supermarket floor space of 1394sqm. The neighbouring New Hope development comprises of 495 Residential units, Office floor space of 2780sqm and Shop/retail floor space of 2850sqm. The trip generation for both of these developments has been calculated using the RMS Guide to Traffic Generating developments and RMS Technical Direction August 2013. The trip generation is within the range forecast by the TMA Model developed for Lane Cove Council. Both developments have their main vehicular access from Nicholson Street. The Mirvac access is south of Friedlander Place whilst the New Hope access is north of Friedlander Place.

Both developments are located east of the main northern railway line and will increase trips on Nicholson Street and the Oxley Street approach to the Pacific Highway intersection. RMS suggests upgrading the intersection at Oxley Street and Pacific Highway from a 'minor site' on SCATS to a 'critical site' on SCATS. This will require the installation of pavement loop detectors in the Pacific Highway approaches so that traffic flow data on all approaches at this junction can be provided to Sydney Coordinated Adaptive Traffic Systems (SCATS) for optimisation of phase splits.

Lane Cove Council supports the upgrade of the intersection to a 'critical site'. This will alleviate queuing at the intersection and facilitate traffic flow along Oxley Street and Nicholson Street. As neighbouring developments of similar scale, it is recommended to equally split (50/50) the total \$500,000 signal upgrade works between Mirvac and New Hope developments'.

Council's comment:

The above response confirms the cumulative traffic generation by this and neighbouring developments was considered in the assessment of the application. Council's Transport Planner provided a further response to the Panel which specifically details the impact on Nicholson and Oxley Streets.

Council finds the traffic impact satisfactory provided the recommended upgrade of the intersection of Oxley Street and the Pacific Highway is undertaken from minor SCATS to a critical SCATS site. Draft Condition 60 ensures such intersection upgrade is undertaken and ameliorates traffic impacts.

Item C

A view analysis of the impact on views, particularly the views of objectors living in the Abode. The Panel accepts that any development will inevitably impact significantly on those views; however, the Panel is required to have an assessment of that impact before it can determine it. That assessment should compare the impact of this application with the impact that would have occurred under the controls that applied to this site under LEP 2009.

Response

A view loss analysis has been undertaken by the applicant to address the request of the Panel. The applicant has submitted various redevelopment options for the site including photomontages demonstrating the impact on views should the current building envelope control not be in place.

The existing commercial buildings on the site are not constructed to their full building envelope potential in place prior the gazettal of LEP Amendment 18. Prior to May 2015, the site could have been developed to a height of 65m. The existing buildings are approximately 18-20m in height. As a result of the height of these buildings, views from the upper levels of the Abode building are available over the subject site. In response to Item C, Sissons Architects provided a Masterplan Options Report summarising the options considered during the envelope design development for the site which informed the Gazetted rezoning (Planning Proposal 18). The report demonstrates a number of design responses and view corridors that would have been achieved across the site for each option. The Masterplan Options Report is provided in **ATT 8**

A View Analysis undertaken as part of the planning proposal and the Development Application to compare the view impact generated by a development scheme that was compliant with the planning controls under the LEP 2009 and a development scheme prepared in accordance with the Planning Proposal. This analysis showed:

- Construction of a commercial building to a height of 65m would block all views across the site to the City, part of the Harbour Bridge and western Harbour from residents within Abode.
- A 65m building height is generally commensurate to the height of the Abode building and so no views would be available from Abode above the roof of a commercial building that was compliant with the height limit.
- The large commercial footprint would block any view sharing opportunities across the site.
- If a commercial building was designed that complied with the applicable FSR and height controls, residents of the Abode would view a blank wall across the site fronting the Pacific Highway.

The View Impact Study prepared by Urbis examines the views impacted by the proposed development application, in particular those views observed from the Abode building. Prior to gazettal of the Lane Cove Amendment No. 18 and DCP amendment introduced the height controls for the site allowed for a building height of 65m (approximately RL 153). The Abode building is approximately 60m (RL 155) in height. As can be seen in the applicant's View Impact Study **ATT 9** in Figures 4, 10, 12, 14, 19, 21 and 23 the previous permissible building envelope would preclude any views across the subject site for the majority of levels and dwellings within the Abode building.

The current proposal is generally consistent with the envelope controls gazetted on the 15 May 2015 (Amendment 18). As can be seen in the applicant's View Impact Study, improved view sharing is provided than was available under the previous envelope controls (refer to Figures 5, 9, 11, 13, 18, 20 and 22).

Figure 7 of the View Impact Study illustrates the view permeability provided by the proposed built form. The finished floor level of the Abode is approximately RL 155. Indicative views were taken by the applicant from three different locations from Living Area 1 located on the southwestern façade of the Abode from approximately the 9th, 12th and 19th storeys (approximate RLS of 118, 128 and 148 respectively). As evident in Figures 9, 11 and 13 the proposed building allows for some through-site views.

Figure 16 of the View Impact Study illustrates the indicative view corridors from the Abode Living Area 2 across the subject site. Indicative views were taken from three different locations from living area 2 located on the south western façade of the Abode from approximately 9th, 12th and 19th storeys. As evident in Figures 18, 20 and 22 the proposed building allows for some through-site views.

The proposed mixed use building improves the view aspects attainable from living areas within the Abode, when compared to the previously allowable commercial building envelope prior to the gazettal of the LEP Amendment 18. The view permeability through the site, afforded by the tower orientation and setbacks, allows residents of the Abode views to landmarks including the Anzac Bridge which would otherwise not have been available. Views to the Harbour Bridge are improved, ensuring a wider view to the landmark. City views would also be improved from those available by a complying commercial development under the previous controls.

Notwithstanding the Gazetted Planning Proposal LEP and site specific planning controls have already addressed the issue of view sharing, the applicant's SEE report assesses the proposed view impact in light of the principles of *Tenacity Consulting v Warringah Council [2004] NSWLEC 140* and *Veloshin Randwick Council 2007 NSWLEC 428*. The applicant's view loss test is provided in **ATT 10**.

The key findings of the applicant's assessment with regards to *Tenacity* include:

- The regional vistas to the south, between Sydney CBD and associated landmarks and the Parramatta River, currently enjoyed by residents of the Abode would be impacted by the proposed buildings. The proposal would not result in a complete blocking of significant icons from all apartments. Slot views across the site and to the east of the site would be an improved result from that which would be available from a building that complied with the previous 2009 LEP planning controls applicable.
- The views to these icons would be retained from both sitting and standing positions within various rooms depending on their location within each apartment within the building.
- The view impact is resulting from a proposal that complies with the gazetted LEP and generally with the DCP.

The key findings of the applicant's assessment with regards to *Veloshin* include:

- The proposed building form generally fits within the building envelope controls reflected in the Planning Proposal and DCP. The resultant view impact is consistent with what could be expected under the governing planning controls.
- The bulk and height of the proposal is generally consistent with the applicable planning controls. The building floor plate and setbacks vary from the DCP controls however the impact on view loss would be imperceptible and of no material impact.
- The recently adopted planning controls reflect the evolving nature of St Leonards from a mainly commercial to a mixed use precinct. The character of the building form is consistent

with this changing developing context and a number of recent development applications and approvals in the locality.

- The proposal would introduce new tall more slender residential tower forms into St Leonards CBD, and this is consistent with the evolving nature of the precinct to a mixed use locality.
- The proposal is consistent with the bulk and character intended by the planning controls and an earlier version of the current design was reviewed to support the recent LEP Amendment 18.

Council's comment:

The existing views for many residents of the Abode building would be adversely impacted by this development. Planning Proposal 18 endorsed a building form which would maintain some views for some residents of the Abode building than would have been available if a complying commercial scheme was developed under the previous LEP 2009. The proposed development seeks to marginally increase the footprint of the Towers however this would not unreasonably impact upon the improved view extent and view lines to iconic elements of the Harbour Bridge, Anzac Bridge and western Harbour.

While the existing views for some Abode residents would be adversely impacted a number of residents would observe views through the site as detailed in the view loss analysis in this report and which informed Planning Proposal 18 and the site specific DCP. The view impact of the proposed structures to adjoining and nearby land uses is reasonable and appropriate in this context.

Item D

As regards, the exceedance of the building height, the Panel requires either a justification under clause 4.6 which takes into account recent case law arising out of Four2Five v Ashfield, or a redesign of the screen rising 6m above the permissible building height, by making it much smaller and more like an architectural feature and not go all around the edges of the building making it 6m higher than it needs to be.

Response

The design architect Sissons Architects reconsidered the roof design element and amended it to:

- Reduce the height of the architectural blade elements to 3m (from 6m) on both Tower 1 and 2
- Reduce the height of the lift over run on Tower 1 to 3m (from 6m) but retained the lift overrun on Tower 2 at 6m.

The revised Clause 4.6 variation has been prepared on behalf of the applicant to address the total proposed building height including the architectural blade elements and lift overruns on the rooftop of both Tower 1 and Tower 2. The Clause 4.6 variation request has regard to:

- Clause 4.6 of the Lane Cove LEP 2009
- The objectives of Clause 4.3 of the LEP
- Relevant case law specifically addressing the considerations for assessing development standards set out by Preston CJ in *Wehbe v Pittwater Council 2007 NSWLEC 827* and *Four2Five V Ashfield Council [2015] NSWLEC 1009*.
- Varying Development Standards: A Guide published by the Department of Planning and Infrastructure (August 2011).

The amended height of the architectural blade elements and lift over run (LOR) would reduce the overall building height as follows:

Tower	Max LEP RL	Roof Slab Level	Height per submitted DA	Revised Height
Tower 1	RL 180.46	RL 180.70	RL 186.46 (top of architectural roof feature)	Blade elements & LOR – 183.70 (+3.24m from LEP RL)
Tower 2	RL 204.46	RL 203.30	RL 210.46 (top of architectural roof feature)	Blade elements – 206.30 (+1.84m from LEP RL) LOR – 209.30 (+4.84m from LEP RL)

The applicant proposes in view of the development context, strict compliance with Clause 4.3 of the LEP is considered to be unreasonable in this case. Notwithstanding Clause 5.6 of LEP permits architectural roof features and allows these to contain and screen plant room and fire stairs, the proposed variation to the building height standard, is justified on the following environmental planning grounds as follows:

- The proposal is consistent with the objectives and intent of Clause 4.3 of the LEP despite the non-compliance. The proposed development does not conflict with the intent of Clause

4.3 which is to prevent additional overshadowing, minimise view loss, safeguard the amenity of existing nearby dwellings and to maintain the visual character of the area. The variation would not result in adverse amenity impacts.

