

independent assessment of development application no. 223-14

Construction of Three Residential Flat Buildings Containing 94 Apartments

Property:

**Various Lots
Nos. 27 – 43 Little Street, Lane Cove**

Applicant:

SJD Property Group

Date:

June 2015

Prepared by:

tim shelley planning

phone: 0409 306186

email: tandishelley@bigpond.com

postal address: PO Box 3165 Erina NSW 2250

abn: 93 953 894 518

REPORT TO JRPP – DA 223/14

27 – 43 LITTLE STREET, LANE COVE

APPLICATION DETAILS

Properties: 27 – 43 Little Street, Lane Cove

DA No: DA 223/14

Date Lodged: 23rd December 2014

Cost of Work: \$24,478,929

Cadastral and Ownership Details:

Address	Lot Description	Area	Owner
27 Little Street	Lot 39 DP 5922	768m ²	Lane Cove Retirement Units Association Ltd
29 Little Street	Lot 38 DP 5922	768m ²	SJD Property Group Pty Ltd
31 Little Street	Lot 37 DP 5922	768m ²	P A Waterhouse & R R Price
33 Little Street	Lot 36 DP 5922	768m ²	B I & M Furjanic
35 Little Street	Lot 35 DP 5922	768m ²	C & K Poulos
37 Little Street	Lot 1 DP 843377	395m ²	G B MacDairmid
37A Little Street	Lot 2 DP 843377	372m ²	R Reddy Kalvakuntla & K Reddy Gunna
39 Little Street	Lot 33 DP 5922	768m ²	P R Jones
41 Little Street	Lot 32 DP 5922	767m ²	W D Ardlie
43 Little Street	Lot 31 DP 5922	767m ²	A J Rendulic & T Y C Ho
Total	10 lots	6912m²	

Applicant: SJD Property Group Pty Limited

DESCRIPTION OF PROPOSAL TO APPEAR ON DETERMINATION	Demolition of ten dwelling houses & construction of three (3) residential flat buildings comprising 94 units & 154 car parking spaces
ZONE	R4 – High Density Residential
IS THE PROPOSAL PERMISSIBLE WITHIN THE ZONE?	Yes
IS THE PROPERTY A HERITAGE ITEM?	No
IS THE PROPERTY WITHIN A CONSERVATION AREA?	No
IS THE PROPERTY ADJACENT TO BUSHLAND?	No
BCA CLASSIFICATION	Classes 2 and 7
STOP THE CLOCK USED	Yes
NOTIFICATION	<u>Little Street:</u> 7-9, 11, 15, 16, 18, 20, 22, 24, 26, 28, 30, 32, 34, 36, 38, 38A 1-6, 40, 42, 44, 45-47, 49, 51 <u>Central Avenue:</u> 2 <u>Rothwell Crescent:</u> 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 21, 23 <u>Dorritt Street:</u> 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, 34, 36, 36A, 38 <u>Gamma Road:</u> 1B <u>Longueville Road:</u> 164-180, 182, 184, 186, 188-190, 192-194, 196, 200, 202, 204, 204A
Ward Councillors	East Ward
Progress Association	Osborne Park Residents Association

REPORT TO JRPP – DA 223/14

27 – 43 LITTLE STREET, LANE COVE

REASON FOR REFERRAL TO JRPP

In accordance with the provisions of Clause 20 of State Environmental Planning Policy (State and Regional Development) 2011 (as cross referenced to Schedule 4A to the Environmental Planning and Assessment Act 1979), the development application is referred to the Joint Regional Planning Panel (JRPP) due to it having a Capital Investment Value of in excess of \$20 million.

EXECUTIVE SUMMARY

- On 23rd December, 2014 Council received a Development Application for the demolition of 10 residential dwellings and the construction of three (3) x three, four and partly five 5 storey residential flat buildings at 27-43 Little Street Lane Cove, comprising 94 units with basement car parking for 154 cars.
- Block A is the southern-most Block And comprises 41 residential apartments, whilst Blocks B and C in the middle and at the northern end of the site respectively, comprise 53 units.
- Car parking for 66 vehicles is provided at ground floor and within two (2) basement levels beneath Block A, contained generally within the footprint of the building, accessed via a separate driveway off Little Street, roughly opposite Rothwell Crescent.
- Car parking for the remaining 88 spaces is provided within an interconnected basement level beneath Blocks B and C and also at the ground and first floor of these buildings. These parking areas are accessed via a separate driveway and pedestrian access from Little Street further to the north along the property frontage.
- A pre-lodgement meeting was held between the applicant and Council on 9th July 2014 wherein Council identified a range of issues needing to be addressed as part of the development application, those being the relevant LEP and DCP provisions (including height, FSR, parking etc), as well as lot amalgamation, traffic impact, landscaping and engineering issues. The applicant was also provided with a list of the information required to be submitted with the application. The applicant has indicated in the Statement of Environmental Effects that the issues raised as a matter of concern at that meeting have been addressed.
- A total of 105 submissions were received in relation to the proposal during the notification period. The concerns raised in these submissions included: excessive building height; scale and character of the development; overshadowing and privacy impacts; tree removal; construction issues (noise and traffic); potential geotechnical and stability issues to adjoining properties; acoustic impact (air conditioners); and the impact of the proposed development on traffic and parking and the veracity of the submitted traffic assessment in relation to same.
- Due to the amount and nature of issues raised in relation to traffic, the applicant was requested on 18th February 2015 to submit an updated traffic report to provide additional traffic modelling and an analysis of the pedestrian network within the vicinity of the site. Upon submission of this additional information, the application was re-notified for a period of 14 days, in which a further 17 submissions were received. These predominantly re-iterated concerns identified during the first period of notification.
- The concerns raised during both periods of notification have been considered within this report and where necessary, have been addressed by the inclusion of appropriate draft conditions.

