

Joint Regional Planning Panel Meeting 15 December 2015
472-494 PACIFIC HIGHWAY, ST LEONARDS

Subject: 472-494 Pacific Highway, St Leonards
Record No: DA14/222-01 - 70903/15
Division: Environmental Services Division
Author(s): Rebecka Groth

Property:	472-494 Pacific Highway, St Leonards
DA No:	DA2014/2222
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)

Description of the proposal to appear on determination	Demolition, excavation and construction of mixed use development including 539 residential units in two towers over a common retail and commercial podium, publicly accessible ground floor plaza and basement car parking for 672 cars. Site consolidation and stratum subdivision
Zone	B4 - Mixed Use
Is the proposal permissible within the zone	Yes
Is the property a heritage item	No
Is the property within a conservation area	No
Is the property adjacent to bushland	No
BCA Classification	10b, 7a, 6, 5, 2
Stop the Clock used	No
Notification	Notification of the application was undertaken in accordance with Council's notification policy. The City of Willoughby and North Sydney Council's were also notified. Additional notification was undertaken within the adjoining North Sydney LGA in accordance with the information submitted by North Sydney Council. The application was re-notified several times since its lodgement in December 2014.

REASON FOR REFERRAL:

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

EXECUTIVE SUMMARY:

- The subject site is irregular in shape with an area of approximately 5,133m². The site is located on the southern side of the Pacific Highway and falls approximately 9.8m from the Pacific Highway frontage down to the Nicholson Street frontage.
- The proposed mixed use development complies with the requirements of Council's Local Environmental Plan 2009 with regard to maximum permissible floor space ratio.
- The proposal comprises two buildings, a variation to the maximum building height is proposed to Tower 1 and Tower 2. Given the nature of the variation being roof design features and plant, this variation is considered acceptable in this circumstance.
- A Voluntary Planning Agreement (VPA) has been proposed by the applicant, exhibited and adopted by Council. The VPA accompanies the development application.
- The proposal generally meets the site specific requirements of Council's Development Control Plan, the following variations are sought:
 - o Maximum residential floor plate
 - o Floor to floor heights for the non-residential ground floor level
 - o Ground and upper residential level setbacks
 - o Balcony areas
 - o Plaza width
- Council's Consulting architect confirms the proposed development generally meets the 10 design quality planning principles of State Environmental Planning Policy 65.
- A total of 93 submissions have been received since the DA was lodged in 2014. The primary issues raised in the submissions include the following:
 - Suitability of the development for the site
 - Bulk and scale of the proposal
 - View loss
 - Overshadowing
 - Opposition to and support for the Voluntary Planning Agreement
 - Traffic congestion
 - Amenity
 - Noise
- On 11 June 2015, the JRPP was briefed on the proposal. The JRPP have been advised of the change in ownership, Council's concerns with the development application throughout the assessment phase and the amendments to the proposal.

- The proposed development is recommended for approval subject to draft conditions.

Background into Planning Proposal

The current DA responds to a site specific LEP amendment to Lane Cove Local Environmental Plan 2009, an accompanying site specific DCP amendment and a Voluntary Planning Agreement (VPA).

The approved Planning Proposal amends the zoning of the site under the Lane Cove Local Environmental Plan 2009 from B3 Commercial Core to B4 Mixed Use. It also amends the Lane Cove Development Control Plan 2009 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 also introduced a site specific minimum non-residential floor space ratio control.

The rezoning process was the subject of a thorough and detailed assessment by Council and the State Government as summarised as follows:

- At its meeting on 15 December 2013 Council resolved to submit the planning proposal to the NSW Department of Planning and Environment for Gateway determination.
- NSW Department of Planning and Environment issued Gateway approval for the planning proposal.
- At its meeting on 14 June 2014 Council resolved to approve the public exhibition of the planning proposal, site specific DCP and VPA.
- At its meeting on 14 October 2014 Council resolved to endorse the planning proposal and refer this to the NSW Department of Planning and Environment for gazettal. Council endorsed the DCP and VPA.
- The Planning Proposal relating to the site was endorsed by the Minister for Planning and Environment and gazetted on 15 May 2015. A mapping error was identified and subsequently corrected in a further amendment dated 17 September 2015.

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, Mr Harrison.

SITE:

The site is situated in the heart of St Leonards within convenient walking distance of St Leonards railway station. The area is in transition from a commercial precinct into a modern mixed use precinct. The immediate surrounds include a range of built forms which are predominately medium and high rise commercial development and multi-storey residential buildings.

The site is bound by the Pacific Highway to the east, Nicholson Street to the west, Friedlander Place to the north and commercial development to the south. Friedlander Place at the site's north western boundary and at the time of writing, was owned by Council and is a steeply sloping public thoroughfare linking Nicholson Street to the Pacific Highway. The North Sydney LGA is situated further east of the site on the opposite side of the Pacific Highway.

The site is located on the southern side of the Pacific Highway and is irregular in shape with an area of approximately 5,133m² and falls approximately 9.8m from the Pacific Highway frontage down to the Nicholson Street frontage. Friedlander Place adjoins the site's western boundary.

The site comprises two lots commonly known as 472 Pacific Highway and 486 Pacific Highway and two (2) commercial office buildings.

Mature trees line the northern side of Nicholson Street which are situated outside of the site boundaries. One tree is proposed to be removed to enable vehicular access into the proposed basement. The applicant seeks to remove the remaining trees to facilitate the demolition and construction phases.

PROPOSAL:

Proposed Development:

- Demolition
- Construction of a podium building comprising specialty retail and restaurant/cafe tenancies.
- Construction of two (2) buildings, Tower 1: 28 storeys and Tower 2: 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,
- 539 residential dwellings
- 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)

Dwellings:

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.

PREVIOUS APPROVALS/HISTORY:

A review of Council's records indicate previous approvals for the construction and refurbishments of the existing office buildings.

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

Lane Cove Local Environmental Plan 2009

	Standard	Proposed	Complies/ Comment
Clause 2.2- Zoning	B4 – Mixed Use zone	Mixed use development comprising two (2) buildings, residential units & retail/commercial spaces	Complies
Clause 4.3 - Height of Buildings (maximum)	Tower 1 = RL 180.46m	Tower 1 has an overall building height of RL 186.46 measured to the uppermost point of the roof feature	Clause 4.6 variation submitted and is discussed in a later section of this report. The variation is supported Clause 4.6 variation submitted and is discussed in a later section of this report. The variation is supported
	Tower 2 = RL 204.46m (refer to figure 1 below)	Tower 2 has an overall building height of RL 210.46 measured to the uppermost point of the roof feature	

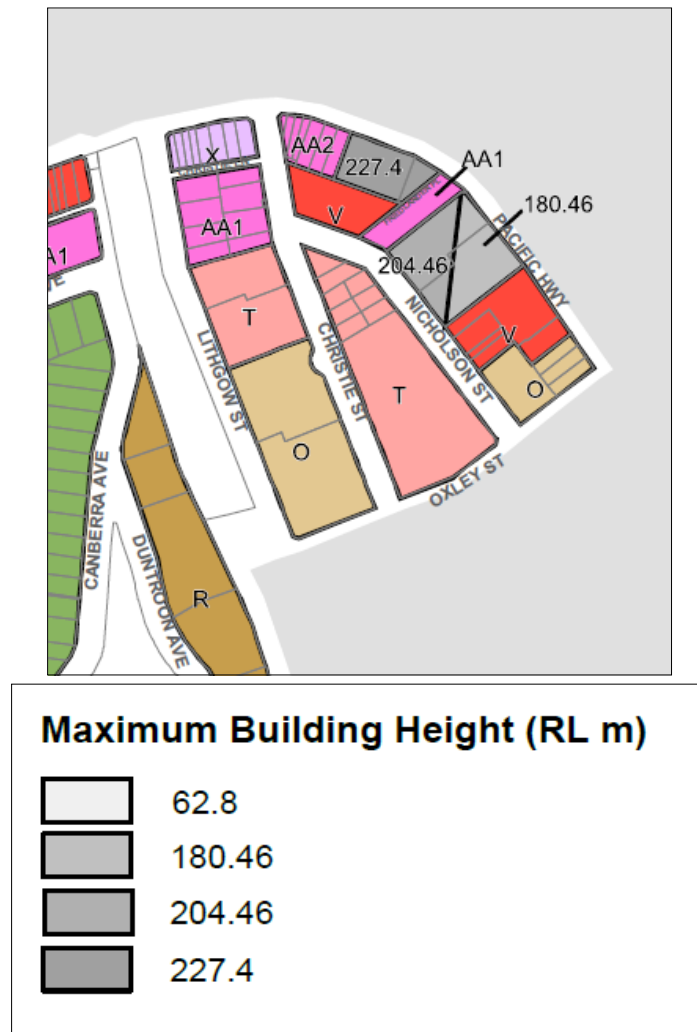


Figure 1 – Building Height Extract

Source: Lane Cove Local Environmental Plan 2009 – Building Height Map

Floor Space Ratio

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

	Standard	Proposed	Complies
Clause 4.4 - Floor Space Ratio	12:1 (Permitted GFA = 61,596m ²)	11.6:1 (GFA = 59,648m ²)	Yes