Strict application of the standard is therefore considered unreasonable and unnecessary.

- While the height standard is breached by the inclusion of the architectural roof features, there is no departure from the FSR standard applicable to the site. The non-compliance is restricted to the portion of the structure above the slab level of the roof, for Tower 1 the roof slab is 24mm above the maximum permitted building height. The roof slab of Tower 2 is within the maximum permitted building height.
- No residential uses exceed the height limit. The proposed FSR is within the allowable FSR limits for the site.
- The proposed variation to building height, being confined to a 24mm portion of the roof slab, lift overruns and architectural roof feature, would not result in loss of views from neighbouring properties. The proposed development, achieves the objectives of the EP&A Act.

The revised Clause 4.6 variation considered in this report is provided in **ATT 11** and the revised plans are provided in **ATT 12**. A further Clause 4.6 variation was prepared by the applicant and was submitted after the completion of this report. It is attached to this report for the Panel's consideration and is provided in **ATT 15**.

The applicant provided advice from ARUP regarding the servicing requirements for the proposal. ARUP confirm that Tower 1 can be serviced by Machine Room-Less lifts which require lift overruns of 3m above the roof slab. Tower 2 overhead traction lifts require a lift overrun area of 6m above the roof level slab. The advice from ARUP is provided in **ATT 13**.

The LOR and ancillary roof top plant are incorporated into the design of the architectural blade elements which act to screen these items when viewed from above. The design is considered to be unobtrusive.

Council's comment:

The revised Clause 4.6 variation provided addresses a reduced overall building height to both Tower 1 and Tower 2 from the previous plans presented to the Panel. The variation to the building height relates to 24mm of roof slab for Tower 1 and the lift over runs and architectural roof features for both Towers. The proposed development is found to be consistent with the intent of Clause 4.3 which is to minimise overshadowing, minimise view loss, safeguard the amenity of existing nearby dwellings and to maintain the visual character of the area.

The applicant's justification is considered to be well founded and supported given its minor nature and there are no anticipated environmental impacts.

Item E

An explanation of how the issues raised in the Architectus SEPP 65 report have been dealt with.

Response

Architectus undertook an independent review of the proposal's compliance with SEPP 65. Although not required as the DA was lodged prior to the Apartment Design Guide (ADG) being introduced, the review took into consideration the ADG and the relevant Residential Flat Design Code (RFDC).

Initial feedback provided by Architectus in December 2014 resulted in Mirvac refining the proposal in conjunction with Architectus to address a number of matters raised.

Architectus provided a final report with regards to SEPP 65 which is provided in **ATT 3**.

Following their extensive review, Architectus concluded, *"Overall, the proposed development is considered supportable in light of our assessment against SEPP 65 and the RFDC. The proposal is well suited to the site and reflects Lane Cove Council's vision for St Leonards, as stipulated by the planning controls."*

Pages 32 to 36 of the original report to the JRPP outlined the applicant's and Council response to each of the items which Architectus raised for further discussion. As requested by the Panel, this exercise has been repeated in further detail. Below details the items raised by Architectus in the final SEPP 65 review, the applicant's response to this item and finally Council's response to the item and the applicant's response (refer to Table 1).

Table 1 – Consideration of items raised by Architectus

Item	Architectus Comment	Applicant's Response	Council's Response
1	Where the bicycle parking has an interface with Nicholson Street, the façade should be transparent glazing to provide activation to Nicholson Street and direct connection between the bicycle parking and the street (RFDC, Site Access – Parking). This can be conditioned to comply.	The applicant advises the actual bike parking spaces are underground along Nicholson, however it would be possible for the entry doors into the access ramp to incorporate a transparent entry door which can be resolved during detailed design to the satisfaction of Council.	Council agrees with Architectus' comments. A draft condition is recommended in relation to the glazing on Nicholson Street, draft condition 5 states <i>"Prior to the issue of the relevant construction certificate, plans and elevations detailing the bicycle parking area fronting Nicholson Street as having transparent glazing or the like on the street facade shall be submitted to the Private Certifying Authority. The remaining portion of the Nicholson Street facade up to the FFL of Level 1 shall be treated with a mural and shall be completed prior to the</i>

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Item	Architectus Comment	Applicant's Response	Council's Response
			<i>relevant occupation certificate."</i>
2	It is considered the frontage to the Pacific Highway could be enhanced by opening up the visual connection between the ground floor uses and the Highway. Should it be structurally practicable, the columns along the Highway frontage should be removed to enable the rental frontage to be opened to view (RFDC, Building Configuration – Mixed Use)	The Pacific Highway frontage is designed to provide visual connectivity with the public domain. Columns have been spaced at a generous span of 8.4m and the retail shopfronts are to be almost entirely full height glass for the full extent. We have investigated the potential of removing the perimeter columns, however structural advice is that this would be impractical and have significant effects upon the building structure. Furthermore, we are unable to relocate the perimeter column line inboard, as the car parking structure is based upon parking bays, aisles and ramps. This limitation has informed the setout of the structural grid across the building	This matter was discussed with Council's internal SEPP 65 expert and the applicant's architect. Due to the structural requirements of the development, the repositioning of the columns could be done at considerable cost. No amendment is considered necessary, the proposal is considered to relate well to the Pacific Highway.
3A	Internal amenity and façade appearance: A condition of consent should be imposed to ensure that a consistent colour and blind type be required for all	The applicant agrees with this item and accepts a draft condition in this regard.	Council agrees with this item and as per the original JRPP report recommends draft condition 6 which states "<i>The Private Certifying Authority shall ensure that a consistent colour and blind type for the residential apartments are installed prior to the applicable occupation</i>

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Item	Architectus Comment	Applicant's Response	Council's Response																		
	residential apartments that choose to install internal blinds. This will ensure a consistent façade design and appearance (RFDC, Building Form-Façades).		<i>certificate. The applicant shall ensure a consistent colour and blind type for the residential apartments is included in the body corporate requirements."</i>																		
3B	Kitchen in hallways should be avoided. Where practical, Architectus recommends the reconfiguration of apartment layouts, to remove the kitchen from the main corridor for the following apartments (RFDC, Building Configuration – Apartment Layout): Tower 1: Unit type 09A, 10A Tower 2: Unit type 09B, 10B	Alternative designs for the apartments in question have been extensively explored by the applicant and their architect. Other design options were not as optimal nor offered the amount of amenity that the current layouts offer. The subject layouts both offer good sized living areas, bedrooms, kitchen spaces, storage and work in the context of the overall floor plan configuration. The open kitchens in the 09A and 09B type apartments are a floor plan type tested in the market place and is an acceptable feature for apartment owners and occupiers. With respect to the 10A and 10B type, multiple configurations were considered, reviewed and tested, and in conjunction with Architectus, amended to have a wider kitchen opening (from 1200mm to 1500mm). The apartment layout offers the most optimal design	Alternative designs were discussed between the applicant's and council's architects. It is preferable that a high level of internal amenity is provided to each unit. It is noted the envelope of each tower dictates the resultant footprints. Given each tower is triangular in shape, the resultant internal layouts of the units are irregular. Total number of units affected are summarised below: <table><tr><th colspan="2">TOWER 1</th></tr><tr><th>Apartment Type</th><th>Quantity</th></tr><tr><td>09A</td><td>22</td></tr><tr><td>10A</td><td>22</td></tr></table> <table><tr><th colspan="2">TOWER 2</th></tr><tr><th>Apartment Type</th><th>Quantity</th></tr><tr><td>09B</td><td>32</td></tr><tr><td>10B</td><td>32</td></tr><tr><td>Total Units</td><td>108 (20% of total units proposed)</td></tr></table> The submitted revised plans provide a high level of internal amenity for their context and in light of this, the proposed layouts of Unit Types 09A, 10A in Tower 1 and Unit Types 09B and 10B in Tower 2 are considered	TOWER 1		Apartment Type	Quantity	09A	22	10A	22	TOWER 2		Apartment Type	Quantity	09B	32	10B	32	Total Units	108 (20% of total units proposed)
TOWER 1																					
Apartment Type	Quantity																				
09A	22																				
10A	22																				
TOWER 2																					
Apartment Type	Quantity																				
09B	32																				
10B	32																				
Total Units	108 (20% of total units proposed)																				

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		layout for its context on the floor plate.	acceptable.
3C	As residential cores will provide access to more than eight apartments, it is preferable that natural daylight and/or ventilation be provided to the corridors to enhance internal circulation area amenity (RFDC, Building Configuration – Internal Circulation).	The applicant advises external views from extended corridor spaces are limited and would only be experienced fleetingly as residents move from the lift core into the front door of the apartments themselves. All apartments offer high interior amenity available immediately on entering each apartment with wider, more panoramic views further into each apartment. The provision of outlook from the internal corridors would create internal planning compromises to the apartments themselves, as spaces would be unnecessarily tightened to create unusable common areas. This would affect the layouts, interior amenity, adaptability, flexibility and size of affected apartments, but also transform foyer spaces into very long, and substantially unused corridors. Amenity benefits for the users of the building are better supported by the incorporation of this space into the body of the apartments.	Council considers it preferable that light is provided within corridors. It is noted however that the extended corridors would result in BCA non-compliances. The extension of corridors to the building facade would result in unreasonably long circulation spaces within the building, resulting from the required triangular building form. Limited light penetration from any such window would reach into the core of the building. Each apartment has a high level of amenity in the form of external views. It is noted the proposal's solar access is below the recommended 70%, providing solar access to 59.8% of units (without the inclusion of the adjoining development). This percentage could be improved if the number of studio and 1 bedroom units located along the northern facade were increased. Whilst compliance would be improved, this outcome is not desirable. The provision of a mix of units throughout the proposal is desirable. Further the proposal currently enables a high level of amenity through distant views towards the city. The proposed design is considered to be acceptable and no amendments are required.