- In response to a letter from Council dated 8th April, 2015, amended plans were submitted in April which modified the internal layout of the ground floor car park, taking the total number of car spaces from 156 to 154 (130 resident and 24 visitor). Other minor changes were made at that time to the layout of the waste room within the basement, with further information provided in relation to the adaptable layout of units, BCA compliance, waste management and construction management items. No changes were made to the size, shape, height, bulk or external appearance of the building, or to the amount or mix of units.
- A perception of bias by Council in the processing of the development application was alleged by a number of members of the community. In response, Council considered it prudent to obtain an independent assessment of the development application. Accordingly, an independent assessment has been undertaken by Tim Shelley Planning.
- The proposal as submitted is consistent with the ten (10) design principles of SEPP 65 and complies with all relevant requirements of Lane Cove Development Control Plan 2010.
- The proposed development complies with all provisions of Lane Cove Local Environmental Plan 2009 with the exception of some encroachments to the 12 metre height limitation. A detailed Clause 4.6 variation submission has been provided with the application and is considered to be generally well founded such that the majority of variations can be considered minor and able to be supported. However, the largest variation of 2.3 metres is not supported as it results in the provision of an additional unit (Unit B503) to a level above the height plane considered unreasonable.
- Accordingly, it is recommended that a “Deferred Commencement” consent be granted pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979 requiring the submission of amended plans to the consent authority that removes Unit B503 prior to the consent becoming operational. Upon the consent becoming operational, the application becoming operational, it is recommended the draft conditions provided as an attachment to this report.

THE SITE

The site is located on the western side of Little Street at Lane Cove, between Central Avenue to the north and Dorritt Street to the south, as shown on Figure 1 on the following page.

The Pottery Green sports ground, Lane Cove aquatic centre and Lane Cove Council are located to the north of the site within approximately 250 metres, whilst Lane Cove Public School, Lane Cove Community health centre and the main commercial and retail precinct along Longueville Road are located just to the west of the site.

The site comprises ten (10) allotments, being lots 31 – 33 and 35 – 39 in DP 5922 and lots 1 and 2 in DP 843377, known as Nos. 27 – 43 Little Street, Lane Cove. The site is rectangular in shape, with a frontage to Little Street of 137.16 metres, a rear (western) boundary of 137.16 metres, a depth of approximately 50 metres and a total area of 6912m².

The site essentially comprises an amphitheatre – or bowl – facing the east, as it falls from both the northern and southern ends as well as from the western boundary to a trough, or depression, opposite Rothwell Crescent. As such, the surrounding properties to the north, south and west are all at a higher level than the site of the proposed development.

REPORT TO JRPP – DA 223/14 27 – 43 LITTLE STREET, LANE COVE

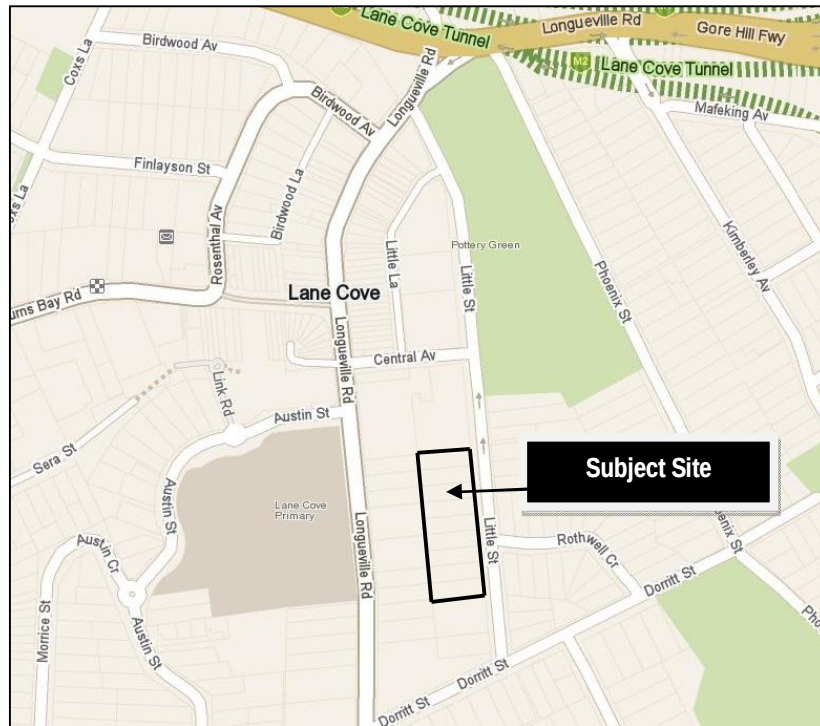


Figure 1 – Locality Plan

The subject site is not subject to flooding, bushfire or acid sulphate soils. The site is affected by a drainage easement that runs east-west across the site taking stormwater from No. 188 Longueville Road out to Little Street. This easement has been maintained in the proposed development between Blocks A and B. Two rights of carriageway are located over lots 1 and 2 DP 5922 which provide access to the dwelling on the battle-axe property known as 37A Little Street. These rights of carriageway will be extinguished as part of the proposed development.

The site is bounded by a three (3) storey brick apartment complex to the north known as Pottery Gardens, a range of older style two, three and four storey apartment buildings to the west fronting Longueville Road; a town house complex to the south; and Little Street to the east. A number of single and two storey dwellings are located on the eastern side of Little Street opposite the site, either side of Rothwell Crescent.

Little Street is a two-way road, although access for southbound vehicles from the northern end of the street (at its intersection with Central Avenue) is prohibited. The street is kerb and guttered with a carriageway of approximately 7 metres. A footpath is constructed on the western side of the road for its full length and on the eastern side for the section between Central Avenue and Rothwell Crescent. The site is serviced by overhead electricity powerlines located on the western side of Little Street.

An aerial photograph identifying the location of the subject site in the context of the surrounding area and nature of surrounding land uses is provided as Figure 2 on the following page.



Figure 2 – Aerial Photograph

PROPOSED DEVELOPMENT

The proposed development comprises the following:

- Site preparation, demolition of 10 residential dwellings, removal of trees as necessary and the undertaking of earthworks and excavation;
- The construction of three (3) x residential flat buildings identified as Blocks A, B and C, consisting of three (3), four (4) and partly five (5) storeys above ground level and two basement levels beneath Block A and one inter-connected basement level beneath Blocks B and C.

The buildings contain 94 apartments comprised of 34 x one bedroom, 47 x 2 bedrooms and 13 x 3 bedrooms, of which 19 (i.e. 20%) are adaptable. Car parking for 154 vehicles (130 resident and 24 visitor spaces) is provided within Blocks A, B and C and is accessed via two (2) separate driveways off Little Street.

The buildings have a total floor space of 8292m².

The basement levels of each block are connected to the residential floors above via lifts and internal stairways.