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	Complies/ Comment
Part B – General Controls			
B2 Public Domain	b) Provide seating in public spaces that is not allocated to a specific use (e.g. a café) for people to 'hang out', take refuge and rest.	The plaza incorporates formal and informal areas	Complies
	e) Keep public areas free from clutter and unclear level changes, having particular regard for accessibility.	Accessibility was a key consideration in the design of the plaza	Complies
	f) Maintain a high quality of lighting for security and amenity.	Lighting will be provided	Complies
	g) Provide formal and informal spaces for public entertainment including multi-functional street furniture, e.g. a flat bench may become an informal plinth for performance artists.	Street furniture is proposed	Complies
	i) Provide public notice boards and kiosks in locations where people will be gathering.	Potential for these to be accommodated within the public plaza and Friedlander Place	Complies
	j) Integrate artworks into the design of public spaces. Consider artworks that serve a dual role, e.g. as play equipment for children,	Public art is proposed in the plaza	Complies

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Clause	DCP	Proposed	Complies/ Comment
	informal seating or a marker for a meeting place.		
	l) Except where negotiated with the Council, provide all footpath paving along property frontages in accordance with Council's specifications including requirements for disabled. The extent, nature and type of paving materials includes tactile surfaces in appropriate locations to assist the visually impaired	Footpath paving within the Plaza and surrounds will comply	Complies
	m) Include water features in public spaces, building entrances, foyers, facades and rooftops	A water feature is proposed within the plaza	Complies
	n) Provide roof top gardens where practicable and permissible in commercial buildings and residential flat buildings.	Cannot be catered for in this development as plant rooms are proposed on the roof level	NA
	o) Plant trees where appropriate for shade, shelter and fauna and use native species and planting methods which minimise potable water consumption	The plaza landscape design incorporates tree plantings	Complies
	p) Where possible, make provision for bicycle parking spaces.	Bicycle parking is provided	Complies
2.2 Public Domain Projects in St Leonards	d) Redefinition of Friedlander Place i. Incorporate Friedlander Place	The application does not apply to Friedlander Place however the design scheme is integrated with its	Complies

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Clause	DCP	Proposed	Complies/ Comment
	within a major development. Such development is to maintain a 24 hour, 7 day a week public access from Pacific Highway to Nicholson Street. This public link shall comply with AS 1428 for disability access and mobility. ii. The design of this area is to improve the pedestrian amenity and way finding through this link including the existing car park accesses.	proposed master plan design and will support its ongoing use as a public open space connecting the Highway with Nicholson Street	
B3 – Site Amalgamation and Development of Isolated Sites	a) Development for the purpose of residential flat buildings and high density housing should not result in the isolation of sites such that they cannot be developed in compliance with the relevant planning controls, including Lane Cove LEP 2009 and this DCP.	The subject development will not render nearby sites incapable of future development	Complies
B4 – View sharing	Views are to be shared Views from commercial development will 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.	View sharing is discussed in detail in the impacts section of this report. Views from properties to the north of the site on the opposite side of the Pacific Highway enjoy views of the Sydney Harbour Bridge, Sydney Tower, CBD and Harbour. This issue was considered in the planning proposal and informed the current footprint of the proposal allowing a corridor in between Tower 1 and	Considered acceptable

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Clause	DCP	Proposed	Complies/ Comment
		Tower 2	
B6 – Environmental Management			
6.1 Sunlight to public spaces	a) New development must allow for a minimum of 2 hours of solar access to at least 50% of new and existing public open areas or plazas between the hours of 11am and 2pm on 21st June. b) The location of the sunlight during these hours for urban plazas is to be adjacent to building frontages to allow for outdoor seating during the lunchtime period.	Achieved Addressed in Part C assessment table and comments provided from Council's consultant architect discussed in the SEPP No. 65 section of this report	Complies
6.2 Wind Standards for St Leonards	The following maximum wind criteria are to be met by new buildings in St Leonards Centre: a) 13 metres/second along major streets and public places and 16 metres/second in all other streets. b) Design buildings to minimise the adverse wind effects on recreation facilities on podium terraces within developments. c) A Wind Effects Report is to be submitted for all buildings within the St Leonards precinct taller than 40m above street level.	A Wind Tunnel Tests report prepared by CPP was submitted with the DA. Council's Environmental Wind expert reviewed the report and raised concern with the modelling and subsequent results. The wind experts undertook further testing and further developed appropriate mitigation measures. The proposal is considered to result in appropriate wind impacts for its intended use. This matter is discussed in detail in the impacts section of this report.	Complies

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Clause	DCP	Proposed	Complies/ Comment
B7 – Development near busy Roads and Rail Corridors	LAeq levels: (i) In any bed room 35dB(A) 10.00pm to 7.00am. (ii) anywhere else 40dB(A)	The submitted Acoustic Report prepared by Acoustic Logic assessed the external noise intrusion into the proposal and concludes that noise impacts within apartments can be made to comply the relevant criteria with the use of suitable glazing and seals where required. The recommendations made within the report shall be included as a condition of consent (refer to draft condition 10).	Yes
B8 – Safety & security	A safe and secure environment encourages activity, vitality and viability, enabling a greater level of security	The proposal has been considered with regard to the safer by design principles and is generally consistent with the principles	Complies
Part D – Commercial Development & Mixed Use Localities			
Locality 5 - 472-504 Pacific Highway, St Leonards			
1. FSR	1.5:1 min. (non-residential) 10.5:1 max (residential) 12:1 max (total)	1.6:1 GFA = 8,263m ² 10.02:1 GFA = 51,385m ² 11.62:1 GFA = 59,648m ²	Yes Yes Yes
2. Building Height	91m max. – building at front (Pacific Hwy) – Tower 1	The control replicates the provisions within the LEP which express the maximum height of	Refer to LEP assessment. Clause 4.6 variation submitted in this

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Clause	DCP	Proposed	Complies/ Comment
	115 m max. – building at rear (Nicholson St) – Tower 2 Above ground level Pacific Hwy	buildings as RLs.	regard.
3. Floor to Floor Height Non-Residential - Ground Level	4.8 m min.	Tower 1 and Tower 2 = 4.7m	Minor variation considered acceptable
Non-Residential - Each Level, Other Than Retail	3.6 m min. Above ground level Pacific Hwy	Tower 1 and Tower 2 = 3.4m	Minor variation considered acceptable
4. Building Floorplate of Each Residential Tower	850 m ² max. Excluding balconies	Tower 1 Level 5 = 897m² Levels 6 to 3 = 922m² Level 14 = 698m² Levels 15 to 27 = 849m² Level 28 = 770m² Tower 2 Levels 3 to 14 = 911m² to 922m² Levels 15 to 27 = 850m² Level 28 to 34 = 850m² Levels 35 and 36 = 785m²	Variation proposed for Levels 3 to 14. Variation proposed to Levels 3 to 14. The proposed forms of the towers are consistent with the building envelope dimensions that informed the planning proposal which present an interesting and varied profile. The profile of the buildings narrow as the towers rise.

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Clause	DCP	Proposed	Complies/ Comment
5. Levels – Non-Residential	4 levels min - front building (Tower 1) To be entire levels of the building fronting Pacific Highway	4 entire levels in Tower 1	Complies
6. Setbacks – Ground Level	4.0 m min. from Pacific Hwy 2m min. elsewhere in site Colonnade form	Tower 1 is setback 2m from Pacific Highway Tower 2 is setback 1.8m from Friedlander Place Tower 1 and 2 = 0 setback proposed to south-eastern boundary Columns have been spaced at a span of 8.4m along the frontages of the ground levels	Variation proposed Minor variation considered acceptable Variation proposed Complies
7. Setbacks – Non-Residential Podium	0 m from all boundaries bar Friedlander Place 0 m from all boundaries bar Friedlander Place Min 20m from Friedlander Place – front building (Tower 1) All commercial, except where retail colonnade provided	Tower 1 = 0m setbacks Tower 2 = 1.8m setback to Friedlander Place boundary and Nicholson Street boundary Tower 1 non-residential podium setback 11-27m Achieved	Complies Variation proposed and supported 11m setback situated towards the north-eastern corner of Tower 1 Complies
8. Setbacks – Residential Tower	4.0 m min. from Pacific Hwy - front building (Tower 1) 0 m min. from Nicholson St – rear	Tower 1 = 4m to 5.5m Tower 2 = 0 to 2m	Complies Complies

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Clause	DCP	Proposed	Complies/ Comment
	building (Tower 2) 7.0 m min. from side boundary with No.470 Pacific Highway 0 m from side boundary with Friedlander Place	Tower 1 = 5.5m to 8m Tower 2 = Min 21m Tower 2 = 0 to 2m	Variation to Tower 1 supported Tower 2 complies Complies
9. Balcony Area	10m ² min.	6.8m ² to 15.6m ²	All balconies can accommodate a table and chair setting. Further residents would have access to the communal outdoor space on Level 14. Balcony sizes are also addressed in SEPP 65 are deemed to be acceptable by Council's consultant architect
10. Balcony Articulation Zone	2m min. Behind all building setbacks	2m achieved Balconies are staggered along the setbacks and are sometimes in line with the building setback	Complies The placement of the balconies creates interest in the facade and does not result in privacy issues between the balconies and habitable rooms Variation considered acceptable.
11. Building Separation	22m min. between balconies	22m achieved	Complies
12.			