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		Furthermore, the extended corridors would create the necessity for a complex fire engineered solution due to non-compliance with the BCA. On balance, that the provision of extremely high resident amenity elsewhere in the development more than compensates from any lack of view from the internal corridors.	
4	The use of the podium for residential open space is considered a positive outcome for this development. Should the podium level of Tower 2 be used for multiple commercial tenancies, it is desirable that a direct access between the Tower 2 lift lobby and the residential communal open space be provided (RFDC, Site Configuration – Open Space).	Following the deletion of the childcare centre, a new dedicated resident feature staircase was added to Tower 1 for easier access for Tower 2 residents. Whilst it may be desirable for even greater direct access to be provided, there are implications of having to do so, i.e. cutting an office floor, different user interface issues, reducing non-residential GFA etc. Accordingly, the applicant does not believe this suggestion is appropriate.	It is considered appropriate that a condition be imposed in relation to access to the residential communal space on Level 2. As discussed in the original JRPP report draft condition 7 states <i>"Prior to the relevant construction certificate, the Private Certifying Authority shall ensure the plans enable the residents of Tower 2 direct access from the residential component of Tower 2 to the residential open space on the podium level."</i>
5	If practicable, the number of vehicular entry points should be reduced from three to two driveways (RFDC, Site Access – Vehicular Access).	The applicant advises this recommendation is not practicable due to the complex basement design and level differences across and through the basement. Extensive work was undertaken to specifically isolate different uses such that each system could operate independently. This concern has not	The proposal incorporates 3 access points from Nicholson Street into the basement. Architectus seek to reduce that to 2 vehicular entry/exit points, if practicable. Council's Transport Planner reviewed this item in detail and supports the 3 vehicular entry points into the site given the complex design of the basement. Council's Transport Planner confirms it is not practical to reduce the number of

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		been raised by the RMS.	entry points. Further it is noted that the RMS did not raise concern regarding vehicular entry points. No amendment is deemed necessary to the entry points as this is not practical.

Council's comment:

The above table details the items raised by Architectus in the final SEPP 65 review, the applicant's response to this item and finally council's consideration and position in response. As can be seen, further amendments are recommended of the applicant in relation to the Nicholson Street façade, consistent approach to colour and blind type and direct access between the Tower 2 lift lobby and the residential communal open space.

Council supports the additional work recommended by Architectus as an improved development especially given the minor design impediments created by the built form.

Item F

In general, the assessment report needs to consider the impact of the proposal in more detail and justify the variations of standards more convincingly.

Response

Pages 5 to 32 of the initial JRPP report outline the compliance and variations sought to the LEP and DCP. Where variations are sought they are considered in further detail below. To avoid repetition, the areas of compliance are not included within the following tables.

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

Lane Cove Local Environmental Plan 2009

Variation	Standard	Proposed	Comment
Clause 4.3 - Height of Buildings (maximum)	Tower 1 = RL 180.46m Tower 2 = RL 204.46m	Tower 1 has a revised overall building height of RL 183.70 (including Blade elements & Lift Over Run (LOR)) Tower 2 has a revised overall building height of RL 206.30 Including LOR – 209.30	The revised Clause 4.6 variation considered in this assessment proposes in view of the development context, strict compliance with Clause 4.3 of the LEP is unreasonable in this case. Notwithstanding that Clause 5.6 of LLEP permits architectural roof features and allows these to contain and screen plant and fire stairs, the proposed variation to the building height standard, and the proposed development, is justified on the following environmental planning grounds as follows: • The proposal is considered appropriate and consistent with the objectives and intent of Clause 4.3 of the LEP. The proposed development does not conflict with the intent of Clause 4.3 which is to prevent additional overshadowing, minimise view loss, safeguard the amenity of existing nearby dwellings and to maintain the visual character of the area. The proposed development achieves this outcome. Strict application

Variation	Standard	Proposed	Comment
			of the standard is therefore considered unreasonable and unnecessary. • While the height standard is breached by the inclusion of the architectural roof features, there is no departure from the FSR standard applicable to the site. The non-compliance is restricted to the portion of the structure above the slab level of the roof. There are no residential uses that exceed the height limit – all GFA is within the height limit. The proposed FSR complies with the maximum FSR for the site. • The proposed variation would not result in loss of views from neighbouring properties, nor would it result in adverse amenity impacts. • The proposed development, despite the minor non-compliance, contributes to achieving the objects of the EP&A Act. • The non-compliance would not undermine the public benefit and legitimacy of the standard and no matters of State or regional planning would be affected by the proposed variation. The variation is supported.

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

Lane Cove Development Control Plan 2010

To avoid duplication, where sections of the DCP require consideration of the same matter, the control is not repeated.

Clause	DCP	Proposed	Comment
Part B – General Controls			
B4 – View sharing	Views are to be shared Views from commercial development would not carry the same weight as views from dwellings. Views will be tested against the extent of view available. Where appropriate the views will also be tested against the view sharing principles stated by the Land and Environment Court.	Views from properties to the north of the site on the opposite side of the Pacific Highway enjoy views of the Sydney Harbour Bridge, Sydney Tower, CBD and Harbour. The impact of view loss resulting from the proposal was considered in the planning proposal and informed the current footprint of the DA allowing a view slot between and either side of the Towers.	View sharing is discussed in detail in Item C of this report. The proposed development improves the views attainable from living areas within the Abode, when compared to the previous commercial building envelope prior to the gazettal of the LEP Amendment 18 which permitted a building up to 65m and built to the boundaries. The view permeability through the site, afforded by the tower orientation and setbacks, allows some residents of the Abode views to landmarks which would otherwise not have been available. View lines to the Harbour Bridge are improved, ensuring a wider view axis to the landmark. City views would also be improved from these available. The proposed development increases the footprint of the Towers however this would not significantly impact upon the improved view extent and view lines to iconic elements of the Harbour Bridge, Anzac Bridge and western Harbour.
Part D – Commercial Development & Mixed Use Localities			
Locality 5 - 472-504			

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Clause	DCP	Proposed	Comment
<i>Pacific Highway, St Leonards</i>			
Building Height	91m max. – building at front (Pacific Hwy) – Tower 1 115 m max. – building at rear (Nicholson St) – Tower 2 Above ground level Pacific Hwy	The control replicates the provisions within the LEP which express the maximum height of buildings as RLs.	This item is discussed in detail under the Clause 4.3 - Height of Buildings within the DCP variations discussion. To avoid replication, this matter is not addressed again.
Floor to Floor Height Non-Residential - Ground Level	4.8 m min.	Tower 1 and Tower 2 = 4.7m, 100m variation proposed	The variation proposed is considered to be minor and would be imperceptible from both within the space and from the public domain. The proposed 4.7m floor to ceiling height would provide service ability and flexibility in the use of the ground floor tenancies over time and is therefore considered acceptable. The variation would not affect the useability of the retail space.
Non-Residential - Each Level, Other Than Retail	3.6 m min. Above ground level Pacific Hwy	Tower 1 and Tower 2 = 3.4m, 200mm variation proposed	The variation proposed is considered to be minor. The 3.4m height proposed is considered acceptable for the intended commercial uses. The variation itself would be imperceptible from within the tenancy and the public domain. The proposed height would allow appropriate servicing ability and would not affect the ability to use the spaces and is therefore considered acceptable.
Building Floorplate of Each Residential Tower	850 m² max. Excluding balconies	Tower 1 Low rise levels (up to Level 14) = 918m²	Variations are proposed for the floor plate of Residential Levels 3 to 14 of Tower 1. The proposal complies with the DCP control for balcony separation of 22m.

Clause	DCP	Proposed	Comment
		<i>Note: Levels 14, 15 to 27 & 28 comply</i> Tower 2 Low rise levels (up to Level 14) = 918m² <i>Note: Levels 15 to 27, 28 to 34, 35 & 36 comply</i>	A variation of 68m² per floor is proposed for Residential Levels 3 to 14 of Tower 2. This is considered acceptable as it is for the lower portion of the building only and would be unlikely be observed from the public domain. The proposed form of the towers are generally consistent with the building envelope dimensions that informed the planning proposal which present an interesting and varied profile. The profile of the buildings are narrow as the towers rise emphasising the verticality of the design, the towers have a slim appearance and would be visually appealing due to their triangular shape and articulation of the façade. The proposal achieves the relevant objective of the Locality 5 precinct, views through and around the Towers are provided.
Setbacks – Ground Level	4.0 m min. from Pacific Hwy	Tower 1 is setback 2m from Pacific Highway	The proposal provides an activated street frontage to Pacific Highway. A 4m setback was deemed to be excessive by the applicant as it would be too great a separation of the retail tenancies from the footpath and reduce activation along this frontage. 2m was determined to be sufficient in providing building articulation and creating a satisfactory urban design outcome. The colonnade provided would allow a suitable degree of shade to the retail tenancy facades and weather protection for pedestrians along Pacific Highway. Due to noise exposure and proximity to a major roadway, outdoor dining, for

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Clause	DCP	Proposed	Comment
			which a 4m setback could be suitable, is not considered desirable along this property frontage. Café and restaurant seating would be more desirable within the plaza and courtyard internal to the site. The proposal achieves the relevant objective of the Locality 5 precinct, the proposed ground floor level retail would help to activate existing and proposal public spaces, specifically Friedlander Place and the new public plaza adjacent to the Pacific Highway.
	2m min. elsewhere in site	Tower 2 is setback 1.8m from Friedlander Place, 200mm variation.	200mm minor variation is considered imperceptible. The proposal achieves the relevant objective of the Locality 5 precinct, the proposed ground floor level retail would help to activate existing and proposal public spaces, specifically Friedlander Place.
		Tower 1 and 2 = 0 setback proposed to south-eastern boundary	A zero setback to Nicholson Street is proposed. The building line at the Nicholson Street frontage responds to the street edge of the adjacent property to present a strong and consistent frontage to this Street. A 6m pedestrian reserve is maintained. The proposed design would incorporate new landscaping and an awning along Nicholson Street to improve amenity. Together with proposed draft consent condition 5 which requires a mural, this departure is considered acceptable and is contextually suitable. The proposal achieves the relevant objective of the Locality 5 precinct, Nicholson Street is further activated by this development.
Setbacks –	Min 20m from	Tower 1 non-	The proposed 11m setback is