REPORT TO JRPP – DA 223/14 27 – 43 LITTLE STREET, LANE COVE

- The development also includes:
 - o Connection to services as necessary;
 - o Comprehensive landscaping of the site;
 - o The provision of motor cycle spaces and bicycle spaces for residents and racks for visitors;
 - o Storage facilities within the basements; and
 - o Plant rooms, waste rooms and loading areas within the basements.

On a floor by floor basis, the proposed development comprises the following:

Level	Car Parking	No. of Units	Unit Size	Floor Space
Basement 2	31 spaces (resident)			
Basement 1	69 spaces (resident)			
Ground Level	40 spaces (24 visitor and 16 resident)	6	2 x 1 bed 2 x 2 beds 2 x 3 beds	713.7m ²
Level 1	14 spaces (resident)	20	8 x 1 bed 11 x 2 beds 1 x 3 beds	1653.5m ²
Level 2		26	10 x 1 bed 14 x 2 beds 2 x 3 beds	2129.5m ²
Level 3		28	12 x 1 bed 15 x 2 beds 1 x 3 beds	2235.7m ²
Level 4		14	2 x 1 bed 5 x 2 beds 7 x 3 beds	1347m ²
Level 5		0 (part of level 4 units)	Top floor of apartments below	212.6m ²
Total	154 spaces	94 apartments		8292m²

PREVIOUS APPROVALS

There are a limited number of approvals for minor additions to dwellings on the lots within the subject site over recent years. However, none of these approvals are relevant to the proposed development.

PROPOSAL DATA/POLICY COMPLIANCE

LANE COVE LOCAL ENVIRONMENTAL PLAN 2009

LEP 2009	Provision	Proposed	Complies/ Comment
Zone	R4 – High Density Residential zone	Residential Flat Building	Yes. Permissible with consent.
Maximum Permitted FSR under FSR Map	1.2:1	1.2:1	Yes

**REPORT TO JRPP – DA 223/14
27 – 43 LITTLE STREET, LANE COVE**

LEP 2009	Provision	Proposed	Complies/ Comment
Maximum Permitted Building Height Under Building Height Map	12.0m	14.3m maximum (Block B).	No. See section 4.6 variation for justification and discussion in relation to same.

LANE COVE DEVELOPMENT CONTROL PLAN 2010

The following sections are relevant to the proposed development.

Part B – General Controls
 Part C – Residential Flat Buildings
 Part F – Access and Mobility
 Part J – Landscaping
 Part O – Stormwater Management
 Part Q – Waste Management and Minimisation

The extent to which the proposed development complies with the relevant provisions of these sections of the DCP is identified in the following table and also discussed further within the relevant Council officers' comments where necessary later in the report.

Part B – General Controls

Clause	DCP	Proposed	Complies/ Comment
B.3 – Site Amalgamation & Isolated Site	To encourage site consolidation of allotments for development in order to promote the desired urban design outcomes and the efficient use of land and to avoid the creation of isolated sites.	Consolidation of 10 allotments. The proposed development would not create isolated sites as the proposed development has amalgamated all ten (10) remaining R4 zoned parcels fronting Little Street south of Pottery Gardens.	Yes Yes
B.4 View Sharing	d) Buildings on steeply sloping sites should adjust the height of the building envelope to follow the natural topography of the site	The design and building envelope is considered to respond to the topography of the site.	Yes
	e) To facilitate view sharing for residential developments, flat roofs or low mono-pitched roofs can be used where the design of the Block And roof is integrated architecturally and where its appearance would be appropriate given the character of the street.	The design provides a flat roof form as encouraged.	Yes
	f) Applicants may not be able to achieve the maximum permissible height in order to cater and facilitate view sharing.	No concessions requested re setbacks.	N/A

REPORT TO JRPP – DA 223/14
27 – 43 LITTLE STREET, LANE COVE

Clause	DCP	Proposed	Complies/ Comment
	In such cases, concessions shall be given for side and rear setbacks subject to meeting the requirements for privacy, amenity and solar access to the adjoining neighbours. These concessions should be discussed with the Council Officers prior to the lodgement of Development Application.		
	h) Development is not to unreasonably affect existing water views from living areas of adjoining dwellings. Views from bedrooms are not considered to have the same significance unless they are the only available views within the dwelling. i) In such cases the maintenance of the view will be tested against its reasonableness i.e. how the view is obtained and where the view is gained. For instance views that are gained by leaning out a side boundary window and looking obliquely across a number of lots will not be given weight against a view from the main living area window. j) Views will also 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.	Detailed discussion in relation to potential impact on views by the proposed development – particularly those from Longueville Road residences - was provided by the applicant. This assessment, concludes that the impact of view loss is minor or negligible based on the fact that: • The topography is such that the Longueville Rd residences largely overlook the proposed development rather than directly look into the RFBs. • The mass of the RFBs is presented as three separate buildings thereby reducing the bulk of the development and allowing for view corridors between buildings; • The upper levels of the RFBs are set back further from the lower levels to open up views; and • The buildings are separated by generous setbacks to allow for enhanced amenity and reduced visual impact. This assessment is considered to have satisfactorily addressed this issue and its conclusion is generally concurred with, subject to the removal of Unit B503 via a Deferred Commencement consent condition, which will ensure the impact on view loss is further minimised.	Yes

REPORT TO JRPP – DA 223/14
27 – 43 LITTLE STREET, LANE COVE

Clause	DCP	Proposed	Complies/ Comment
6.3 Energy and Water Efficiency for Buildings	Design to meet energy efficiency criteria.	Design Incorporates a range of energy efficient features. Meets SEPP 65 principle. Meets BASIX targets. A rainwater tank of 5000 litres will be provided.	Yes
B.8 – Safety & security	Ground floor dwellings have direct access or entries from the street and at least one habitable room with windows facing the street	Details on SOEE indicating how the design promotes safety and security in accordance with CEPTD principles.	Yes