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Clause	DCP	Proposed	Complies/ Comment
Retail Plaza Width	22 m min.	20.15m	Variation supported
13. Vehicle Access	From Nicholson St/ Friedlander Place Via rights of way as necessary	Vehicular access is proposed via Nicholson Street	Complies
14. New Public Open Space To ensure that the new public open space is provided at that location and contributes a desirable quality of public amenity.	The proposed new public open space at the northern end of the site is to have a min area of 325m ²	Min 325m ² public open space at northern end of site is achieved	Complies
15. Pedestrian Link	2m min. within the property	2m wide path through the site connecting Friedlander Place and the Pacific Highway is provided. The pathway is situated adjacent to the facade fronting Friedlander Place	Complies
Part D – Commercial Development and Mixed Use D.1 – General provisions			
Building Form	New developments are to have street frontages built predominantly to the street alignment Street setback of maximum of 2m is permitted for suitable uses such as outdoor	Appropriate setbacks have been provided that relate to the site	Complies

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Clause	DCP	Proposed	Complies/ Comment
	seating cafe		
Street frontage activities	All street frontage windows at ground floor level are to have clear glazing. Provide multiple entrances for large developments including an entrance on each street frontage	Achieved Achieved	Complies Complies
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).	Variation considered acceptable given the triangular form of each building resulting from the required footprints.
Building design & exteriors	b) Materials, colours, finishes, proportion and scale of new development should add interest to façades and the streetscape c) Avoid large unbroken expanses of blank wall on any facade adjacent to the public domain e) The design of roof plant rooms and lift overruns is to be integrated into the overall architecture of the building.	Achieved Achieved the proposal is well articulated through the implementation of staggered balconies, varied setbacks and use of a variety of materials The plant rooms are screened by the architectural roof feature. Removal of the roof feature would result in the plant rooms and the like being visible from surrounding	Complies Complies The roof plant have not been integrated into the roof design and as such is addressed in the draft conditions (refer to draft condition 15).

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Clause	DCP	Proposed	Complies/ Comment
	f) Balconies and terraces should be provided, particularly where buildings overlook public open spaces. They should be avoided where they overlook the private open spaces and severely impact the privacy of the adjoining residential properties	buildings which is undesirable Balconies are proposed which overlook the proposed public plaza between Tower 1 and Tower 2	Complies
Excavation	a) All development is to relate to the existing topography of the land at the time of the adoption of this DCP d) Uses at ground level are to respond to the slope of the street by stepping frontages and entries to follow the slope.	Achieved Achieved	Complies Complies
Design & location of on-site parking	b) All developments must incorporate the required car parking on-site.	Achieved	Complies
Design & location of on-site parking	c) All on-site parking, loading facilities and vehicle access points must be: I. accessed from a rear lane wherever available II. fully concealed from view from any public street or arcade III. accessible from only one opening in the rear lane facade for both on-site parking and loading.	Vehicular access is proposed from Nicholson Street. To ensure the seven (7) levelled basement functions efficiently, three (3) separate entrances are required. Council's Traffic and Transport Team raise no objection to this matter	Complies
Design & location of on-site parking	Access openings are to be fitted with a garage	Garage or roller doors are not considered	Not considered appropriate in this

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Clause	DCP	Proposed	Complies/ Comment
	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.	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	location. A boom gate system situated within the basement which caters for on-site queuing is considered appropriate (refer to draft condition 16).
Design & location of on-site parking	IV. Located away from main pedestrian entries and on secondary frontages.	Achieved	Complies
Design & location of on-site parking	V. Located having regard to any approved cycling routes.	There are no cycle routes within Nicholson Street	Complies
Design & location of on-site parking	g) Avoid black holes in the facade for major development by providing security doors to car park entries h) Return the facade material into the car park entry recess up to the extent visible from the street.	Security door issue discussed above. Not deemed suitable in this location due to risk of queuing within local roads	A boom gate system situated within the basement which caters for on-site queuing is considered appropriate (refer to draft condition 16)
Design & location of on-site parking	i) Parking and service/delivery areas are to be located underground within building footprint or screened from adjacent residential uses or the public domain by sleeving with active uses.	Vehicle parking is proposed within the basement levels of the development accessible via Nicholson Street. The loading dock for service deliveries is situated on Basement Level B3 accessible via Nicholson Street.	Complies

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Clause	DCP	Proposed	Complies/ Comment
Design & location of on-site parking	j) Parking and service/delivery areas are to be located to minimise conflict between pedestrians/ cyclists and vehicles and to minimise impact on residential amenity.	It is proposed that a portion of the facade fronting Nicholson Street is the subject of a mural to create visual interest and reduce opportunities for graffiti at the pedestrian level, and is discussed within the SEPP 65 assessment Parking and service/delivery areas are located within the basement. Three entry points are needed to ensure the efficient functioning of the proposal	Complies
Design & location of on-site parking	p) Provide safe and secure access for building users, including direct access to residential apartments, where possible.	Direct and secure access to the residential towers is available through the lobby areas and within the basement	Complies
Design & location of on-site parking	q) Basement car parking is to be: I. adequately ventilated II. predominantly located within the building footprint III. located fully below natural ground level. Where slope conditions mean that this is unachievable, the maximum basement projection above natural ground level is to be 1.2m but not to the street front.	The basement levels for car parking are partly underground and partly above ground. Four (4) levels will be visible from Nicholson Street.	Variation As discussed in the SEPP 65 review section of this report, part of the Nicholson Street facade would be required to be treated with a mural at the pedestrian level to create an improved relationship to the street and reduce opportunities for vandalism.
Number of car parking spaces	Refer to SEPP 65 assessment and referrals section of this report	Refer to SEPP 65 assessment and referrals section of this report. As discussed in	Complies

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Clause	DCP	Proposed	Complies/ Comment																		
		these sections the proposed number of parking spaces is consistent with SEPP 65. <table><tr><th>Use</th><th>Quantity</th></tr><tr><td>Residential</td><td>473</td></tr><tr><td>Visitors</td><td>33</td></tr><tr><td>Car share</td><td>14</td></tr><tr><td>Supermarket</td><td>84</td></tr><tr><td>Retail</td><td>11</td></tr><tr><td>Commercial office</td><td>44</td></tr><tr><td>Commercial office (previously child care)</td><td>13</td></tr><tr><td>TOTAL</td><td>672 car spaces</td></tr></table>	Use	Quantity	Residential	473	Visitors	33	Car share	14	Supermarket	84	Retail	11	Commercial office	44	Commercial office (previously child care)	13	TOTAL	672 car spaces	
Use	Quantity																				
Residential	473																				
Visitors	33																				
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Supermarket	84																				
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Commercial office	44																				
Commercial office (previously child care)	13																				
TOTAL	672 car spaces																				
Traffic & accessibility report	A Transport and Accessibility Report may be required by the Traffic Manager	Submitted and endorsed by the Traffic and Transport Team	Complies																		
Reflectivity	Visible light reflectivity from building materials used on the facades of new buildings should not exceed 20%	Complies	Complies																		
External lighting to buildings	a) Any external lighting of buildings is to be considered with regard to: I. the integration of external light fixtures with the architecture of the building (for example, highlighting external features of the building) II. the contribution of the visual effects of external lighting to the character of the building, surrounds and skyline III. the energy efficiency of the external lighting	Details regarding external lighting are not available at this stage. To ensure lighting does not cause a nuisance to surrounding properties. A draft condition of consent is recommended requiring the Private Certifying Authority to review the external lighting details (refer to draft condition 8).	Achieved via draft condition 8.																		

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Clause	DCP	Proposed	Complies/ Comment
	system IV. the amenity of residents in the locality. b) Floodlights for buildings are prohibited		
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. There is no opportunity for deep soil plantings.	Given the high density intention for the site, it is considered appropriate that deep soil plantings are not proposed however it is noted significant on-structure landscaping is proposed in conjunction with the public plaza. Variation supported in this circumstance
Planting on structures - controls apply for planting on roof tops or over car park structures.	a) Areas with planting on structures should be irrigated with recycled water and appropriate drainage provided. b) Provide sufficient soil depth and area to allow for plant establishment and growth.	Council's Landscape Architect reviewed the landscape masterplan for the proposal and advised adequate detail to provide a considered landscape concept and design intent for the proposal. Further details would be needed at the construction stage in accordance with the DCP to ensure compliance (refer to draft open space conditions 79-95).	Achieved via draft conditions of consent (refer to draft open space conditions 82 - 96).
Solar access	a) Mixed use developments are not to reduce sunlight to dwellings in the adjacent or same zone below a minimum of 3 hours of sunlight on a portion of the windows of the habitable rooms between 9am and 3pm on 21 June (mid	The submitted shadow study demonstrates that sufficient solar access would be retained to nearby properties. The buildings are in accordance with the forms resolved at the planning proposal stage.	Complies