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Clause	DCP	Proposed	Comment
Non-Residential Podium	Friedlander Place – front building (Tower 1)	residential podium setback 11-27m	situated towards the north-eastern corner of Tower 1. The setback was intended to ensure the public ground level plaza flows into the open space within Friedlander Place, whilst providing for a substantial opening to the Northern end of the internal plaza within 472-494 Pacific Highway to maximise solar access. This design would also enable a reasonable level of solar access provided to the plaza as it is orientated due North. The building form, location and setbacks are consistent with the building forms that informed the planning proposal. The proposal achieves the relevant objective of the Locality 5 precinct, the proposed ground floor retail level would help to activate existing and proposal public spaces, specifically Friedlander Place.
Setbacks – Residential Tower	7.0 m min. from side boundary with No.470 Pacific Highway	Tower 1 = 6.315 in some areas	The proposal includes a variation of 685mm in some areas. The residential dwellings are staggered in their setback along this elevation. The proposed setback along this boundary has been retained from the rezoning stage designs and is required in order to achieve the required 22m separation between the residential towers across the central space as per the DCP. It is also required in order to achieve the required structural grid for the building. The applicant advises adjusting the setback in this location would affect other areas of the design and have a flow on effect which would impact the whole scheme. Any future redevelopment of the adjoining property would not be impeded. The proposal achieves the relevant objective of the Locality 5 precinct,

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Clause	DCP	Proposed	Comment
			viewlines through and around the Towers are provided.
Balcony Area	10m ² min.	6.8m ² to 15.6m ²	Balcony sizes were considered and assessed by Architectus in their SEPP 65 review. The balconies as proposed are considered acceptable to both Architectus and Council. All balconies can accommodate a table and chair setting. Residents would have access to the communal outdoor space on the landscaped podium garden and also recreation facilities on Level 14 and also level 2 of the tower 1 building. Refer to SEPP 65 review prepared by Architectus ATT 3.
	Behind all building setbacks	Balconies are staggered along the setbacks and are sometimes in line with the building setback	Balconies are both recessed and staggered along faced lines. The placement of the balconies creates interest in the facade and does not result in privacy issues between the balconies and habitable rooms. Balcony profiles are considered acceptable. The proposal achieves the relevant objective of the Locality 5 precinct, viewlines through and around the Towers are provided.
Retail Plaza Width	22 m min.	20.15m	A detailed review was undertaken by retail experts Brain and Poulter which was submitted with the DA. Their recommendation was to reduce the width of the retail plaza width in order to provide a more intimate setting and "laneway" feel. This recommendation aims to improve the retail spaces to make it a more active, vibrant precinct. The proposed design allows for adequate outdoor seating space and circulation/recreation space

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Clause	DCP	Proposed	Comment
			within the plaza and accommodates weather protection to enhance the amenity of the outdoor seating areas. Brain and Poulter believe that the proposed plaza width would provide a more dynamic and sustainable offering which would increase its activation and useability all year around. Council supports the design. The proposal achieves the relevant objective of the Locality 5 precinct, a new retail plaza has been provided fronting the Pacific Highway. The plaza would help to activate the this precinct.
Part D – Commercial Development and Mixed Use D.1 – General provisions			
Building depth & bulk For Mixed Use Developments	I. The maximum horizontal dimension of the residential component parallel to the street frontage is to be 40m.	The maximum building depth is approximately 55m, generating a long north-south elevation. Whilst this is a significant departure from the RFDC rule of thumb (SEPP 65) and the DCP, Council's considers this acceptable due to the triangular form of each tower (building depth ranging from 5 to 55 metres in depth).	Architectus reviewed this item as part of their SEPP 65 analysis. Both Architectus and Council believe the variation is considered acceptable given the triangular form of each building required in the Planning Proposal. It is also noted this is a general control, not specifically developed for this site.
	e) The design of roof plant rooms and lift overruns is to	The plant rooms are screened by the architectural roof feature.	The roof plant has not been integrated into the roof design. However the plant rooms and lift overruns have been screened via

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Clause	DCP	Proposed	Comment
Design & location of on-site parking	be integrated into the overall architecture of the building. Access openings are to be fitted with a garage door or roller shutter. f) Vehicle entry should be: I. easily accessible and recognisable to motorists II. located to minimise traffic hazards and queuing of vehicles on public roads III. located to minimise the loss of on street car parking, and to minimise the number of access points.	Removal of the roof feature would result in the plant rooms and the like being visible from surrounding buildings which is undesirable Garage or roller doors are not considered appropriate given the large numbers of vehicles entering and leaving the site. This may result in queuing in the local road network. It is recommended boom gates be installed within the basement of the development to control vehicular movements	vertical paneling. The design of the paneling has been amended following the JRPP meeting to reduce the height of the paneling: Tower 1 RL 186.46 to RL 183.70, 2.76m reduction; and Tower 2 RL 210.46 to RL 209.30, 1.16m reduction. The design offers a tidy rooftop appearance that would be visually unobtrusive when viewed from surrounding future taller buildings. Council's Transport Planner does not consider this to be appropriate for this development. A boom gate system situated within the basement which caters for on-site queuing is considered appropriate. Please refer to draft condition 16 which states; <i>Prior to the issue of the relevant construction certificate, the Private Certifying Authority shall approve plans which illustrate a boom gate system situated within the basement which caters for on-site queuing.</i>
Design & location of on-site parking	q) Basement car parking is to be: I. adequately ventilated II. predominantly located within	The basement levels for car parking are partly underground and partly above ground. This is consistent with the existing arrangements on	Proposal supported due to site conditions. In order to more appropriately address the presentation of the above ground parking, part of the Nicholson Street facade is required to be treated with a mural at the pedestrian level to create an

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	the building footprint III. located fully below natural ground level. Where slope conditions mean that this is unachievable, the maximum basement projection above natural ground level is to be 1.2m but not to the street front.	site. Due to the fall in the land from Pacific Highway to Nicholson Street it would not be practical to have basement parking fully below ground. Four (4) levels will be visible from Nicholson Street.	improved relationship to the street and reduce opportunities for vandalism. Please refer to draft condition 5 which states; <i>Prior to the issue of the relevant construction certificate, plans and elevations detailing the bicycle parking area fronting Nicholson Street as having transparent glazing or the like on the street facade shall be submitted to the Private Certifying Authority. The remaining portion of the Nicholson Street facade up to the FFL of Level 1 shall be treated with a mural and shall be completed prior to the relevant occupation certificate.</i>
Landscaping	a) Locate basement car parking predominately under the building footprint to maximize opportunities for landscaped area b) Deep soil zones in atria, courtyards and boundary setbacks are encouraged	The basement car parking is proposed to extend up to the boundaries of the site which is consistent with the buildings footprints. There is no opportunity for deep soil plantings however where possible "deeper" type planters have been proposed to landscaped areas.	Given the high density intention for the site, it is appropriate that deep soil plantings are not incorporated however it is noted significant on-structure landscaping is proposed in conjunction with the public plaza. And where possible "deeper type planters have been proposed to landscaped areas. Variation supported in this circumstance
	c) Habitable rooms in at least 70% (188 units) of dwellings in high density residential developments should receive a min of 3 hours direct sunlight between 9am & 3pm on 21st	Without the inclusion of the adjoining development at 500-520 Pacific Highway a minimum of 2 hours of solar access would be provided to 59.8% of the dwellings between 8am and 3pm mid winter.	A solar access analysis was undertaken by Steve King and this analysis concludes ' <i>while this may appear a significant shortfall from the target 70% of apartments suggested by the Rules of Thumb in the RFDC, it is in fact a relatively high proportion if we pay regard to the effect of the adverse orientation of two major elevations</i> '. Steve King concludes ' <i>I am of the view that the design approach represents a skilful resolution of very high holistic amenity for</i>

Clause	DCP	Proposed	Comment
	June, in total between any portions of those rooms. In dense urban areas a minimum of two hours may be acceptable. A reasonable proportion of both the common & private open space in those sites is also to receive sunlight during that period, according to the circumstances of the sites	With the inclusion of the adjoining New Hope site being redeveloped, a minimum of 2 hours solar access would be provided to 52.7% of dwellings between 8am and 3pm at midwinter.	<i>dwellings within the scheme, and achieves a significant public benefit. The level of solar access compliance is an outcome of reasoned trade-offs between adverse orientation and highly desirable view amenity. As such, in my considered opinion, the development complies for solar access amenity as provided for by the controls, and is capable of being supported for approval'.</i> Steve King's complete solar access analysis is provided in ATT 14 Architectus commented on solar access in their SEPP 65 review: <i>'The achievement of solar access is considered satisfactory for this proposal, despite achieving 2 hours of solar access to only 52.7% of apartments (factoring in the potential future Charter Hall development to the north) between 8 am and 4 pm in mid-winter, given that:</i> <i>a) In such dense urban environments, where FSRs exceed 6:1, full compliance with the RFDC and ADG solar access requirements is difficult to achieve, and unreasonable. In this instance, the proximity to St Leonards and other key centres, and the desirable southern outlook is considered an appropriate alternative to strict compliance with the solar access requirements</i> <i>b) The proportion of south facing single aspect dwellings, being 8.3% is less than the 10% recommended by the RFDC, and considerably below the ADG rule of thumb of 15%.</i> <i>c) The majority of apartments not achieving the minimum 2 hours of solar access generally face south east or south west, which have highly desirable views toward</i>

Clause	DCP	Proposed	Comment
			<i>Sydney CBD and Harbour. This is considered a more desirable and visually interesting, providing an alternative to direct solar access compliance for these apartments.</i> <i>d) The façade treatment to the living areas of south-east and south-west facing apartments is floor to ceiling glazing which provides maximum daylight exposure.</i> <i>e) Views to the south east and south west of the site are unlikely to be significantly impeded in the longer term due to the fall of topography away from the sites ridgeline position</i> <i>f) Solar access achieved between 8am to 4pm is considered a reasonable measure for development in a dense environment'.</i> Architectus SEPP 65 review is provided in ATT 3.
Part D.5 – Development in B4 Mixed Use Zone			
Residential Component within Mixed Use	The provisions for Residential Flat Buildings in Part C Residential Development section of this DCP and the Residential Flat Design Code associated with SEPP 65, and the additional following provisions shall apply to the residential	Generally complies Reviewed by Architectus and considered generally appropriate.	This matter is discussed in detail within Item E of this report and is found to be generally consistent with SEPP 65. To avoid duplication a further discussion has not been provided within this section.