Part C3 – Residential Flat Buildings

Clause	Requirement	Proposed	Complies/ Comment
3.2 Density	Minimum site area 1500m ²	6912m ²	Yes
3.3 Building depth	18m exclusive of any balcony	<18m	Yes
3.4 Building width	40m maximum fronting the street	Block A – 29 metres at street frontage Block B – 23m Block C – 18.5m	Yes
3.5 Setbacks Front	Minimum 7.5m	7.5m	Yes
Side	6m up to 4 storeys	10m (northern) 9.0m (southern)	Yes
Rear (western)	6m	7.5m	Yes
3.5.3 General	a) In general, no part of a building or above ground structure may encroach into a setback zone		Yes
3.6 Building Separation (within developments)	Up to four storeys/12 m height: 12m between habitable rooms/balconies 9m between habitable rooms/balconies and non-habitable rooms 6m between non-habitable rooms and blank wall to any other window, light well or balcony.	Separation distance between Block A – B is 9m (non – habitable rooms and blank wall to any other window, wall or balcony). The building separation distance between Block B- C is 10.8m (non – habitable rooms and blank wall to any other window, wall or balcony).	Yes Also complies with 9 m requirement between non-habitable rooms and blank wall to any other window, wall or balcony for buildings of 5 – 8 storeys and between 12 and 25m in height.
3.7 Fences Front fences	Solid fences Part solid and predominantly see through fences b) permitted up to 1200mm above ground level (existing) on the front boundary.	1.2m palisade fence to front boundary	Yes

REPORT TO JRPP – DA 223/14
27 – 43 LITTLE STREET, LANE COVE

Clause	Requirement	Proposed	Complies/ Comment
3.8 Excavation	Encroachments into setback zone of up to 2m may be permitted for underground parking structures. No more than 1.2m above ground level	Excavation contained essentially within building footprint. No encroachments into minimum setbacks for basement.	Yes
3.9 Design of roof top area	Detailed landscape plan required	No roof top communal open spaces proposed	NA
3.10 Size & mix of dwellings	Minimum 40m ² A mixture of 1, 2, & 3 bedroom dwellings should be provided At least 10% (i.e. 9 apartments) of each unit type is to be provided	Minimum unit size is 51.5m ² 34 x 1 bed 47 x 2 bed 13 x 3 bed	Yes Yes
3.11 Private open space	Primary balconies - 10m ² with minimum depth 2m Primary terrace - 16m ² with minimum depth 4m	All balconies meet minimum requirements All ground floor terraces meet minimum requirements	Yes Yes
3.12 Number of car parking, motorcycle and bicycle spaces	Residents 34 x 1 bedroom dwellings = 34 spaces (@ 1 per unit) 47 x 2 bedroom dwellings = 70.5 spaces (@1.5 per unit) 13 x 3 bedroom = 26 (@ 2 per unit) Visitor 1 per 4 dwellings = 23.5 spaces (94/4) Total car spaces: 154 1 motor cycle space per 25 car spaces = 6 spaces (154/25) 1 bike locker per 10 dwellings (9.4 lockers required) 1 Bike rail per 12 dwellings (7 rails required)	154 130 residents 24 visitors 13 Motor cycle spaces proposed 32 bike lockers are proposed 7 Rails are proposed	Yes Yes Yes Yes
3.13 Ceiling heights	Minimum 2.7m	2.7m	Yes
3.14 Storage	6m ³ per 1 bedroom dwelling 8m ³ per 2 bedroom dwelling 10m ³ per 3 bedroom dwelling 50% of the storage volume within the dwelling	Storage volume provided in separate cages in basement and within the dwelling	Yes
3.15 Solar access	Living rooms and private open spaces of 70% of the units to receive 3 hours of direct sunlight between 9am	As demonstrated in the SEPP 65 RFDC compliance table submitted with the DA,	Yes

REPORT TO JRPP – DA 223/14
27 – 43 LITTLE STREET, LANE COVE

Clause	Requirement	Proposed	Complies/ Comment
	– 3pm on 21 June Maximum 10% (i.e.) dwellings with single south/SE/SW aspect	the proposed development provides 70% (i.e. 66 units) of the units with a minimum of 3hrs of sunlight between 9am and 3pm mid-winter; No south facing dwellings have a predominantly south or SE/SW aspect	Yes
3.16 Natural ventilation	Minimum 60% of the dwellings should have cross ventilation. Minimum 25% of kitchens have access to natural ventilation	As demonstrated in the SEPP 65 RFDC compliance table, 70% (i.e. 66 units) of the units incorporate cross flow ventilation.	Yes Yes
3.17 Visual privacy	Provide visual privacy between the adjoining properties	Privacy provided by suitable setbacks from property boundaries either in compliance or in excess of the DCP. Landscaping provided along the northern boundary of the site to further assist in ensuring privacy to the occupants at lower levels. Balconies are located to ensure privacy is maintained between the proposed development and surrounding developments. Balconies also fitted with manoeuvrable screens devices to provide further privacy to the occupants.	Yes
3.18 Communal open space	Minimum 25%	Communal open space (29%) is provided in two large formalised areas on eastern side of site and between Blocks B and C.	Yes
3.19 Landscaped area	25% provided at ground level and up to 15% provided on	46.8% (3228m ²) deep soil proposed at the	Yes

REPORT TO JRPP – DA 223/14
27 – 43 LITTLE STREET, LANE COVE

Clause	Requirement	Proposed	Complies/ Comment
Additional requirements refer to the locality control	structures (40% required)	ground level. Of this figure, 91.8% (2671m ²) is landscaped area (off structure) and 8.2% (567m ²) is on structures.	

Part F – Access and Mobility

DCP Requirement	Proposed	Complies/ Comment
Adaptable housing to be provided at the rate of 1 dwelling per 5 dwellings (20%) (Minimum of 19 dwellings are required)	19 adaptable dwellings are proposed.	Yes
Visitable housing – at least 80% (75 dwellings)	The Access Assessment Report prepared by Accessibility Solutions indicates that the proposed development can comply or is capable of complying with the relevant standards such that wheelchair access to at least 75 apartments with visitable toilets. This has been confirmed by Council's Community Development Officer, Ageing and Disability	Yes
Accessible Car Parking Spaces Residents space @ 1 per 5 dwellings = 18.8 spaces Visitors space @ 1 per 5 car spaces = 4.8 spaces	20 spaces 2 spaces	Yes No. Draft condition of consent included to ensure compliance.