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Clause	DCP	Proposed	Complies/ Comment
	winter). 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 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 World site being redeveloped, a minimum of 2 hours solar access would be provided to 52.7% of dwellings between 8am and 3pm at midwinter.	Variation supported. The level of solar access is considered acceptable given the site is situated within a dense urban area. This matter is discussed in further detail in the SEPP 65 section of this report
	d) The number of single-aspect dwellings with a southerly aspect (SW-SE) should be limited to a maximum of 10% of the total dwellings within a high density residential development (54 dwellings).	8.3% (43 dwellings)	Complies
Access & mobility	a) Any new development must comply with Australian Standards AS 1428 Design for Access and Mobility, AS 4299 Adaptable Housing, AS 2890 Parking Facilities and AS 1735 Lifts, Escalators and Moving Walks and with the Part	Council's Access Consultant advises the development can comply with the relevant Australian Standards and Part F of the DCP. Compliance with the recommendations of the Morris-Goding Access Report report would be required (refer to draft	Complies

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Clause	DCP	Proposed	Complies/ Comment
	F of this DCP – Access and Mobility	condition 9) The report is provided in ATT 1	
Signage	a) All signage shall comply with the Part N of this DCP – Signage and Advertising	Signage is not proposed in conjunction with this DA.	NA
Part D.5 – Development in B4 Mixed Use Zone			
5.4 Noise	Noise generated by residents, visitors, retail or commercial part and mechanical plant and equipment should not exceed the following repeatable maximum L Aeq (1 hour) level, on weekdays: Day 7am-6pm: 55dB(A) Evening 6pm- 10pm: 45dB(A) Night 10pm-7am: 40dB(A) and on weekends: Day 8am-7pm: 50dB(A) Evening 7pm-10pm: 45dB(A) Night 10pm-8am: 40dB(A) or in any case not more than 5 dB(A) above the background level during the day and evening and not exceeding the background level at night when measured at the boundary of the property. b) Incorporate noise reduction measures on plant and machinery. c) Use design features or planning that will reduce noise.	Mechanical plant equipment is not known at this stage. It is noted that plant equipment would be situated on the rooftop of each building.	The acoustic assessment submitted with the DA advises compliance can be achieved (refer to draft condition 10)

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Clause	DCP	Proposed	Complies/ Comment
	d) Incorporate adequate measures for tonal, low frequency, impulsive, or intermittent noise		
5.6 Access, entries and servicing	a) Separate commercial service requirements, such as loading docks, from residential access, servicing needs and primary outlook	The proposal includes separate vehicle entry points for commercial and residential access points and the service/loading dock area	Complies
	c) Clearly separate and distinguish commercial and residential entries and vertical circulation.	The commercial and residential entries are clearly separated and can be accessed directly from the ground level/street	Complies
5.7 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 component within mixed use developments.	Generally complies Addressed in Part C assessment table and comments provided from Council's consultant architect discussed in the SEPP No. 65 section of this report	Generally complies
	d) Minimise the amount of glazed area on the eastern and western elevations and incorporate shading devices	Addressed in comments provided from Council's consultant architect discussed in the SEPP No. 65 section of this report	Generally complies
Part C3 – Residential Flat Buildings			
3.10 Size & mix of	At least 10% of 1, 2 & 3	Total development	Complies

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Clause	DCP	Proposed	Complies/ Comment
dwelling	bedroom dwellings to be provided	proposal 539 units: 41 x studio = 7% 108 x 1 bedroom = 20% 324 x 2 bedroom = 60% 66 x 3 bedroom = 12%	
3.14 Storage	b) In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: I. studio dwellings 6m³ II. one-bedroom dwellings 6m³ III. two-bedroom dwellings 8m³ IV. three plus bedroom dwellings 10m³ A minimum of 50% of this storage volume is to be provided within the dwelling accessible from the hall or living area as hall cupboards.	Achieved	Complies
3.16 Natural Ventilation	Sixty percent (60%) (323 units) of dwellings should be naturally cross ventilated. Ventilation provided to one end of a dwelling via windows onto an open access corridor does not satisfy this requirement due to privacy and acoustics' impacts. Twenty five percent (25%) (135 units) of kitchens within a development should have access to natural ventilation.	Achieved approximately 89% of units are at a height of 10 storeys or above, as per the ADG they are deemed to be cross ventilated	Complies

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Clause	DCP	Proposed	Complies/ Comment
Part F - Access and Mobility			
3.3 Public spaces and link to private properties	Development on public and private properties must provide and maintain accessible links and paths of travel between Class 2 to Class 10 buildings and to adjacent public spaces or pedestrian networks Provide 1 accessible parking space (dimensions in accordance with relevant Australian Standards) for each adaptable housing unit within the total calculation of spaces required for that dwelling = 107 spaces	Compliance with the BCA forms a draft condition of consent (refer to draft condition 19). 107 accessible spaces provided for residents	Complies Complies
3.6 Adaptable and Visitable housing	Adaptable housing to be provided at the rate of 1 dwelling per 5 dwellings = 107 dwellings Adaptable housing to be equitably distributed throughout all types and sizes of dwellings	Provided Adaptable housing provided in 1, 2, 3 bedroom dwelling layouts	Complies Complies
	80% of the dwellings are to be visitable = 431 dwellings	Council's Access Consultant advises the development is capable of complying. Compliance with the recommendations within the Access Report prepared by Morris-Goding are enforced via a draft condition (refer to draft condition 9)	Complies
3.7 Mobility impaired	Mobility impaired	Achieved	Complies

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Clause	DCP	Proposed	Complies/ Comment
access to and within buildings	access is required to common areas and all dwellings.		

The consideration of *Part O Stormwater* and *Part Q Waste Management and Minimisation* of the DCP are considered within the referral sections of this report and are deemed to comply with the DCP.

Variations to Council's Development Control Plan/Policies

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

Clause	DCP	Proposed	Comment
Part D – Commercial Development & Mixed Use Localities			
Locality 5 - 472-504 Pacific Highway, St Leonards			
16. 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.	Refer to LEP assessment. Clause 4.6 variation submitted in this regard.
17. Floor to Floor Height Non-Residential - Ground Level	4.8 m min.	Tower 1 and Tower 2 = 4.7m	Minor variation considered acceptable
Non-Residential - Each Level, Other Than Retail	3.6 m min. Above ground level Pacific Hwy	Tower 1 and Tower 2 = 3.4m	Minor variation considered acceptable
18. Building Floorplate of Each Residential Tower	850 m ² max. Excluding balconies	Tower 1 Level 5 = 897m ²	Variation proposed for Levels 3 to 14.

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Clause	DCP	Proposed	Comment
		Levels 6 to 3 = 922m² Level 14 = 698m² Levels 15 to 27 = 849m² Level 28 = 770m² Tower 2 Levels 3 to 14 = 911m² to 922m² Levels 15 to 27 = 850m² Level 28 to 34 = 850m² Levels 35 and 36 = 785m²	Variation proposed to Levels 3 to 14. The proposed forms of the towers are consistent with the building envelope dimensions that informed the planning proposal which present an interesting and varied profile. The profile of the buildings narrow as the towers rise.
19. Setbacks – Ground Level	4.0 m min. from Pacific Hwy 2m min. elsewhere in site	Tower 1 is setback 2m from Pacific Highway Tower 2 is setback 1.8m from Friedlander Place Tower 1 and 2 = 0 setback proposed to south-eastern boundary	Variation proposed Minor variation considered acceptable Variation proposed
20. Setbacks – Non-Residential Podium	0 m from all boundaries bar Friedlander Place	Tower 2 = 1.8m setback to Friedlander Place boundary and Nicholson Street boundary	Variation proposed

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Clause	DCP	Proposed	Comment
21. Setbacks – Residential Tower	7.0 m min. from side boundary with No.470 Pacific Highway	Tower 1 = 5.5m to 8m Tower 2 = Min 21m	Variation to Tower 1 supported Tower 2 complies
22. Balcony Area	10m ² min.	6.8m ² to 15.6m ²	All balconies can accommodate a table and chair setting. Further residents would have access to the communal outdoor space on Level 14. Balcony sizes are also addressed in SEPP 65 and have not been raised as an issue by Council's consultant architect
	Behind all building setbacks	Balconies are staggered along the setbacks and are sometimes in line with the building setback	The placement of the balconies creates interest in the facade and does not result in privacy issues between the balconies and habitable rooms Variation considered acceptable.
23. Retail Plaza Width	22 m min.	20.15m	Variation supported
Part D – Commercial Development and Mixed Use D.1 – General provisions			
Building depth & bulk For Mixed Use	I. The maximum horizontal dimension of	The maximum building depth is	Variation considered acceptable given the

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Clause	DCP	Proposed	Comment
Developments:	the residential component parallel to the street frontage is to be 40m.	approximately 55m, generating a long north-south elevation. Whilst this is a significant exceedance of the RFDC rule of thumb (SEPP 65) and the DCP, Council's Consultant Architect advise it is considered acceptable due to the triangular form of each tower (building depth ranging from 5 to 55 metres in depth).	triangular form of each building resulting from the required footprints.
Design & location of on-site parking	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.	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	Not considered appropriate in this location. A boom gate system situated within the basement which caters for on-site queuing is considered appropriate
Design & location of on-site parking	q) Basement car parking is to be: I. adequately ventilated II. predominantly located within the building footprint III. located fully below natural ground level. Where slope conditions mean that this is unachievable, the maximum basement projection above	The basement levels for car parking are partly underground and partly above ground. Four (4) levels will be visible from Nicholson Street.	Variation As discussed in the SEPP 65 review section of this report, part of the Nicholson Street facade would be required to be treated with a mural at the pedestrian level to create an improved relationship to the street and reduce

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Clause	DCP	Proposed	Comment
	natural ground level is to be 1.2m but not to the street front.		opportunities for vandalism.
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. There is no opportunity for deep soil plantings.	Given the high density intention for the site, it is considered appropriate that deep soil plantings are not proposed for this site. It is noted significant on-structure landscaping is proposed in conjunction with the public plaza. Variation supported in this circumstance
Solar access	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 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 World site being redeveloped, a minimum of 2 hours solar access would be provided to 52.7% of dwellings between 8am and 3pm at midwinter.	Variation supported. The level of solar access is considered acceptable given the site is situated within a dense urban area. This matter is discussed in further detail in the SEPP 65 section of this report

REFERRALS:

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

Council engaged a Consultant Architect to review and consider the proposal in light of SEPP 65. The Consultant Architect found that the proposal generally complies with SEPP 65.