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Clause	DCP	Proposed	Comment
	component within mixed use developments. d) Minimise the amount of glazed area on the eastern and western elevations and incorporate shading devices		

Council's comment:

As indicated in the preceding policy compliance table, the proposal is generally compliant with the LEP and DCP. Despite the proposed departures, the development meets the objectives of the relevant development standard and development control plan. The building height variation particularly does not contribute to significant overshadowing, loss of privacy nor does it contribute to visual impacts on neighbouring properties. Despite the variations proposed to the DCP including, but not limited to the floor plate, setbacks, building width, floor to ceiling height and retail plaza width, the proposal achieves the objectives of the site specific DCP which include:

1. Contributes to a landmark precinct which include tall and slender towers of triangular form providing visual interest upon approach from all directions.
2. Achieves high design standard and iconic development in St Leonards
3. Creates a distinctive architectural character fronting the Pacific Highway
4. Provides for a new public plaza which is integrated with Friedlander Place
5. Activates Friedlander Place with ground floor retail and the new public plaza
6. Increases the amenity of Nicholson Street, maximises casual surveillance and activation
7. Provides view lines through Friedlander place, the new plaza and the towers on the site
8. Amalgamates sites
9. Complies with the LEP FSR for a minimum of 1.5:1 non-residential floor space

The proposal would integrate with its surrounds and positively contribute to the locality.

It demonstrates high quality design and would facilitate the vibrant introduction of a mixed use precinct.

The applicant's response to the items raised by the JRPP and the late Clause 4.6 variation are provided in **AT 15**.

Item G

Following the JRPP meeting, on the 14 March 2016 the Panel requested further clarification regarding the LEP amendment:

Following the consideration of this application and the Panel's decision to defer the determination, it has come to the Panel's mind that the DA was submitted to council prior to the gazettal of the amending LEP. The LEP made the use permissible and changed the development standards. Is there a savings provision in the standard instrument? Please confirm that there are: either no savings and transitional provisions that would require this DA to be considered as if the amending LEP did not exist; or, alternatively, that they have been suspended for this DA; or that the DA was submitted after gazettal of the amending LEP.

Response

The development application was submitted to Council in December 2014 and the planning proposal (amendment 18), which made the use permissible, was gazetted in May 2015. The LEP does not comprise savings provisions in which the amending instrument would apply.

A recent Land and Environment Court decision (*De Angelis V Wingecarribee Shire Council 2016 NSWLEC*) found the amendment of a principal planning instrument after the development application was made but not determined, may not be relied upon as the savings provision within the LEP did not address the amendment to that LEP. Council is of the view that the context of the recent Court decision is different to that of this application. However, for abundant caution, Council notes LEP amendment 21 clarifies beyond doubt the subject development application may be considered.

LEP amendment 21 was gazetted on 15 April 2016 which states:

4. Amendment of Lane Cove Local Environmental Plan 2009

Clause 1.8A Savings provisions relating to development applications

Insert after clause 1.8A(2):

(3) To avoid doubt, Lane Cove Local Environmental Plan 2009 (Amendment No 18) applies to the determination of a development application made (but not finally determined) before the commencement of that Plan.

Council's comment:

Amendment 21 permits the current development application to be considered with regard to the site specific controls in the Planning Proposal which inform the LEP (amendment 18).

Consideration of Submission

On the 19 April 2016 Council received a late submission prepared on behalf of the owners and residents of the 'Abode' building at 599 Pacific Highway, St Leonards. The Abode building is located on the northern side of the Highway, opposite the development site. The submission was forwarded to the Panel and consideration of the submission is provided below.

The residents of the Abode acknowledge the Lane Cove LEP allows the construction of three mixed use tower developments for 472-484, 486-494, 496-498, 500 and 504 Pacific Highway St Leonards. The residents are concerned with the degree of impact associated with the proposal of the applicant to amend the adopted LEP and DCP building envelopes.

In reviewing the two DAs in conjunction, the submission raises the following primary concerns:

- The reasonableness of the developments given the notable and ranging departures from the adopted envelopes and design controls.
- Scale and design non-compliances which manifest in much larger towers than envisaged and approved with the rezoning.
- The cumulative impact of these larger developments on iconic views and local traffic/access.
- Insufficient discussion in the reporting on the impacts from a community/external perspective.
- The lack of objective/independent view modelling to justify the additional scale.
- The proposed development achieves a higher yield and is inconsistent with the LEP. It is not clear as to why a height excess is justifiable in environmental planning terms.

The applicant provided a response to the above submission and is provided in **ATT 16**. This response is noted however it is not relevant to the following Council comments.

Council's Comments:

The primary concerns raised in the submission are the subject of the JRPP's deferral items which this supplementary report addresses. For completeness, the following comments are made in response to the submission where they relate to the subject site.

View Impact

As discussed in the response to Item C (refer to pages 10-12 of this report), views currently experienced by some residents of the Abode building would be impacted as a result of the proposed development. This impact was considered thoroughly during the consideration of Planning Proposal 18 by Council's consultant architect, Architectus, Council and the Planning Minister. As a result of this analysis, the proposed tower building envelopes emerged to enable view lines through the site for properties in a northerly direction of the site. Planning Proposal 18 was gazetted in May 2015.

As demonstrated in Council's response to the Panel, the proposed development seeks to marginally increase the footprint of the Towers. It is important to note the variations to the development would not unreasonably impact upon the view lines to iconic elements of the Harbour Bridge, Anzac Bridge and western Harbour (refer to pages 10-12 of this report). The assessment of the view impact of the proposed structures to adjoining and nearby land uses, having regard to the relevant case law, is considered to be reasonable and appropriate in this context.

The cumulative impact of views as a result of this development and the adjoining development at 496 Pacific Highway would be considered in the assessment of the adjoining development application. At the time of lodgment, the application for the adjoining property at 496 Pacific Highway had not been submitted. The applicant for the adjoining property, 496 Pacific Highway provided a view impact study for both low, mid and high rise levels of Abode and Forum east tower buildings.

As discussed in the above response, the proposed variations to the subject application including the separation distance between the Tower 1 and Tower 2 and the respective floor plates do not unreasonably impact upon the view lines envisaged by the DCP.

Cumulative Impact on Traffic

As discussed in the response to Item B (refer to pages 7-9 of this report), the cumulative traffic generation by this and neighbouring developments was considered in the assessment of the application. Council finds the traffic impact satisfactory provided the recommended upgrade of the intersection of Oxley Street and the Pacific Highway is undertaken from minor SCATS to a critical SCATS site. Draft condition 60 ensures such intersection upgrade is undertaken. The RMS raise no further concern with this or the adjoining development.

The proposed development achieves a higher yield and is inconsistent with the LEP and various design commitments within the Planning Proposal, it is not clear as to why a height excess is justifiable in environmental planning terms.

As detailed in the initial Council assessment report and this supplementary report in Item B (refer to pages 7-9), the proposal is under the maximum permitted Floor Space Ratio for the site. The above assessment considers the revised Clause 4.6 variation proposed to the building height. The assessment indicates the height variation does not include any gross floor area. The variation relates to 24mm of roof slab, lift overruns and the architectural roof features. The proposed development does not conflict with the intent of Clause 4.3 which is to prevent additional overshadowing, minimise view loss, safeguard the amenity of existing nearby dwellings and to maintain the visual character of the area. The variation would not result in adverse amenity impacts.

CONCLUSION

This supplementary report addresses the items raised by the Panel following the JRPP meeting on the 2 March 2016 and the late submission prepared by Natalie Richter Planning. The report confirms Council's initial conclusion that the proposed design is acceptable with regard to building separation, view impacts, cumulative traffic impacts, building height/roof feature and variations to the DCP.

The site is situated within a precinct undergoing revitalisation and change. The site although constrained by surrounding developments considers and protects views and amenity of those residents located in a northerly direction of the subject site. The proposal is a quality development with design compromises which place a priority on solar access to public areas and creates the opportunity for views through the site.

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The development proposal would make a positive contribution to the St Leonards CBD and surrounding precinct. The proposal is recommended for approval subject to conditions.