Part J – Landscaping

Clause	DCP	Proposed	Complies/ Comment
	The DCP indicates a number of objectives.	Subject to additional conditions of consent recommended by Council's Landscape Architect (discussed later in the report), the proposed landscaping scheme will address all the objectives of the DCP.	Yes
Landscaping area	25% of the site as landscape area (deep soil) Additional 15% on structure or landscape area	46.8% of the site is landscaped.	Yes
Preservation of significant Trees	A significant tree or a tree strand to be preserved	Council's Tree Officer has indicated the design is sympathetic to the majority of	Yes

**REPORT TO JRPP – DA 223/14
27 – 43 LITTLE STREET, LANE COVE**

Clause	DCP	Proposed	Complies/ Comment
		larger trees on the site, particularly the trees adjacent to the rear boundary line that provide screening for the rear neighbouring residential apartment buildings. Where tree removal is required as part of the proposed development. This will be compensated to appropriate replacement plantings as shown on the landscape plan and as further augmented by conditions from Council's Landscape Architect. Tree protection measures and removal protocols provided in the Arborist Report submitted with the application.	

Part L – Public Art

Clause	DCP	Proposed	Complies/ Comment
	Developers are encouraged to proposed public art as an integral part of the developments	None proposed. Not compulsory.	NA in this instance.

Part O – Stormwater Management

Clause	DCP	Proposed	Complies/ Comment
	The DCP indicates a number of objectives and requirements.	The stormwater plans prepared by S and G Consulting and accompanying this application have been designed in accordance with the requirements of the DCP. Addressed by Council's Development Engineer and deemed to be satisfactory	Yes

Part Q 3.1 and 3.2 – Waste Management

Clause	DCP	Proposed	Complies/ Comment
	Waste minimisation for Demolition of buildings and structures and during construction of the proposed development	A Site Waste Minimisation Management Plan has been prepared and deemed to be satisfactory by Councils Waste Contract Co-ordinator.	Yes

REPORT TO JRPP – DA 223/14 27 – 43 LITTLE STREET, LANE COVE

Clause	DCP	Proposed	Complies/ Comment
Part Q 4.3 RFBs	Indoor waste and recycling facility		Yes
	Garbage Chutes		Yes
	Waste and recycling rooms		Yes
	Bulky Waste Storage Rooms		Yes
	Waste collection Point		Yes
	Communal Composting/Worm Farming		Addressed by draft condition of consent.
	On-site access		Yes

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

From the tables above, it is apparent that the proposed development complies with all relevant sections of the DCP with the exception of the number of required disabled car spaces. In this regard, the DCP requires that 4.8 spaces are supplied (or rounded up to 5), whereas only 2 spaces are shown on the amended car parking plans, three (3) short of the required amount. This is only a minor departure from the DCP and can be addressed by the attachment of a condition of consent requiring the provision of three (3) additional disabled spaces.

LANE COVE COUNCIL'S SECTION 94 CONTRIBUTION PLAN

Lane Cove Section 94 Contribution Plan applies to the proposal due to the increase in population of the area as a consequence of the development. Given the required Section 94 contribution must not exceed \$20,000 per dwelling in accordance with the cap under the Reforms of the Local Development Contributions, the Section 94 contribution is calculated in the following manner:

Ten (10) dwelling houses with 3 or more bedrooms currently exist on the site. The credit for each dwelling house is \$20,000 as per the cap, giving a total credit of \$200,000.

Total existing population: 2.8 persons/dwelling x 10 (number of existing dwellings) = 28 Persons

The development as proposed requires the following Section 94 Contribution.

No. of bedrooms	S.94's per dwelling	Number of persons	Required Contribution (\$)
34 x 1 bedroom	\$9,636 /person x 1.2 person/dwelling = \$11,563.2	40.8	393,148.80
47 x 2 bedroom	\$9,636 /person x 1.9 person/dwelling = \$18,308.40	89.3	860,494.80
12 x 3 bedroom (Note: 1 x 3 bed unit removed as per recommendation)	\$9,636/person x 2.4 person/dwelling = \$23,126.40 = \$20,000.00 (cap)	28.8 (was 31.2)	240,000.00 (was 260,000.00)
Total		158.9 (was 161.3)	1,493,643.60 (was 1,513,643.60)

Increase in population: 158.9 – 28 = 130.9 persons.

The required S.94 contribution for the proposed development is **\$1,293,643.60** (i.e. \$1,493,643.60 less a credit of \$200,000 for the existing properties).

The above S.94 contribution has been included in the draft conditions.

INTERNAL REFERRALS

The plans and supporting documents were referred internally to the relevant Council officers.

The following initial comments were received regarding the proposal:

- *Building Surveyor – in relation to compliance with the Deemed To Satisfy Provisions of the Block Code of Australia, advised of the possible need for alternate solutions to be prepared and accepted by the Principal Certifying Authority prior to issue of the Construction Certificate.*
- *Environmental Health – the Statement of Environmental Effects and the Acoustic report did not cover the potential impact of construction noise on the surrounding residents. It is considered that a Condition requiring a Construction Noise Management Plan be submitted to and approved by the Principal Certifying Authority prior to the issue of the Construction Certificate.*
- *Traffic and Transport Planning – required additional information relating to traffic analysis being extended to include Central Ave and Longueville Road intersection, Bi-directional traffic counts showing the speed profile and total number of vehicles using Little Street, additional design changes to parking and servicing areas, the driveway to Block A should be moved to the south away from the intersection with Dorritt Street to comply with AS 2890.1 and new swept paths for the typical car and Council garbage trucks are required as a minimum to show all movements.*
- *Waste Contract Officer – waste management design not acceptable and amended plans are required to show the path of travel for all bins to the collection point as well as path of travel to waste collection vehicle and also details of internal waste/recycling cupboards.*
- *Landscape Architect – indicated that the layout, amenity, provision for communal open space, appealing street frontage and articulated building footprint/façade setbacks is acceptable, particularly in relation to site coverage and deep soil and tree retention. The native tree canopy coverage on the site needs to be reinforced to maintain vegetation corridors connecting urban pockets of bush land. This can be achieved by good quality tree protection of existing as per the Arborist's report (TLC Solutions) as well as provision for appropriate supplementary native tree and large shrub plantings, to the rear of the property as well as the Little Streetscape. Currently the landscape concept plan and the indicative plant schedule are not in keeping with Lane Cove Council's native and a revised Landscape Planting Plan to incorporate native plants primarily with some exotic accent planting. This will be in keeping with other previously approved; Little Street Landscape DA's which will all eventually contribute to future streetscape character.*
- *Community Development Officer, Ageing and Disability – requested clarification how the adaption of the designated Adaptable Units will satisfy the minimal cost under the standards i.e.: units A101, B205, A204/303/404, and C304/406/507. All communal areas are to be accessible to people with a disability and accessible to all residences.*

In letters from Council dated 18th February and 8th April, the applicant was requested to provide additional information to address the issues identified above. In response to each of these letters, an updated traffic report, as well as additional plans and other information, were submitted by the applicant.