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.

Notwithstanding the above, it is recommended:

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.*
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)*
3. *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 residential apartments that choose to install internal blinds. This will ensure a consistent façade design and appearance (RFDC, Building Form – Façades).*
 - *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

- *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).*
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).*
 5. *If practicable, the number of vehicular entry points should be reduced from three to two driveways (RFDC, Site Access – Vehicular Access).*

In relation to the principles of SEPP 65, and the Residential Flat Design Code, the proposed development is supportable, subject to consideration of the recommendations above.

The applicant provided a response to the matters raised above. Council's response to each item is also summarised below.

Item	Architectus Comment	Applicant's Response	Council's Response
1	<i>Where the bicycle parking has an interface with Nicholson Street, the</i>	We have investigated the opportunity to provide an active and transparent	It is considered appropriate that a condition be imposed in relation to the glazing as

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Item	Architectus Comment	Applicant's Response	Council's Response
	<i>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.</i>	façade in direct connection to the bicycle parking. Whilst the actual bike parking spaces are underground along Nicholson, 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.	detailed in item 1 on Nicholson Street (refer to draft condition 5).
2	<i>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)</i>	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 whole project.	Due to the structural requirements of the development, removing the columns is not feasible. No amendment is considered necessary.
3A	<i>Internal amenity and façade appearance:</i> <i>A condition of consent should be imposed to ensure that a consistent colour and blind type be</i>	Agreed.	Agreed (refer to draft condition 6).

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Item	Architectus Comment	Applicant's Response	Council's Response
	<i>required for all residential apartments that choose to install internal blinds. This will ensure a consistent façade design and appearance (RFDC, Building Form – Façades).</i>		
3B	<i>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):</i> Tower 1: Unit type 09A, 10A Tower 2: Unit type 09B, 10B	Alternative designs for the apartments in question have been extensively explored. The 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 that is tried and 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 layout for its context on the floor plate.	Alternative designs have been discussed between the architects. It is preferable that a high level of internal amenity is provided to each unit.
3C	<i>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</i>	Whilst this item may be preferable it has not been provided as the benefit, if any, is extremely marginal to building users. External views from	It is preferable that light is provided in the corridors. It is noted however that the extended corridors would result in BCA non-compliances. Further

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Item	Architectus Comment	Applicant's Response	Council's Response
	<i>to enhance internal circulation area amenity (RFDC, Building Configuration – Internal Circulation).</i>	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 will 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 will create internal planning compromises to the apartments themselves, as spaces will be unnecessarily tightened to create unusable common areas. This is an inefficient use of the available GFA and will have a material effect on the proposal. Implications not only 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. Furthermore, the extended corridors would create the necessity for a complex fire engineered solution due to non-compliance with the BCA. On balance,	given each apartment has a high level of amenity in the form of external views, this matter is not considered necessary in this instance.

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Item	Architectus Comment	Applicant's Response	Council's Response
		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	<i>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).</i>	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, we do not believe this suggestion is appropriate.	It is considered appropriate that conditions be imposed in relation to access to the residential communal space on Level 2 (refer to draft condition 7).
5	<i>If practicable, the number of vehicular entry points should be reduced from three to two driveways (RFDC, Site Access – Vehicular Access).</i>	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 been raised by the RMS.	Council supports the number of vehicular entry points into the site given the complex design of the basement. No amendment deemed necessary.

A copy of the consulting architect's report is attached to this report refer to **ATT 2**.

Safer by Environmental Design

Safer by Environmental Design

The proposal was accompanied with an assessment in accordance with the Safer by Design Principles of which the Police undertook a review of. The Police raised concern with the observation of the childcare centre outdoor play area, evacuation of the children attending the childcare centre, limited surveillance within the development, access within the basement levels and the plaza becoming a target for terrorist activity.

Partly in response to the concerns raised by the police, the child care centre was deleted from the application and replaced with office space. Further clarification was also provided with respect to the intended use of CCTV cameras, security doors, preparation of a Terrorist Threat Assessment and clarification regarding access to and within the building.

The comments made by the Police in relation to safer by environmental design and the applicant's responses are available in **ATT 3 and ATT 4**.

Senior Building Surveyor

No objection to the proposal was raised subject to conditions of consent to ensure compliance with the BCA (refer to draft conditions 18-22 and 24-49).

Strategic Planning Manager

The development application was regarded by the Strategic Planning Manager as being consistent with the broad strategic context. The proposal contributes to the objective of stimulating growth in the St Leonards Strategic Centre in support of State policies under the Metropolitan Strategy, most recently *A Plan for Growing Sydney*, December 2014. Urban intensification is occurring in all three council areas throughout the St Leonards Centre on both sides of Pacific Highway and within 400 metres of the St Leonards rail station.

The project's design is supported overall, subject to these points:-

1. Wind impact:

Wind impact has the potential to significantly affect the amenity of residents, workers and other visitors in the public domain in Friedlander Place and the proposed public plaza. These areas are intended to play an important role in the revitalisation of St Leonards Strategic Centre for employment and residential growth, through its attractiveness as a social meeting-place, functionality for retail and commercial uses and its connectivity with both sides of Pacific Highway and the rear lane network.

It is noted that the application's wind impact study indicates substantive concerns with the present design, and it recommended that these should be resolved before development consent be given.

2. Solar access

SEPP 65 issues relating to solar access should be addressed to the satisfaction of Council's consultant. This is an important issue for the amenity of residents; however it is recognised that trade-offs may be acceptable in order for south-facing units to benefit from views to the city and harbour.

3. Cross-ventilation

SEPP 65 issues relating to cross-ventilation should be addressed to the satisfaction of Council's consultant.

4. View loss

This issue was considered in detail in preparation of the LEP 18 amendment recently gazetted, and it is considered that the proposal, in particular its triangular tower form, produces as satisfactory and reasonable a design as possible on that site to allow view-sharing through view corridors from the north side of the Highway.

It would be unreasonable and inequitable to expect that redevelopment would be prevented indefinitely for properties on the south side in order to preserve an unimpeded outlook held by apartments on the north side.

5. Other

In regard to other matters, the objectives of Local Environmental Plan 2009 should be satisfied by the details of the development.

Officers comment: The matters raised by the Strategic Planning Manager were considered in the assessment of the development application and have been resolved. These matters are discussed in detail throughout this report.

Traffic and Transport

Parking Provision and servicing

In December 2014 fourteen (14) car share spaces were introduced on the Basement Level B4. These car share spaces are dedicated to commercial car share use and are accessible to both residents and the general public. Given the inclusion of these car share spaces, the Traffic and Transport team are satisfied with Parking provision and servicing. The car parking provided complies with SEPP 65 in terms of the RMS car parking rates for the residential component of the DA and the remainder of the car parking provided complies with Part R of the DCP.

The following table details the allocation of car spaces per use.

Use	Quantity
Residential	473
Visitors	33
Car share	14
Supermarket	84

Retail	11
Commercial office	44
Commercial office (previously child care)	13
TOTAL	672 car spaces

Trip Generation Rates

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).

Council does not support the applicant's view that traffic generation would improve as a result of the development. However, given the traffic generation is within in 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.

Intersection Operations

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 further exacerbate queue lengths and average delays at the Oxley Street west approach to the intersection.

RMS has clearly outlined that the subject development will 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 (500-504 Pacific Highway) sites (refer to draft conditions 60 - 81).

Open Spaces

Landscape Architect

Council's Landscape Architect advises the landscape plans and urban design components of the proposed development provide good quality design, attractive spaces with good overall amenity. The central plaza makes provision for a variety of experiences for the user/residents within an urban setting. Vegetation plays an integral role in this type of space and it must be given serious consideration in the detailed design documentation in order for it to be successful and meet the design intent of the proposal.

The wind conditions along the western perimeter of subject site adjacent to Friedlander Place and the newly created microclimate at the opening to the Foyer Court Garden should be considered in terms of soft and hardscape landscape provision for buffering, as some of the outdoor spaces may not be as comfortable to spend time in or hospitable in reality.

Senior Arborist

Council calls for the retention of the street trees within Nicholson Street with the exception of the tree needed to be removed due to the position of the proposed driveway. This view is supported as these trees by the applicant's wind assessment as aiding to reduce the wind impact on the site and surrounds.

Recommended conditions from Open Spaces can be found in draft conditions 82 - 96.

Urban Design and Assets

Council's Development Engineer advises the proposal is consistent with Part Q of the DCP. No objections are raised to the proposal subject to draft conditions (refer to draft conditions 97 - 134).