RECOMMENDATION

pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act, 1979, as amended, the Sydney East Joint Regional Planning Panel grant development consent to Development Application DA14/222 for demolition and the construction of a mixed use development comprising 539 residential units and retail/commercial/office and subdivision at Lot 1 DP628513 and SP73701 being 472-494 Pacific Highway, St Leonards subject to the following conditions:

1. That the development be strictly in accordance with the following drawings:

Drawing Number	Title	Date and Revision	Prepared By
L001	Site Location Plan	Date August 2015 Rev 02	Sissons Architects
L002	Demolition Plan	Date August 2015 Rev 02	Sissons Architects
L010	Basement Level 1	Date January 2016 Rev 05	Sissons Architects
L011	Basement Level 2	Date December 2015 Rev 05	Sissons Architects
L012	Basement Level 3	Date January 2016 Rev 07	Sissons Architects
L013	Basement Level 4	Date December 2015 Rev 04	Sissons Architects
L014	Basement Level 5	Date October 2015 Rev 03	Sissons Architects
L015	Basement Level 6	Date December 2015 Rev 04	Sissons Architects
L016	Basement Level 7	Date October 2015 Rev 03	Sissons Architects
L020	Level 1 Plan	Date January 2016 Rev 05	Sissons Architects
L021	Level 2 Plan	Date January 2016 Rev 05	Sissons Architects
L022	Level 3 Plan	Date January 2016 Rev 04	Sissons Architects
L035	Level 4 Plan	Date January 2016 Rev 04	Sissons Architects
L036	Typical Low-Rise Floor Plan Towers 1 and 2 Level 5	Date January 2016 Rev 05	Sissons Architects
L023	Typical Low-Rise Floor Plan Towers 1 and 2 Levels 6 to 13 inclusive	Date January 2016 Rev 04	Sissons Architects

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L024	Level 14 plan Towers 1 and 2	Date January 2016 Rev 04	Sissons Architects
L025	Typical High-Rise Floor Plan Towers 1 and 2 Levels 15-27 inclusive	Date January 2016 Rev 04	Sissons Architects
L026	Tower 1 Penthouse Level Floor Plan Level 28	Date January 2016 Rev 04	Sissons Architects
L037	Typical High-Rise Floor Plan Towers 1 and 2 Levels 29 -34 inclusive (Tower 2)	Date January 2016 Rev 04	Sissons Architects
L038	Typical High-Rise Floor Plan Towers 1 and 2 Levels 35 and 36 inclusive (Tower 2)	Date March 2016 Rev 03	Sissons Architects
L027	Roof Plan	Date August 2015 Rev 02	Sissons Architects
L041	Pacific Highway Elevation	Date October 2015 Rev 04	Sissons Architects
L042	Friedlander Place Elevation	Date March 2016 Rev 05	Sissons Architects
L043	Nicholson Street Elevation	Date March 2016 Rev 05	Sissons Architects
L044	South East Elevation	Date March 2015 Rev 04	Sissons Architects
L050	Site Section 1-1	Date March 2016 Rev 05	Sissons Architects
L051	Site Section 2-2	Date March 2016 Rev 05	Sissons Architects
L052	Site Section 3-3	Date March 2016 Rev 05	Sissons Architects
DA170	Detail Plan Unit 301B Level 3 Tower 2	Date 10.02.2015 Rev A	Mirvac
105, 201	Landscape Master Plan	Date 14 January 2016 Rev 4	Arcadia Landscape Architecture
107	Detail Planting Plan Plaza	Date 14 January 2016 Rev 4	Arcadia Landscape Architecture
401	Detail Planting Plan Ground Level	Date 14 January 2016 Rev 4	Arcadia Landscape Architecture
111, 403	Detail Planting Plan Level 2 Courtyard	Date 14 January 2016 Rev 4	Arcadia Landscape Architecture
501	Hardworks Details	Date 14 January 2016 Rev 4	Arcadia Landscape Architecture
502	Softworks Details + specification	Date 14 January 2016 Rev 4	Arcadia Landscape Architecture

except as amended by the following conditions.

- The recommendations within Beware Solutions letter dated 4 August 2015 shall be implemented at the appropriate stage. The recommendations relating to the child care centre are not relevant.

3. The Private Certifying Authority shall ensure the implementation of the findings within the Wind Tunnel Tests for 472-486 Pacific Highway, St Leonards, CPP project 8121, prepared by CPP and revised on 1 February 2016 at the relevant construction or occupation certificate stage.
4. Prior to the issue of any occupation certificate, the Private Certifying Authority must be satisfied that the allotments are consolidated into one allotment.
5. Prior to the issue of the relevant construction certificate, plans and elevations detailing the bicycle parking area fronting Nicolson Street as having transparent glazing or the like on the street facade shall be submitted to the Private Certifying Authority. The remaining portion of the Nicholson Street facade up to the FFL of Level 1 shall be treated with a mural and shall be completed prior to the relevant occupation certificate.
6. The Private Certifying Authority shall ensure that a consistent colour and blind type for the residential apartments are installed prior to the applicable occupation certificate. The applicant shall ensure a consistent colour and blind type for the residential apartments is included in the body corporate requirements.
7. Prior to the relevant construction certificate, the Private Certifying Authority shall ensure the plans enable the residents of Tower 2 direct access from the residential component of Tower 2 to the residential open space on the podium level.
8. Prior to the issue of the relevant construction certificate the PCA shall ensure the external lighting is appropriate and would not result in a nuisance for surrounding properties or motorists. Flood lights are not permitted.
9. The private certifying authority shall ensure the recommendations within the Access Review prepared by Morris-Goding Accessibility Consulting Revision 3, dated 4.8.2015, with the exception of those for the child care centre, are implemented at the relevant construction or occupation certificate stage.
10. The private certifying authority shall ensure the recommendations within the Noise Impact Assessment (Ref: 20150951.1/0408A/R3/BW) prepared by Acoustic Logic dated 3/4/08/2015, with the exception of those for the child care centre, are implemented at the relevant construction or occupation certificate stage.
11. A Construction Noise Management Plan (CNMP) shall be submitted to the Private Certifying Authority prior to the commencement of works. The Private Certifying Authority shall ensure the CNMP is complied with throughout the demolition and construction phases of the development.
12. A Voluntary Planning Agreement (VPA) shall be entered into between Lane Cove Council and the applicant for 472-494 Pacific Highway, St Leonards, which is consistent with the VPA dated 1 May 2015. The VPA shall be satisfied as per the VPA requirements.
13. The applicant shall submit a demolition management plan to the private certifying authority for their approval prior to demolition works commencing.
14. The maintenance of private land is the responsibility of the applicant and shall be undertaken applicant's cost.

15. ~~The design of roof plant rooms and lift overruns shall be integrated into the overall architecture of the building as per the Lane Cove Development Control Plan 2010 Part D.1 General Provisions.~~
16. Prior to the issue of the relevant construction certificate, the Private Certifying Authority shall approve plans which illustrate a boom gate system situated within the basement which caters for on-site queuing.
17. The applicant shall obtain development consent for the use and fitout of the commercial, retail, restaurant and supermarket spaces.
18. The submission of a Construction Certificate and its issue by Council or Private Certifier PRIOR TO CONSTRUCTION WORK commencing.
19. (2) All building works are required to be carried out in accordance with the provisions of the Building Code of Australia.
20. (11) The approved plans must be submitted to Sydney Water online approval portal "Sydney Water Tap In", please refer to web site www.sydneywater.com.au. This is 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. An approval receipt with conditions shall be issued by Sydney Water (if determined to be satisfactory) and is to be submitted to the accredited certifier prior to the issue of a Construction Certificate.
21. (12) Approval is subject to the condition that the builder or person who does the residential building work complies with the applicable requirements of Part 6 of the Home Building Act 1989 whereby a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy Council or the PCA that they have complied with the applicable requirements of Part 6. **Council as the PCA will not release the Construction Certificate until evidence of Home Owners Warranty Insurance or an owner builder permit is submitted.** THE ABOVE CONDITION DOES NOT APPLY TO COMMERCIAL/INDUSTRIAL CONSTRUCTION, OWNER BUILDER WORKS LESS THAN \$5000 OR CONSTRUCTION WORKS LESS THAN \$20,000.
22. (17) An Occupation Certificate being obtained from the Principal Certifying Authority before the occupation of the building.
23. (21) THE PAYMENT OF A CONTRIBUTION FOR AN ADDITIONAL **952.80** PERSONS IN ACCORDANCE WITH COUNCIL'S SECTION 94 CONTRIBUTIONS PLAN. THIS PAYMENT BEING MADE PRIOR TO THE ISSUE OF THE FIRST CONSTRUCTION CERTIFICATE AND IS TO BE AT THE CURRENT RATE AT TIME OF PAYMENT. THE AMOUNT IS **\$8,776,160.00** AT THE CURRENT RATE OF \$9,900 PER PERSON AND \$100 PER SQUARE METER OF RETAIL/RESTAURANT/SUPERMARKET SPACE (**2015/2016 FEES AND CHARGES**). 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.

The Section 94 Contribution is calculated in the following manner:

Residential Contributions

Dwelling Type	Number of dwellings	Persons per dwelling	Total Number of persons	Contribution payable @ \$9,900/person 2015/2016 fees and charges
Studio	41	1.2	49.2	\$487,080.00
1 bedroom	108	1.2	129.60	\$1,283,040.00
2 bedroom	324	1.9	615.60	\$6,094,440.00
3 bedroom	66	2.4	158.4	*\$1,320,000.00
Total	539	NA	952.80	\$9,184,560.00

***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. 66 dwellings x \$20,000 = \$1,320,000.00.

Commercial/retail contributions

Proposed Use	Area	Contribution payable @ \$100 per m ² 2015/2016 fees and charges
Supermarket	1,394 m ²	\$139,400.00
Retail/ Restaurant	1,204 m ²	\$120,400.00
Retail Storage	440 m ²	\$44,000.00
Commercial Office	4,901 m ²	\$490,100.00
Total	6,679 m²	\$793,900.00

Credit for existing commercial buildings

Use	Area	Contribution payable @ \$100 per m ² 2015/2016 fees and charges
Commercial Buildings	12000m ²	\$1,200,000.00

Total Section 94 Contributions Payable

Contribution Type	Amount
Residential:	\$9,184,560.00
Commercial/Retail:	\$791,600.00
Total	\$9,976,160.00
- Credit for commercial buildings:	\$1,200,000.00
Total Contribution:	\$8,776,160.00

The total Section 94 contribution for the proposal is **\$8,776,160.00**.

24. (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.

25. 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. A one hour respite period must be provided at midday for **high noise generating activities, including rock breaking and saw cutting**

Saturday 7am to 4.00pm. A one hour respite period must be provided at midday for **high noise generating activities, including excavation, haulage truck movement, rock picking, sawing, jack hammering or pile driving.**

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.

26. (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.
27. (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.
28. (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.

29. (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.

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

31. (52) The swimming pool being surrounded by a fence:-

- a) That forms a barrier between the swimming pool; and
 - i) any residential building or movable dwelling situated on the premises; and
 - ii) any place (whether public or private) adjacent to or adjoining the premises; and
- b) That is designed, constructed and installed in accordance with the standards as prescribed by the Regulations under the Swimming Pool Act, 1992, and the Australian Standard AS1926 – 2012, "Swimming Pool Safety".