Upon review of this additional information submitted by the applicant, Council's referring officers have provided the following final comments:

Building Surveyor

I have reviewed the amended plans and the applicants covering letter to Council and advise that they will pursue alternate solutions for most of the non compliances. The car park ventilation remains unresolved. I would prefer to see where the exhaust stack will terminate, however I can condition the consent.

A number of draft conditions of consent were recommended by the Building Surveyor to address compliance with the BCA and the issue identified above. These have been included in the list of draft conditions provided as Attachment 1 to this report.

Landscape Architect

I have visited the site and considered the landscape architectural proposal in the plans prepared by Stuart Noble Associates dated 22.04.2015- Drawing Landscape Concept plans DA-1425-01 Issue G, DA-1425-02 Issue F, DA-1425-03 Issue E.

The landscape design, overall layout, amenity and provision of communal open space provide an appealing street frontage. The articulated building footprint façade finishes coupled with the setbacks work well in breaking up and softening the development. It has also addressed landscape site coverage and deep soil and tree retention adequately for this type and size of development.

The native tree canopy coverage on the site needs to be reinforced to maintain vegetation corridors connecting urban pockets of bushland. This can be achieved by good quality tree protection of existing as per the Arborist's report (TLC Solutions) as well as provision for appropriate supplementary native tree and large shrub plantings, to the rear of the property as well as the Little Street streetscape.

Currently the landscape concept plan and indicative plant schedule provides a minimal response to the Lane Cove Councils native planting policy therefore, I will include some conditions in relation to the Landscape Planting Plan to incorporate more and better sized native plants while maintaining the applicants desire for some exotic accent planting. This will be in keeping with the lane Cove landscape policy and other previously approved Little Street Landscape DA's with the intention of assisting in contributing to the overall future streetscape character.

There are a number of existing trees to be removed from subject site however the proposal has indicated a number of advanced tree planting in 100L pot sizes which will give instant impact to the proposed development. Some of these species will be difficult to procure in the pot sizes stated in the plant list and may need to be contract grown to achieve those specified sizes on the Landscape Plan DA-1425-03 Issue E.

There are approximately 48 x Ceratopetalum gummiferum (NSW Christmas Bush) proposed on along the south, east and northern boundaries, the landscape concept is to provide mass planting however, this plant species selection is temperamental in Sydney and in certain soil conditions is a very slow growing bush/tree and would not be considered a canopy tree. In order to strengthen the native streetscape character and vegetative corridors that flow down to the Lane Cove Golf Course, Bushland Park and Gore Creek Reserve the following plant substitution conditions have been drafted.

A number of conditions of consent were recommended by the Landscape Architect in relation to species selection (including the use of endemic native species), replacement planting of mature trees, on-structure planting, the preparation of detailed landscaping documentation prior to the construction certificate and protocols for practical completion and maintenance of landscaping. These have been included in the list of draft conditions provided as Attachment 1 to this report.

Community Development Officer, Ageing and Disability

The application is supported in the updated form with reference to letter dated 23 April 2015 and revised plans dated 8/4/2015.

No specific conditions of consent were identified.

Traffic and Transport Officer

I refer to your request for traffic, transport and parking conditions for the development application for 27-43 Little Street, Lane Cove.

I have reviewed the following documents and associated plans:

- (1) Statement of Environmental Effects – Development Application – Residential Flat Building, 27-43 Little Street, Lane Cove by City Plan Services dated December 2014*
- (2) Traffic Impact Assessment – Proposed Residential Development 27-43 Little Street, Lane Cove by Traffix dated 14/12/2014*
- (3) Access Review for Development Application, 27-43 Little Street Lane Cove by City Plan Services dated 15 December 2014*
- (4) BCA Compliance Statement, 27-43 Little Street, Lane Cove by City Plan Services dated 15 December 2014*
- (5) Request for additional information – 27-43 Little Street Lane Cove, prepared by Traffix dated 8 April 2015.*

Intersection operations

Several intersection counts and analysis have been provided at the following locations:

- Little Street / Dorritt Street*
- Longueville Road / Dorritt Street*
- Longueville Road / Central Ave*
- Central Ave / Little Street*
- Rothwell Cres / Little Street.*

All intersections in the vicinity of the project site show spare capacity during peak periods with all intersections operating at very good levels of service. With the low trip rates generated by the site (based on RMS Trip Generation methodology) there is minimal impact on the surrounding intersections even if all traffic travels through any one intersection.

It is acknowledged that cumulative traffic impacts for surrounding developments including at 1-5 Little Street have not been considered in the traffic analysis for this development. However with the additional capacity at each of the surveyed intersections and that most of the vehicles using the car parking facility at Little Street will come from either Longueville Road / Central Avenue, it is unlikely that there will be any adverse impacts.

Work has recently been completed at the intersection of Central Ave / Longueville Road to allow for two lanes exiting Central Street onto Longueville Road. These works provide a dedicated left turn and a dedicated right turn from Central Street.

Local road operations

It was requested that an analysis was undertaken evaluating reopening Little Street to two way traffic at Central Street. Turning movement counts were undertaken showing a very low number of vehicles entering against the signage during the peak periods. If Little Street was reopened to two way traffic at this intersection, it is likely that additional rat-running will occur in these residential streets in an effort to avoid sections of Longueville Road.

Counts were provided for Rothwell Crescent showing that there is an average of 200 vehicles travelling along Rothwell Crescent during the week which is well within the capacity limits of this local road. Residents along Rothwell Crescent have petitioned Lane Cove Council to investigate closing Rothwell Crescent at Little Street.

Parking and servicing

According to the Australian Standards 2890.1, an access driveway shall not be located at the intersection of local streets. While it would still be preferable to locate this driveway away from the intersection, justification for this driveway location is provided including:

- *the existing site constraints including the slope of Little Street and the easement running through the property;*
- *the low trip generation rates from the development;*
- *the low turning movement volumes at the Rothwell Crescent/Little Street intersection.*

Alongside both access driveways, a separate space has been dedicated for furniture trucks and as a drop-off facility. Council acknowledges that docks that are dedicated to garbage trucks may also be used by removal trucks to ensure that these activities are conducted off-street. Some signage about garbage pick-up times may be required to ensure that garbage trucks can use the space as required.