Environmental Services

The proposal was found to be compliant with the DCP requirements for waste and storage and the Acoustic Report was found to be acceptable subject to the implementation of the recommendations within the report. The Acoustic Report is available within **ATT 5**

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

Lane Cove Local Environmental Plan 2009

Clause 2.2 - Zoning

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

Clause 4.3 - Height of Buildings

The maximum permissible height limit for the site is part RL 180.46 and part RL 204.46. The proposed development comprises a maximum height, inclusive of roof features, of Tower 1 RL 186.46 and Tower 2 RL 210.46.

Clause 4.4 - Floor Space Ratio

The proposal complies with the maximum permissible floor space ratio of 12:1. The proposal has an FSR of 11.6: 1 which complies with the maximum permissible GFA for the subject site.

Clause 4.6 – Variation to Development Standards

Tower 1 has an overall building height of RL 186.46 measured to the uppermost point of the roof feature.

Tower 2 has an overall building height of RL 210.46 measured to the uppermost point of the roof feature.

The following provides is the applicant's submission to support varying Clause 4.3 development standard.

"This Clause 4.6 Variation Request has been provided as supplementary information to the Statement of Environmental Effects prepared in August 2015. The variation request has been prepared for abundant caution to address the total proposed building height, including the proposed architectural roof features on Tower 1 and 2, notwithstanding the provisions of Clause 5.6 of Lane Cove LEP.

1.1 OVERVIEW

This addendum forms a variation request to the applicable height standard. It has been prepared with regard to the following considerations:

- *Clause 4.6 of LLEP 2009.*
- *The objectives of Clause 4.3, being the development standard to which a variation is sought.*
- *Relevant case law specifically addressing the considerations for assessing development standards set out by Preston CJ in *Wehbe v. Pittwater Council* [2007] NSWLEC 827.*
- *"Varying Development Standards: A Guide" published by the Department of Planning and Infrastructure (August 2011).*

*The variation request provides a brief assessment of the development standard and the extent of variation proposed to the standard. The variation is then assessed in accordance with the principles set out in the *Wehbe* judgment.*

1.2 THE DEVELOPMENT STANDARD

Clause 4.3(2) of LLEP 2009 specifies the following:

“(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.”

Building height is defined by LLEP 2009 as follows:

*“**building height** (or **height of building**) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.”*

The relevant Height of Buildings Map nominates a height limit of RL 204.46 for the western half of the site and RL180.46 for the eastern half of the site. When measured in accordance with the LEP definition of building height, the following heights are proposed:

	BUILDING HEIGHT STANDARD	TOP OF ROOF SLAB	TOP OF ARCHITECTURAL ROOF FEATURE
<i>Tower 1</i>	<i>RL 180.46</i>	<i>RL 180.70</i>	<i>RL 186.46</i>
<i>Tower 2</i>	<i>RL 204.46</i>	<i>RL 203.30</i>	<i>RL 210.46</i>

1.2 LLEP 2009 CLAUSE 4.6

Clause 4.6 provides flexibility to vary the development standards specified within the LEP where it can be demonstrated that the development standard is unreasonable or unnecessary in the circumstances of the case and where there are sufficient environmental grounds to justify the departure. Clause 4.6 states the following:

“(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument...”

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

(a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) That there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and

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

Accordingly, justification is set out below for the departure from the height control applicable under the LEP. The purpose of the information provided is to demonstrate that strict compliance with the height standard under the LEP is unreasonable or unnecessary in the circumstances of this particular case. It also provides justification for the departure from the height controls specified in the LEP.

1.3 CLAUSE 4.6 ASSESSMENT

This section assesses the proposed variation to consider whether compliance with the height standard can be considered unreasonable or unnecessary in this particular case, and whether there are sufficient environmental planning grounds to justify contravening the development standard.

The assessment is structured in accordance with the three matters for consideration identified in the Wehbe Land and Environment Court judgment:

- 1. "The applicant must satisfy the consent authority that "the objection is well founded," and compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;*
- 2. The consent authority must be of the opinion that granting consent to the development application would be consistent with the policy's aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in s 5(a)i() and (ii) of the Environmental Planning & Assessment Act 1979; and*
- 3. It is also important to consider:*
 - a. Whether non-compliance with the development standard raises any matter of significance for State or regional planning; and*
 - b. The public benefit of maintain the planning controls adopted by the environmental planning instrument."*

1.4.1 COMPLIANCE IS UNREASONABLE OR UNNECESSARY

In the Wehbe judgement Preston CJ set out five ways in which a variation to a development standard can be supported as follows:

- 1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;**
- 2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
- 3. The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
- 4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.*

5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

Consideration (1) which requires a demonstration that the objectives of the height standard can be achieved notwithstanding non-compliance, is relevant in this case. The compliance of the proposed development and building height variation with the objectives of the height standard in Clause 4.3 of the LEP is demonstrated below.

The objectives of Clause 4.3 are as follows:

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

Those portions of the buildings exceeding the maximum building height, being the architectural roof features on Tower 1 and Tower 2, have been designed as an integrated design response to the upper elements of each building. The additional building height above the building height standard will not cause any material impact to neighbouring land.

The proposed height exceedance is caused by architectural roof features that have been designed to visually and physically integrate with each building. The two roof feature structures will not materially increase the extent of shadow cast by the buildings themselves. Further, these non-habitable structures will cause no privacy or visual impact issues to neighbouring properties given their location on the roof of the buildings well above the sight lines from these neighbouring properties.

No material reduction in solar access to the public domain south of the site will result from the architectural roof feature structures. This has been established in the shadow assessment.

The additional height of the proposed structures will not be readily perceptible from public domain spaces in the immediate locale, yet will improve the appearance of the buildings when viewed from afar. The extent of the variation is small enough such that there will be no impact on the building's visual relationship with site topography.

Clause 5.6 of Council's LEP also permits equipment for servicing the buildings (such as plant, lift motor rooms, fire stairs and the like) to be contained in or supported by the roof feature which the design proposal does.

Despite the technical departure from the relevant height standard the proposed development remains consistent with the objectives of Clause 4.3 of LLEP 2009 and therefore it is demonstrated that strict compliance with the height standard in this instance is unreasonable and unnecessary.

1.4.2 ADEQUATE ENVIRONMENTAL PLANNING GROUNDS FOR CONTRAVENING THE DEVELOPMENT STANDARD

Clause 4.6(3)(b) requires the applicant to demonstrate that there are sufficient environmental planning grounds to contravene the development standard.

In this instance, there are strong planning grounds in support of the height variation.

- *Planning strategy for metropolitan Sydney, including centres such as St Leonards, supports the provision of high quality residential accommodation in close proximity to infrastructure and services. All habitable floor space will be located below the applicable height standard and the relevant floor space ratio standard is not exceeded.*
- *Locating the plant and stair structures above the height limit enables the proposal to maximise the quantum of habitable floorspace below the nominated height limit, optimising the residential yield proximate to the frequent transport services available in St Leonards. The proposed roof feature which is permitted under the LLEP together with plant being contained within the roof feature will screen these elements which can otherwise be unsightly and detract from urban amenity.*
- *The impacts resulting from the proposed height breach will be negligible. The architectural roof features will cause no material impact to neighbouring properties over and above that which would result from a complying scheme. The roof features will however improve the appearance of the buildings when viewed from afar, being elements visually integrated with the design of the building.*

It is considered that these are adequate environmental planning grounds to support the proposed variation to the height standard to accommodate the architectural roof features.

1.4.3 THE PUBLIC INTEREST

Clause 4.6(4)(a)(ii) requires that the consent authority consider the public interest in determining whether to support the variation.

It is considered that the proposed height variation will not be contrary to the public interest for reasons stated above. There will be no material impact resulting to neighbouring buildings resulting from the proposed architectural roof features. These structures will improve the appearance of the building when viewed from the public domain, screening roof plant and other structures, and will not reduce privacy, increase overshadowing or present visual impact to surrounding properties. This report has also demonstrated that the proposed height variation will not contravene the objectives of the height standard at clause 4.3 of LLEP 2009.

Further, it is considered that the proposal will remain consistent with the objectives of the B4 zone, being:

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

The location of the architectural roof features above the applicable height standards will not detract from the first three objectives. They will also not materially reduce sunlight to surrounding properties or the public domain from that which would be caused by a complying scheme, as demonstrated in the shadow analysis. Given the scale of the development, the proposed non-compliance will be unperceivable and will improve the appearance of the top portion of the buildings positively contributing to the buildings' aesthetic.

1.4 SUMMARY

In view of the development context strict compliance with Clause 4.3 of the LEP is considered to be 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 despite a non-compliance with the standard itself. 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 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. Indeed, the proposed FSR is well within the allowable FSR limits for the site (11.47:1 proposed compared to an allowable FSR of 12:1).*
- *The proposal variation will not result in loss of views from neighbouring properties, nor will it result in adverse amenity impacts.*
- *The proposed development, despite the extremely minor non-compliance, contributes to achieving the objects of the EP&A Act.*
- *The non-compliance will 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.*

For these reasons, the proposed variation to the height standard in order to accommodate an architectural roof feature on each of the buildings should be supported as part of the assessment of this DA".