SUCH FENCE IS TO BE COMPLETED BEFORE THE FILLING OF THE SWIMMING POOL

ADVICE: In accordance with the Swimming Pools Amendment Act 2012, the swimming pool and spa is required to be registered on the NSW Government State wide Swimming Pool Register when completed. The register can be found at www.swimmingpoolregister.nsw.gov.au.

32. (53) The filter and pump being located in a position where it will create no noise nuisance at any time or, alternatively, being enclosed in an approved soundproof enclosure. If noise generated as a result of the development results in an offensive noise Council, may prohibit the use of the unit, under the provisions of the Protection of the Environment Operations Act 1997.

33. (54) In accordance with the requirements of the Swimming Pools Act 1992 and Regulations thereunder a warning notice is to be displayed in a prominent position in the immediate vicinity of the swimming pool at all times.

The notice must be in accordance with the standards of the Australian Resuscitation Council for instructional posters and resuscitation techniques and must contain a warning "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL".

34. (55) Fibrecrete Swimming Pool Shell being constructed in accordance with AS.2783-1985 "Concrete Swimming Pool Code, AS 3600-1988 - "Concrete Structure" and "AW1 Fibresteel Technical Manual, November 1981".

35. (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.

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

- a. The establishment of the each basement level and each floor level;
- b. Prior to pouring concrete; 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.

37. (62) All glazing is to comply with the requirements of AS 1288.

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

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

39. (66) The removal, handling and disposal of asbestos from building sites being carried out in accordance with the requirements of the Occupational Health and Safety Act and the Regulations. Details of the method of removal to be submitted to and approved by the Private Certifying Authority PRIOR TO COMMENCING ANY DEMOLITION WORKS.

40. (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 RELEVANT
CONSTRUCTION CERTIFICATE.

41. (78) The site being properly fenced to prevent access of unauthorised persons outside of working hours.
42. (79) Compliance with Australian Standard 2601 - The Demolition of Structures.
43. (86) An approved type of hoarding being erected along the street frontage.
44. (87) Pedestrians' portion of all footpaths shall be kept clear and trafficable at all times.
45. (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.
46. (138) All overflow water and drainage including backwash from filter washing from the swimming pool must be directed to the sewer in accordance with Sydney Water's requirements.
47. (139) A copy of Sydney Water's Notice of Requirements must be submitted to the Principal Certifying Authority **PRIOR TO THE RELEVANT CONSTRUCTION CERTIFICATE BEING ISSUED.**
48. (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.

49. (142) **BASIX** - Compliance with all the conditions of the BASIX Certificate lodged with Council as part of this application.
50. (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.**

The Department of Infrastructure and Regional Development

1. The building must not exceed a maximum height of 210.46m AHD, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lighting rods, any roof top garden plantings, exhaust flues etc.
2. The building must be obstacle lit by low intensity steady red lighting at the highest point of the building. Obstacle lights are to be arranged to ensure the building can be observed in a 360 degree radius as per subsection 9.4.3 of the Manual of Standards Part 139 – Aerodromes (MOS part 139). Characteristics for low intensity lights are stated in subsection 9.4.6 of MOS Part 139.
3. Separate approval must be sought under the Regulations 1996 for any cranes required to construct the building.
4. At completion of the construction of the building, a certified surveyor must notify in writing the airfield design manager of the finished height of the building.

The NSW Roads and Maritime Services

51. All buildings and structures, together with any improvements integral to the future use of the site should be wholly within the freehold property (unlimited in height and depth), along the Highway boundary.
52. Post development stormwater discharge from the subject site into the Roads and Maritime drainage system does not exceed the pre-development discharge.

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
PO 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.

53. 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.

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
PO 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 complex details of the work.

54. The proposed development should be designed such that road traffic noise from 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.
55. A Construction Traffic Management Plan (CTMP) 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.
56. 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 Pacific Highway.
57. A Road Occupancy Licence should be obtained from the Transport Management Centre for any works that may impact on traffic flows on Pacific Highway during construction activities.
58. The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions) should be in accordance with AS 2890.1-2004, AS 2890.6:2009 and AS 2890.2-2002.
59. All vehicles are to enter and leave the site in a forward direction.

Traffic and Transport

60. Due to additional vehicular traffic resulting from this development, the intersection of Pacific Highway and Oxley Street is to be upgraded to a Critical Site in the Sydney Coordinated Adaptive Traffic System (SCATS). This involves the installation of pavement loop detectors in the Pacific Highway and associated intersection upgrade works. The developer is required to:
- i. Undertake the necessary upgrade works to the intersection of the Pacific Highway and Oxley Street in consultation with the NSW Roads and Maritime Services (NSW

RMS). The works must be completed to the satisfaction of the NSW RMS and be endorsed by the NSW RMS prior to the issue of any occupation certificate; **or**

- ii. Fund fifty percent (50%) of the cost (estimated \$250,000) for the intersection upgrade of Pacific Highway and Oxley Street. Payment is to be made to Council and shall be paid prior to the issue of the first construction certificate.

61. The proposed Car Park design shall comply with AS 2890.1-2004. This includes all parking access, 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.
62. All accessible car spaces in the public car park are to be adequately signposted and linemarked, and provided in accordance with AS2890.6: 2009 including the adjacent shared space and the height clearance.
63. The garbage collection area is to be clearly signposted and linemarked, and provided in accordance with AS2890.2: 2002. On site garbage collection must be provided for with sufficient headroom and to allow the vehicle to enter and exit in a forward direction.
64. Fourteen (14) on-site car share spaces shall be provided as part of the development. These car share spaces shall be dedicated for general public use and must be located on communal property and accessible to both residents and the general public.
65. Pedestrian access on Nicholson Street, Pacific Highway and Friedlander Place, including people with disabilities 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'.
66. 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 adjacent to the site and within 25m, shall be constructed ensuring a consistent width and surface treatment. The minimum footpath width for all footpaths in the area is 1.8m and this should be clear of any obstructions including tree branches.
67. 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 2890.3:2015. Alternative designs that exceed the Australian Standards will also be considered appropriate.
68. Resident cycle parking in the basement car park should be 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.
69. The bicycle facilities are to be clearly labelled, and advisory/directional signage is to be provided at appropriate locations.
70. The design of the development, particularly access and egress arrangements to/from the property, must not restrict cycling activities on Nicholson Street. The development must complement and facilitate the implementation of this green infrastructure and should generally be designed with the needs of cyclists in mind.
71. A Sustainable Transport Action Plan (STrAP) showing the proposed mode shares, relevant

bike routes, access to existing car-share spaces and bus route frequencies will need to be submitted and approved by the Traffic and Transport Manager in Lane Cove Council prior to Occupation Certificate.

72. Consultation with NSW Police, RMS and Transport for NSW / Sydney Buses will be required as part of the preparation of Construction Traffic Management Plan.
73. Heavy vehicles are only permitted to travel on the local roads as identified in the Construction Traffic Management Plan dated 15 July 2015.
74. Vehicles, particularly trucks will not be permitted to queue on public roads within the site vicinity. Trucks will therefore need to be appropriately timed.
75. Any construction vehicles exiting the site during demolition/construction should have their tyres washed in order to avoid any construction material, dust, etc coming in contact with the road pavement.
76. 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.
77. Any construction related machinery or trucks, (other than in an approved Works 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.
78. A parking management plan for workers is to be provided to the Principal Certifying Authority addressing on-site or alternative locations encouraging workers to car pool to the site. Construction workers will not be permitted to park on public roads.
79. The applicant will be liable to reinstate any road infrastructure if damage is caused by construction trucks or any construction related activities.
80. Any changes to the Construction Traffic Management Plan must be submitted to Lane Cove Council for further approval.
81. Due to requirements for safe traffic and pedestrian movement, loading or unloading of any vehicle or trailer carrying material associated with the development must not take place on the public road unless within an approved Works Zone. The proposed Works Zones along Nicholson Street must be approved by the Council and have a minimum length of 60 metres, unless it is not possible to achieve 60m length due to site constraints. Works Zone signs are only to be erected by Council staff for minimum six months period. The Works Zone application is to be submitted to and approved by Council prior to the earlier of the following two situations occurring; either (a) issue of any Construction Certificate or (b) any work commencing, in the case where work is to occur on a Public Road during demolition.

The developer must give the Council written notice of at least six weeks prior to the date upon which use of the Works Zone will commence and the duration of the Works Zone approval shall be taken to commence from that date. All vehicle unloading/loading activities on a public roadway/footway are to be undertaken within an approved Works zones.

Open Space

82. Prior to the issue of the relevant Construction Certificate the private certifier shall be submitted with detailed landscape working drawings for construction providing sections, elevations and landscape profiles and specifications, consistent with Councils Landscape Checklist. The plans shall be consistent with the conditions of the development consent. Each plan/ sheet shall be certified by a qualified landscape architect / environmental designer or horticulturist. The detailed landscape working drawings shall show the treatment of common open space areas, the public plaza area and full construction detail of balconies or on-structure plantings including sections illustrating all raised planting areas with soil profiles, volumes and specified media in keeping with Lane Cove Councils DCP.
83. All landscape works shall be completed to a professional standard, free of any hazards or unnecessary maintenance problems and that all plants are consistent with NATSPEC specifications.
84. 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 75 litres in accordance with DA Landscape planting drawing numbers: 401,402,403,501,502 and Planting Palette and Schedule Drawing: 113 and 114 prepared by Arcadia dated January 2016.
85. The applicant must ensure the proposed soft landscape work plantings indicated on the Landscape Detail Planting Plans Drawing Nos: 401,402 and 403, 501 and 502 in conjunction with Planting Palette and Schedule Drawings: 113 and 114 prepared by Arcadia dated January 2016 must be planted and be consistent with the landscape design intent illustrated in the DA documents.
86. The applicant must ensure the proposed Softworks and Hardworks Details Drawing Nos: 501 and 502 prepared by Arcadia dated January 2016 are used to inform the relevant Construction Certificate documentation to ensure adequate soil depths are provided in order to achieve the design intent illustrated in the DA documents.