Pedestrians / Cycling

Lane Cove DCP Part R states that the Traffic Impact Assessment must include: an analysis and identification of major pedestrian routes, pedestrian flows and potential conflicts, and an assessment of the pedestrian network within at least 25m of the site on both sides of the road. The provided analysis shows that there is minimal pedestrian activity in the area and suggests that there are no improvements that are required in the area.

There are no specific recommendations made in the Lane Cove Pedestrian Accessibility and Mobility Plan for Little Street. However Council would consider the installation of footpaths on the eastern side of Little Street to be an appropriate upgrade. On recent advice from the Open Spaces and Urban Services division, it is likely that Lane Cove Council will be building these footpaths within the next two years. If for whatever reason they are not completed, it will be a requirement for the developer to build these footpaths on the eastern side of the street.

Public Transport and Car Share

Lane Cove Council stated at the Pre-DA meeting that any reduction in parking would be supported for this development along with schemes to reduce vehicular traffic to the site. However the developers have chosen to maintain the recommended parking levels for this site as per the Lane Cove DCP Part R. Council would consider it feasible to introduce an off-street car share space into the development.

Summary

In terms of the overall traffic from the development, the traffic consultant has followed a recommended procedure using the data that is available. Given the use of this accepted methodology, the overall level of traffic generated by the site is satisfactory and will not have detrimental effects on the local area. All local intersections are operating at very good levels of service and as such, have capacity for more than the proposed increases in traffic as a result of the site.

As a result of these comments, Council's Traffic and Transport Engineer recommended a number of conditions be attached to the consent in relation to:

- parking and servicing requirements;
- pedestrian and cycling facilities;
- access to public transport (specifically *A Sustainable Transport Action Plan*);
- identification of work zones; and
- a requirement for a *Construction Management Plan*.

These have been included in the list of draft conditions provided as Attachment 1 to this report.

Manager Environmental Health

Reference is made to the proposal to demolish existing residential buildings and the construction of a multi-unit residential development comprising 3 x four-storey residential flat buildings.

If development consent is to be granted, as the Construction Noise Management Plan provided is only interim advice, the Final/comprehensive Construction Noise Management Plan which will include (but not be limited to) the staging of operation of noise generating equipment is to be submitted to Council for approval prior to the PCA issuing the Construction Certificate.

A number of standard conditions of consent were recommended by the Manager Environmental Health in relation to dust control; erosion and sedimentation control; site establishment and maintenance issues; demolition works and asbestos removal/disposal; disposal of contaminated soils; car park noise, security and ventilation; and ventilation of garbage rooms. In addition, a detailed condition requiring implementation of noise mitigation measures detailed in the Construction Noise Management Plan and protocols for dealing with construction noise complaints were also recommended. These have been included in the list of draft conditions provided as Attachment 1 to this report.

Tree Assessment Officer

I have reviewed the DA documents/Plans and visited the site. The proposed development consists of demolition of the existing eleven (11) houses and construction of three (3) residential apartment towers with basement parking. The design is sympathetic to the majority of larger trees on the site, particularly the trees adjacent to the rear boundary line that provide screening for the rear neighbouring residential apartment buildings.

The Plans show the removal of two Bottlebrush street trees known as Tree 34 and Tree 35. I have no objections to the removal of these two street trees. All remaining street trees directly adjacent to the site must be retained and protected.

Fifty six (56) trees are recommended for retention and protection in the arborist report by Tony Lydon dated 13th December 2014. All trees designated for retention including Council trees directly adjacent to the site must be tagged prior to commencement of all work. The tags must be clearly visible and contain the tree number and its botanical name in accordance with the arborist report. The tags must be retained on the trees for the duration of the development work. Trees designated for removal do not require tags.

Tree protection zones must be installed by the project arborist and in accordance with the tree protection diagram shown in Section 5 of the arborist report.

The Tree Protection Plan (TPP) compiled by Tony Lydon dated 13th December 2015 shall be adopted as part of the development consent. All recommendations and specifications including supervision and certification holding points within the (TPP) must be followed at all stages of the development. Certification of installed tree protection measures including tagging of trees must be obtained by the Authorised Private Certifier.

Council's street trees shall not be mulched as mentioned in the Section 7.1 of the Tree Protection Plan. All trees within the site designated for retention shall be mulched as mentioned.

A number of standard conditions of consent were recommended by the Tree Assessment Officer in relation to tree removal and protection protocols and the requirement for the payment of a bond for the protection of street trees. These have been included in the list of draft conditions provided as Attachment 1 to this report.

Waste Contract Co-ordinator

Reference is made to the amendments to the proposed development located at 27 - 43 Little St, Lane Cove and consisting of 94 apartments with basement car parking.

The waste management arrangements for the development must be in line with Part Q of Council's DCP and with these changes I am satisfied that these requirements are met.

No specific conditions were identified by the Waste Contract Co-ordinator.

Development Engineer

No objections were raised subject to a range of standard engineering conditions. These have been included in the list of draft conditions provided as Attachment 1 to this report.

EXTERNAL REFERRALS

SEPP 65 Design Consultant

The proposed development is affected by the provisions of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings (SEPP 65). - In accordance with SEPP 65, a Design Verification Statement has been prepared by Matthew Cumming of Mijollo International (Registered Architect No. 8297). This Statement provides detailed discussion as to how the proposed development satisfies each of the ten (10) design principles of SEPP 65.

In accordance with Council procedure, the application and SEPP 65 report was referred to Council's SEPP 65 Design Consultant for review. The following advice was received.

“Design Quality Principles

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

1. Context

Good design responds to and contributes to its context. Context can be defined as the key natural and built features of an area. Responding to context involves identifying the desirable elements of a location’s character or, in the case of precincts undergoing a transition, the desired future character as stated in Planning and design policies. New buildings will thereby contribute to the quality and identify of an area (SEPP 65).

The site is in Little Street Lane Cove, approximately 250m from the Council offices. It is within close proximity of the Lane Cove town centre, civic services, sporting facilities and green open space. Buses to the city circulate along Little Street as well as along Longueville Road, one street to the West.