Officers Comment:

The above Clause 4.6 variation has demonstrated that the additional height is acceptable in this instance. The roof features however are not considered to be integrated and is discussed in the following section of this report.

Clause 5.6 Architectural roof features

Clause 5.6 aims to facilitate innovative design without significant impact on local amenity. Where development includes an architectural roof feature that exceeds or causes the development to

exceed the height limits set by Clause 4.3, may be permitted when the consent authority is satisfied that:

“..... (a) *the architectural roof feature:*

(i) comprises a decorative element on the uppermost portion of a building, and

(ii) is not an advertising structure, and

(iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and

(iv) will cause minimal overshadowing, and

(b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature”

The proposed roof of Towers 1 and 2 comprise roof features with screening elements in which the plant rooms are situated behind. The roof features do not include advertising. The roof features are up to 6m above the maximum height permitted for the site. This additional height would cause minimal overshadowing of the surrounding properties.

Given that the adjoining development at 496-520 Pacific Highway would look upon the roof of this structure and the plant equipment it would be vital that the plant equipment be integrated into the roof form. The current proposal is not considered to be integrated. The proposal does not satisfy Clause 5.6 of the LEP and should be further designed (refer to draft condition 15). The draft condition has been discussed with the applicant.

Section 94 Contribution Plan

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

The Section 94 Contribution is calculated in the following manner:

Residential Contributions

Dwelling Type	Number of dwellings	Persons per dwelling	Total Number of persons	Contribution payable @ \$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 m² 2015/2016 fees and charges
Supermarket	1,394 m ²	\$139,400.00

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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**.

State Environmental Planning Policy (Building Sustainability Index) 2004

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

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

NSW Roads and Maritime Services (RMS)

Pursuant to Schedule 3 of the Infrastructure SEPP the application was referred to the RMS who raised no objection to the proposal subject to the inclusion of conditions. The recommended conditions/comments relate to an intersection upgrade, a construction traffic management plan, ingress and egress of vehicles, the layout of parking spaces (refer to draft conditions 51 - 59). A copy of the advice from RMS is provided in **ATT 6**.

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

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

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

The Outer Horizontal Surface of the OLS above the subject site is at a height of 156m Australian (AHD) and the prescribed airspace above the site commences at 156m. At a maximum height of 210.46m AHD, the proposal would penetrate the OLS by 54.46m.

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

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

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

1. The building must not exceed a maximum height of 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 above conditions are included within the draft conditions (refer draft conditions 5 - 8). A copy of this advice is provided in **ATT 7**.

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

The previous landowner made an offer to Lane Cove Council to enter into a Voluntary Planning Agreement (VPA) in connection with a Planning Proposal relating to the subject site.

The Planning Proposal sought to amend the zoning of the site under the Lane Cove Local Environmental Plan 2009 from B3 Commercial Core to B4 Mixed Use. It also proposed amendments to the Lane Cove Development Control Plan 2009 including 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 highest point of the existing ground level.

Subject to approval of the Planning Proposal and the granting of development consent of the development application, the VPA provides for a monetary contribution and dedication of land to Council in the form of apartments.

The monetary contribution would be used for the following public purposes:

- a. Construction of the St Leonards Rail Plaza and Bus Interchange
- b. Tenant Attraction Scheme
- c. Affordable/Key worker housing
- d. Enhancement of the public domain for 498 Pacific Highway, St Leonards, Friedlander Place and its surrounds

In the event that the St Leonards Rail Plaza and Bus Interchange does not proceed, the funds may also be used by Council for the provision of public infrastructure generally within the Lane Cove LGA.

The Planning Proposal relating to the site was approved by the Department of Planning and Environment and gazetted on 15 May 2015. A mapping error was identified and subsequently corrected in a further amendment dated 17 September 2015.

A draft condition has been recommended regarding the VPA (refer draft condition 12). A copy of the signed VPA is provided in **ATT 8**.

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

Demolition

Compliance with Australian Standard 2601 - The Demolition of Structures

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

Wind

Council engaged consultant, Windtech to review the Wind Tunnel Tests Report prepared by CPP and to resolve identified and outstanding environmental wind impacts as a result of the proposed development.

The CPP report concludes the proposed developments of 472-486 Pacific Highway and 504 Pacific Highway are expected to have an impact on the wind amenity in Friedlander Place. Without mitigation, the impact of any combination of the larger buildings would cause the area to experience windier conditions than existing. Mitigation in the form of vertical screens and the placement of trees throughout Friedlander Place has been modelled to improve the wind conditions in the area envisioned for an outdoor café. Introducing further mitigation measures involving landscaping along Friedlander Place is also likely to improve wind conditions to a level similar to, or better than, the existing wind environment.

Wind conditions with only the proposed 472 Pacific Highway were generally calmer than the wind conditions with both the proposed 472 and 504 Pacific Highway and appropriate mitigation measures have been shown to improve the wind conditions compared with existing conditions.

The final CPP report indicates the anticipated environmental wind impacts would be suitable for the intended use as a result of the proposal subject to the implementation of amelioration measures

including the installation of screens and landscaping within Friedlander Place and the retention of the street trees within Nicholson Street **ATT 9**

Overshadowing

The planning proposal considered and enhanced the siting and building envelope and resolved that tall narrow towers that allow for relatively fast moving shadows to minimise any prolonged overshadowing impacts.

Views

In order to achieve the objectives of the planning proposal including providing 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, some views enjoyed by surrounding properties would be impacted. The likely degree of view loss in this instance is considered to be acceptable given the context of the site.

The proposal represents an enhanced view sharing opportunity than would have been the case prior to the gazettal of the planning proposal in which wider floor plates and with narrower side setbacks would have been permitted. This is achieved by taller, slender buildings which allow for view sharing across the site. This ensures the provision of views from existing residential dwellings to the north of the site that would have not been possible had the planning proposal not been gazetted.

It was recommended by the consultant architect at the planning proposal stage that the residential amenity of those residential properties nearest to the site would be preserved. The design and siting of the proposed towers was informed by a comprehensive site analysis to ensure that development would consider and minimise overshadowing, privacy or view loss impacts. Fire regulations, building setback requirements of residential towers would result in smaller floorplate slender towers that allow slot views to become available to properties to the north.

In light of the above, it is considered that the above impacts as a result of the development are reasonable and acceptable given the character of the St Leonards precinct.

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

The Strategic planning documents relating to the site, including the Planning Proposal and the Lane Cove LEP have determined the suitability of the site for mixed use development and more intensive forms of residential development. Further the proposal would result in increased housing and retail/commercial floor space near established transport nodes.

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

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

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

Since lodgement of the proposal in December 2014, the design has been subject to several revisions including but not limited to additional residential units, reconfiguration of units, deletion of the child care centre, inclusion of additional car share spaces and outdoor residential communal space. The proposal was notified in accordance with Council's notification policy and was further extended to include properties within the North Sydney LGA in December 2014, February 2015, May 2015, August 2015 and finally in January 2016. To date ninety-three (93) submissions have been received. It is noted that multiple submissions have been received from individual landowners.

Some of the issues raised in the submissions were relevant at the planning proposal stage including the suitability of the development for the site, built form, scale, siting, view loss, overshadowing and opposition to the Voluntary Planning Proposal. These issues were resolved at the planning proposal stage resulting in the proposed building envelopes. Specific building heights and footprints were adopted which were deemed to satisfactorily address overshadowing, building separation, solar access and view loss (by the creation of a view corridor through the site) and which are not proposed to change under the current application.

The current application has further developed the form, proportions, external materials and elements of each building within the adopted envelopes which respond to the site and its surrounding context whilst minimising general impacts to neighbouring properties. This design process incorporates additional articulation of the facades of the buildings to reduce the scale and massing of the development. As such it is considered that the issues raised in the submissions in relation to building height, overshadowing and bulk and scale have been satisfactorily addressed through the further progression of the design process exhibited in the current application.

The remaining issues raised in submissions received to date have been considered under Section 79C of the EP&A Act 1979, are summarised generally and the responses to these issues are provided below:

- *Lack of strategic approach to the redevelopment of St Leonards*

Comment: Changes to environmental planning policies along with the declining demand for the existing commercial developments resulted in the previous landowner and the owner of the adjoining site to carry out a separate planning, design and market investigations to explore further site opportunities. The trends of long term lack of tenant and investor demand means that redevelopment of these sites in accordance with the previous LEP controls for the site were not feasible. As discussed, the planning proposal was endorsed by the Minister for Planning and Environment and gazetted on the 15 May 2015.

- *Suitability of the site*

Comment: The Strategic planning documents relating to the site, including the Planning Proposal and the Lane Cove LEP have determined the suitability of the site for mixed use development and more intensive forms of residential development. Further the proposal would result in increased housing and retail/commercial floor space near established transport nodes.

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

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

- *Reduced amenity*

View loss, overshadowing and noise

Comment: The consultant architect at the planning proposal stage recommended that the residential amenity of those residential properties nearest to the site would be preserved. The design and siting of the proposed towers was informed by a comprehensive site analysis to ensure that development would consider and minimise overshadowing, privacy or view loss impacts. Fire regulations, building setback requirements of residential towers would result in smaller floorplate slender towers that allow slot views to become available to properties to the north.