Matters to be satisfied prior to issue of occupation certificate

87. A qualified practising landscape architect, landscape / environmental designer or horticulturist, shall certify prior to commencement 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.
88. A landscape practical completion report is to be prepared by a consultant landscape architect, landscape / environmental designer or horticulturist and submitted to Council or the accredited certifier 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 the relevant Occupation Certificate
89. 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 for a period of 12 months from date of issue.
90. At the completion of the landscape maintenance period, the consultant landscape architect/ environmental designer or horticulturist to submit a report to Council or the accredited

certifier, certifying that all plant material has been successfully established and that all of the outstanding maintenance works or defects have been rectified prior to preparation of the report and that a copy of the 12 month landscape maintenance strategy has been provided to the Strata Managers /Owners/ Occupiers.

91. The proposal will result in the removal of nine (9) trees within Friedlander Place as a result of excavation and include three (3) *Ficus microcarpa hilli* (Hills Figs), four (4) *Angophora floribunda* (Rough Barked Apple) and two (2) London Plane trees on the Pacific Highway frontage. Council has no objection to the removal of the trees in the garden bed at the bottom of Friedlander Place adjacent to the southwest corner of the site. All other trees including the four (4) Brushbox street trees in Nicholson Street directly adjacent to the site must be retained.
92. The four (4) Brushbox street trees located in Nicholson Street directly adjacent to the site must be retained and protected. A 1.8m high chain mesh fence shall be erected encompassing the soil areas between the footpath and the street gutter. Adequate room must be provided to allow car passengers to exist parked cars. The tree protection zones must not enclose the parking metres. The tree protection area shall not be used for the storage of building materials, machinery, site sheds, or for advertising and soil levels within the tree protection area shall remain undisturbed.
93. A waterproof sign must be placed on tree protection zones at 2 metre intervals stating 'NO ENTRY TREE PROTECTION ZONE – this fence and sign are not to be removed or relocated for the work duration.' Minimum size of the sign is to be A4 portrait with NO ENTRY TREE PROTECTION ZONE in capital Arial Font size 100, and the rest of the text in Arial font size 65.
94. All tree protection measures and signage must be erected **PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE OR THE COMMENCEMENT OF WORKS, WHICHEVER OCCURS FIRST**. This includes demolition or site preparation works, and tree protection measures must remain in place for the duration of the development, including construction of the driveway crossing.

BOND ON STREET AND COUNCIL TREES

95. Pursuant to Section 80A(6)(a) and (7) of the Environmental Planning and Assessment Act 1979, the applicant must, prior to the issue of the first construction certificate, provide security in the amount of **\$40,000** (by way of cash deposit with the Council, or a guarantee satisfactory to the Council) for the payment of the cost of making good any damage caused, as a consequence of the doing of anything to which this development consent relates, to all street trees that are on the public road reserve immediately adjoining the land subject of this development consent.

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

The bond shall be refundable following issue of the Final Occupation Certificate. The owner

must notify Council's Senior Tree Assessment Officer who will inspect the street trees and organise the bond refund.

96. There shall be no stockpiling of topsoil, sand, aggregate, spoil or any other construction material or building rubbish on any nature strip, footpath, road or public open space park or reserve.

Advice:

*Lane Cove Council regulates the **Preservation of Trees and Vegetation** in the Lane Cove local government area. Clause 5.9(3) of Lane Cove Local Environmental Plan 2009 [the "LEP"], states that a person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by development consent or a permit granted by the Council. Removal of trees or vegetation protected by the regulation is an offence against the Environmental Planning and Assessment Act 1979 (NSW). The maximum penalty that may be imposed in respect to any such offence is \$1,100,000 or a penalty infringement notice can be issued in respect of the offence, the prescribed penalty being \$1,500.00 for an individual and \$3,000.00 for a corporation. The co-operation of all residents is sought in the preservation of trees in the urban environment and protection of the bushland character of the Municipality. All enquiries concerning the Preservation of Trees and Vegetation must be made at the Council Chambers, Lane Cove.*

Engineering

General Engineering Conditions

97. **(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.
98. **(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.
99. **(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.**
100. **(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.
101. **(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.

102. **(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.
103. **(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'*.
104. **(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.
105. **(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.
106. **(B1) Council infrastructure damage bond:** The applicant shall lodge with Council a \$150,000 cash bond or bank guarantee. The bond is to cover the repair of damage or outstanding works to Council's roads, footpaths, kerb and gutter, drainage or other assets as a result of the development. The bond will be released upon issuing of the Occupation Certificate. If Council determines that damage has occurred as a result of the development, the applicant will be required to repair the damage. Repairs are to be carried out within 14 days from the notice. All repairs are to be carried in accordance with Council's requirements. The full bond will be retained if Council's requirements are not satisfied. Lodgement of this bond is required **prior to the commencement of any demolition works**.
107. **(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.
108. **(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.
109. **(H5) Covering Heavy Vehicle Loads:** All vehicles transporting soil material to or from the subject site shall ensure that the entire load is covered by means of a tarpaulin or similar

material. The vehicle driver shall be responsible for ensuring that dust or dirt particles are not deposited onto the roadway during transit. It is a requirement under the Protection of the Environment Operations (Waste) Regulation, 1996 to ensure that all loads are adequately covered, and this shall be strictly enforced by Council's ordinance inspectors. Any breach of this legislation is subject to a "*Penalty Infringement Notice*" being issued to the drivers of those vehicles not in compliance with the regulations.

110. **(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.
111. **(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.
112. **(R1) Rainwater Reuse Tanks:** The proposed rainwater reuse system 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.
113. **(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.
114. **(S1) Stormwater Requirement:** The following details need to be added to the amended stormwater design plans:
- The design needs to incorporate an adequate gross pollutant trap.
 - Discharge directly to the kerb and gutter is prohibited. The stormwater discharge from the development needs to drain directly into the nearest Council Kerb inlet pit. Any extension of the Council stormwater system will require a minimum diameter 375mm reinforced concrete pipe.

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

Engineering conditions to be complied with prior to the issue of the relevant Construction Certificate

115. **(D2) Drainage Plans Amendments:** The stormwater drainage plan **numbered AA007072** prepared by **Hyder Consulting Pty Ltd** dated 30.7.2015 is to be amended to reflect the above condition titled '*Stormwater requirement*'. The amended design is to be certified that it fully complies with, AS-3500 and part O Council's DCP-Stormwater Management; certification is to be by a suitably qualified engineer. The amended plan and certification

shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**

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

116. **(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.**
117. **(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.**
118. (D2) Geotechnical Report: A geotechnical report is to be completed for the excavation and ground water impacts associated with this development. The Geotechnical Report and supporting information are to be prepared by a suitably qualified geotechnical engineer and be submitted to Principle Certifying Authority prior to issue of a Construction Certificate.
119. (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.

120. (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.

121. **D5) Dilapidation Report** The applicant is to provide a dilapidation report of all adjoining properties and any of Councils infrastructure located within the zone of influence of the proposed excavation.

Dilapidation report must be conducted by a suitably qualified engineer **prior to the commencement of any demolition, excavation or construction works**. The extent of the survey must cover the zone of influence that may arise due to excavation works, including dewatering and/or construction induced vibration. The Initial dilapidation report must be submitted to Principal Certifying Authority **prior to issue of a Construction Certificate**.

A second dilapidation report, recording structural conditions of all structures originally assessed prior to the commencement of works, must be carried out at the completion of the works and be submitted to Principle Certifying Authority **prior to issue of an Occupation Certificate**.

122. **(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 Pacific Highway and Nicholson Street adjacent the site. The survey and report need to be submitted to the Council prior to the issue of the first **Construction Certificate**. Following completion of construction of the development and prior to the issue of the first Occupation Certificate, the applicant is to prepare a second dilapidation survey and a dilapidation report that includes details of all changes and damage caused to the surface of the said public roads as a consequence truck movements associated with the construction of the development. The Council may apply funds realised from the security referred to in applicable condition to meet the cost of making good any damage caused to the surface of the said public road as a consequence truck movements associated with the construction of the development to which the consent relates. The dilapidation surveys and reports must be prepared by an engineer registered with the Institute of Engineers.

123. **(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 at the relevant construction certificate stage.

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**.

124. **(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 relevant Construction Certificate**. All works associated with the construction of the crossing shall be completed **prior to the issue of the relevant Occupation Certificate**.

125. **(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 relevant Construction Certificate**. Note: The finished floor level of the proposed basement shall be determined by Council.

126. **(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.**

127. **(K1) Council Construction Requirements:** The applicant shall construct / reconstruct all Council infrastructure adjoining the development to Council's satisfaction. A \$20,000 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 relevant 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 relevant Occupation Certificate.** All costs associated with the construction of the above works are to be borne by the applicant.

128. **(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 relevant Construction Certificate.**

129. **(C1) Erosion and Sediment Control Plan:** An *Erosion and Sediment Control Plan* (ESCP) shall be prepared by a suitably qualified consultant in accordance with the guidelines set out in the manual "*Managing Urban Stormwater, Soils and Construction Fourth Edition 2004 Volume 1*" prepared by LANDCOM. The plan is to be submitted to the principal certifying authority to **prior to the issue of the Construction Certificate**

Engineering condition to be complied with prior to commencement of construction

130. **(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 approved plan satisfying Condition 128 '*(C1) Erosion and sediment control*'. The devices shall be maintained during the construction period and replaced when necessary.

Engineering Condition to be complied with prior to Occupation Certificate

131. **(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.**

132. **(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.**

133. **(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.**

134. **(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.

135. The adaptable units shall be clearly indicated on the strata subdivision plans and accompanying documentation and submitted to the Private Certifying Authority at the relevant occupation certificate stage.

136.

a) In order to ensure the design quality of the development is retained:

- i. The design architect is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
- ii. The design architect shall have full access to the site and shall be authorised by the applicant to respond directly to the consent authority or Council where information or clarification is required in the resolution of design issues throughout the life of the project;
- iii. Evidence of the design architect's commission shall be provided to Council prior to the release of the Construction Certificate.

b) The design architect of the project shall not be changed without notice to the Council.

Michael Mason

Executive Manager
Environmental Services Division

ATTACHMENTS:

There are no supporting documents for this report.