Views

As discussed, the objectives of the planning proposal required the provision of a proposal which responds to stagnation of development in St Leonards. As a consequence of the redevelopment not occurring within the Lane Cove LGA, views towards the city have been enjoyed by surrounding properties, particularly those situated in a northerly direction of the site. The redevelopment of the southern side of the Pacific Highway would result in some views enjoyed by surrounding properties, being impacted.

The proposal represents an enhanced view sharing opportunity than what have been the case prior to the gazettal of the planning proposal in which wider floor plates with narrower side setbacks would have been permitted. This is achieved by taller, slender buildings which allow for view sharing across the site. This ensures the provision of views from existing residential dwellings to the north of the site that would have not been possible had the planning proposal not been gazetted. The likely degree of view loss in this instance is considered to be reasonable given the context of the site.

Overshadowing

The planning proposal considered and enhanced the siting and building envelope and resolved that tall narrow towers that allow for relatively fast moving shadows to minimise any prolonged overshadowing impacts.

Noise

Demolition and Construction

It is acknowledged the demolition and construction phases of the development would be disruptive to surrounding properties. A Construction Noise Management Plan (CNMP) is required to be submitted to the Private Certifying Authority prior to the commencement of works and is required to be complied with throughout the demolition and construction phases of the development (refer to draft condition 11).

Noise Emission Goals

The Noise Impact Assessment prepared by Acoustic Logic identified potential noise sources generated by the site, and determined noise emission goals for the development to

meet Council acoustic requirements to ensure that nearby developments are not adversely affected.

The amenity and sleep arousal criteria for the proposal and surrounding receivers have been determined using the EPA's guidelines and the noise monitoring results undertaken by Acoustic Logic. The criteria for the monitoring have been considered and assessed for the surrounding receivers. Table 7 below, reproduced from Acoustic Logic's report details the noise level criterion for properties surrounding the proposed development.

Table 7 – Noise Objectives for Surrounding Receivers

Location	Day time Noise Objective dB(A) L_{eq}	Evening Noise Objective dB(A) L_{eq}	Night time Noise Objective dB(A) L_{eq}	Noise Objective for Intermittent Activities dB(A) $L_{10,15}$ (Min) (Background + 15 dB(A))
472 and 486 Pacific Highway, St Leonards	55	45	40	65

*Note: Noise level criteria above includes noise levels impacting the future residential receivers proposed within the development as result of the operation of the proposed facilities within the development.

Source: Acoustic Logic Noise Impact Assessment

The recommendations of the Acoustic Logic report are included within the draft condition of consent (refer to draft condition 10).

Mechanical Plant

Mechanical plant items are not selected at DA stage as detailed design and selection of plant and equipment has not been conducted at this time. A detailed assessment of all mechanical plant will be conducted as part of the detailed design prior to CC to determine acoustic treatments (if any) required to ensure plant noise does not exceed acoustic criteria based on Lane Cove Council and the EPA INP criteria (refer to draft conditions 10 and 36).

- *Wind impacts*

Comment: Since the receipt of the development application in December 2014, Council officers have appointed an external Environmental Wind expert to assist Council and worked with the applicant and their consultants to resolve the anticipated environmental wind impacts. The applicant has subsequently provided further testing results and Environmental Wind reports.

The final CPP report indicates the anticipated environmental wind impacts would be suitable for the intended use as a result of the proposal subject to the implementation of amelioration measures including the installation of screens and landscaping within Friedlander Place and the retention of the street trees within Nicholson Street **ATT 9**

It is acknowledged that the wind mitigation measures proposed by CPP may not resolve all wind issues for Friedlander Place once construction of the proposed development and construction of the adjoining site, 496-520 Pacific Highway, is completed. However

Council's Wind Expert, Windtech advises the current strategy to mitigate the wind impacts at this stage has a notable improvement for the both development configuration and in light of this is regarded as a suitable outcome. The adjoining development, 496-520 Pacific Highway would need to develop a suitable solution for their site, and potentially there will be common ground between the two sites. The recommendations within the CPP report are recommended to be adopted (refer to draft condition 3).

- *Traffic study and traffic congestion on local streets and local intersections*

Comment: Since the receipt of the development application, Council officers have worked with the applicant and their consultants to ensure the proposal and anticipated environmental impacts are accurately described and accounted for.

Since receipt of the application, the proposal has been significantly amended including the increase of apartments from 535 to 539, the introduction of 14 car share spaces, the removal of the Child Care Centre and the replacement of this floor space with additional office. These amendments were largely the result of Council's concerns relating to traffic movements, likely impacts on local streets and on-site parking. The applicant has submitted further clarification with respect to these areas of concern. Council does not support the applicant's view that the traffic generation would improve as a result of the development. However the traffic generation rates are within the range forecasted by the traffic model developed for Lane Cove Council by TMA and on this basis are considered acceptable. It has been identified that the proposal and surrounding developments would result in the upgrade of the intersection of Pacific Highway and Oxley Street. It is also noted that a new light rail line would be accessible from this site.

- *Absence of renewable energy source*

Comment: It is agreed that it is desirable for renewable energy sources to be incorporated into new development proposals. The applicant advises that the roof form could not accommodate solar panels and the like due to the inclusion of plant equipment. It is noted that the development complies with the required energy targets as required by BASIX.

- *Maintenance of the public space must be Council's responsibility*

Comment: It is agreed that the maintenance of Council owned land would be the responsibility of Lane Cove Council. The maintenance of private land would be required to be undertaken at the cost of the applicant (refer to draft condition 14).

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

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

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

The proposal is consistent with the desired future character of St Leonards and is a high quality design which responds well to the context of the site. The proposal seeks to revitalise the commercial core of the St Leonards CBD by developing a mixed use building that integrates residential and commercial components that compliment and support the other.

Accordingly it is considered the proposal is in the public interest and can be approved subject to appropriate draft conditions.

CONCLUSION

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

The proposal complies with the provisions of Lane Cove Council's Local Environmental Plan 2009 with regards to the FSR and seeks to vary the building height of Tower 1 as detailed in the assessment. The variation to the building height is considered to be acceptable given its minor nature and there are no subsequent environmental impacts.

The proposed development generally complies with the provisions of the Lane Cove Development Control Plan. It is unfortunate multiple variations have been sought by the applicant following the adoption of a site specific DCP. Notwithstanding such variations the proposal meets the objectives of the DCP.

The issues raised by neighbours within Lane Cove Council LGA and North Sydney Council's LGA have been considered and discussed in the body of the report and where appropriate addressed in the draft conditions of consent.

The proposal generally meets the objectives of the 10 planning principles of SEPP 65 and is considered to represent a high quality development that would compliment and guide the future character of the area. The proposal responds well to the surrounding commercial and residential developments. This proposal maintains adequate solar access to residential properties surrounding the site. Despite views of the distant Sydney Harbour Bridge and Sydney Harbour being impacted, in particular from some residential dwellings, the proposal maintains reasonable access to existing views of the CBD through tower separation within the development. Given the character of St Leonards this level of view sharing is considered acceptable and appropriate.

The Clause 4.6 variation provided by the applicant is supported, this highlights this site as being the start and continuation of the St Leonards economic revitalisation and creation of an urban village that focuses on liveability and connectivity.

The DA is accompanied with a VPA which is a formal letter of offer to Lane Cove Council for a monetary contribution. The VPA would be in addition to any contribution payable under Council's Section 94 Plan for the development in its entirety.

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

At its meeting of 15 December 2013 the Council resolved to proceed with the Voluntary Planning Agreement in respect of the Development at 472-520 Pacific Highway, St Leonards. The VPA is considered to be in the public interest.

The site is situated within a precinct undergoing revitalisation. The Lane Cove Council LGA portion of the Pacific Highway has undergone redevelopment at the same rate as those properties located in the North Sydney LGA. The site is constrained as a result of the surrounding developments,

views and the existing environmental wind conditions. The nominated building envelopes have influenced the resultant triangular design of both towers. The result is a quality development with design compromises which place a priority on solar access to public areas and creating a view corridor through the site.

The development proposal would make a positive contribution to the St Leonards CBD and surrounding precinct and Lane Cove Local Government Area in particular as a result of the public plaza and the additional housing stock. The proposal is recommended for approval subject to conditions.

RECOMMENDATION

That pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act, 1979, as amended, the Sydney East Joint Regional Planning Panel grant development consent to Development Application 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

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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
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 October 2015 Rev 03	Sissons Architects
L027	Roof Plan	Date August 2015 Rev 02	Sissons Architects
L041	Pacific Highway Elevation	Date October 2015 Rev 03	Sissons Architects
L042	Friedlander Place Elevation	Date January 2016 Rev 04	Sissons Architects
L043	Nicholson Street Elevation	Date January 2016 Rev 04	Sissons Architects
L044	South East Elevation	Date October 2015 Rev 03	Sissons Architects
L050	Site Section 1-1	Date January 2016 Rev 04	Sissons Architects
L051	Site Section 2-2	Date January 2016 Rev 04	Sissons Architects
L052	Site Section 3-3	Date January 2016 Rev 04	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.

2. 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.

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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	\$1,200,000.00

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buildings:	
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

5. 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.
6. 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.
7. Separate approval must be sought under the Regulations 1996 for any cranes required to construct the building.
8. 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 hillii* (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.

Michael Mason
Executive Manager
Environmental Services Division

ATTACHMENTS:

There are no supporting documents for this report.