The area is characterised by 3 and four-storey residential units as well as one and 2 storey individual dwellings. The area is zoned R4 high-density residential in which developments such as this application are permissible. The area is undergoing transformation to a high amenity, medium to high density residential and mixed-use centre.

Little Street is predominantly residential. Some mixed-use developments are occurring at the northern end towards the Council office building. The subject site is in the wholly residential area.

The subject site slopes from west to east and north to south and is surrounded by mature trees, both native and exotic. The site is partially elevated above the street level at the northern end which serves to visually separate the site from the street in the area.

Properties to the west of the subject site fronting onto Longueville Road, are on a higher ridge level and upper-level dwellings within these properties will have views to the East over the subject development.

Project of this nature in this context is appropriate.

The proposal meets the objectives of this principle.

2. Scale

Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.

Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area (SEPP 65).

The proposal, for the most part, observes both height limits and setback requirements. The four-storey buildings proposed will sit comfortably within the streetscape. The development has been conceived of as 3 separate buildings with generous amounts of landscaping and communal open space, partly in response to a drainage easement through the site and partly in response to the maximum allowable FSR, which allows for an appropriate amount of open space.

The separate buildings will allow for views through the site.

The proposal meets the objectives of this principle.

3. Built Form

Good design achieves an appropriate built form for a site and the building's purpose, in terms of Block Alignments, proportions, building type and the manipulation of the building elements.

Appropriate built form defines the public domain, contributes to the character of streetscape and parks, including their views and vistas, and provides internal amenity and outlook (SEPP 65).

As mentioned above, the development is broken down into 3 buildings, Blocks A, B and C. Blocks A and B, which are both L-shaped, form a central communal area. Block C, to the north of block B, is a stand-alone rectangular shaped building which shares a basement car park with block B.

The architects have designed the buildings (with) a relatively narrow building depth and sufficient vertical circulation to allow for a generous number of flow-through apartments. The built form results in a high level of residential amenity.

At 1st glance, I was concerned about the potential overshadowing of the properties south of the subject site. The Shadow diagrams provided indicate that the buildings on that property will continue to receive more than 3 hours of sun to the windows and open space facing the North towards the subject site.

The setbacks provided to adjacent properties and between buildings on the subject site are generally adequate and in some cases generous. There is a minor issue between buildings A and B, however, I believe the screening indicated on the plans deals with privacy issues adequately.

The proposal meets the objectives of this principle.

4. Density

Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).

Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality (SEPP 65).

The 94 additional dwellings provided by this development are not inconsistent with the desired future density of this area.

The proposal meets the objectives of this principle.

5. Resource, energy and water efficiency

Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction. Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built forms, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and re-use of water (SEPP 65).

The proposal has been designed with sound passive environmental principles. The development retains general existing ground levels and minimises the amount of excavation required.

The perimeter of the site as well as a proportion of the centre are preserved for deep soil planting which will allow for a reasonable amount of absorption.

Cross ventilation

The proposal meets the minimum 60% standard for cross ventilation. I have counted 74.5% cross ventilation units.

South facing units

The proposal has no south facing units.

Solar access

The applicant has provided unusual solar access diagrams that show shadows passing across the buildings from fixed viewpoints. These diagrams are, however, sufficient for establishing which units do or do not receive direct sunlight.

I am satisfied that the development will achieve the minimum 70% units with direct sun between 9am and 3pm on 21 June.

The proposal meets the objectives of this principle.

6. Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.

Landscape design builds on the site's natural and cultural features in responsible and creative ways. It enhances the development's natural environment performance by coordinating water and soil management, solar access, microclimate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.

Landscape design should optimise usability, privacy and social opportunity, equitable access and respect for neighbours' amenity and provide for practical establishment and long-term management (SEPP 65).

The proposal, as mentioned above, includes deep soil zones around the perimeter of the site and in the central courtyard area that provides the main Communal open space, which should be very popular for residents to use.

Despite a sloping site, the architects have been able to provide accessible pathways to the building entrance. It is not clear to me whether the footpaths that lead to the entrance ramps, especially the northern one, allow for continuous access. This is out of the applicant's control anyway.

A colourful palette of plant species has been suggested which is, in my opinion, slightly out of keeping with the native plant species endemic to the area. Magnolias are usually used as a feature tree but in this case they have been used on mass. I am not sure the effect will be pleasing, however this is just a matter of opinion. Also the Nandina Domestica, in my experience, is relatively low and will not provide much screening to and from units above level two on the southern boundary.

The proposal, with some reservation, meets the objectives of this principle.

7. Amenity

Good design provides amenity through the physical, spatial and environmental quality of a development.

Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility (SEPP 65).

The proposal has well planned and designed apartments with a high level of amenity. The balconies are well positioned with respect to the units and of a very practical size and proportion.

Additional storage units have been provided in the upper level of the basements.

The accessibility and provision of useable outdoor space will add to the high amenity levels of the development.

The proposal meets the objectives of this principle.

8. Safety and security

Good design optimises safety and security, both internal to the development and for the public domain. This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and no-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces (SEPP 65).

The proposal will, in my view, have a high level of perceived and real security and safety. The amount of passive surveillance of the common areas will contribute to this. There is a minor concern with respect to the partly concealed entries to buildings A and B due to a 90 degree turn in the pathways behind units A101 and B102.

If the security entry to the site is at the Little Street footpath, this should not be a concern.

The proposal meets the objectives of this principle.

9. Social dimensions

Good design responds to the social context and needs of the local community in terms of lifestyles, affordability and access to social facilities. New developments should optimise the provision of housing to suit the social mix and needs of the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community (SEPP 65).

The development offers a good mix of 1, 2 and 3 bedroom units with the potential for safe places for kids to play. The site is within close proximity of open space, retail and transport as well as civic functions.

The proposal meets the objectives of this principle.

10. Aesthetics

Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area (SEPP 65).

The proposal has a pleasing mix of brick and other masonry and will blend well into the streetscape. The solid to void ratio is very pleasing to the eye as is the sharp detailing of the upper level roof elements, which give the development a high quality contemporary appearance. The intention to retain existing street trees will further settle the building into the site.

The proposal will set a benchmark for quality residential buildings in the area.

The proposal meets the objectives of this principle.

Conclusion

With the exception of some minor reservations with respect to the Landscape, I believe this to be an exemplary development that observes the design controls for the site and meets all the objectives of the principles of good design.

From the above comments, it is apparent that the proposed development is consistent with each of the ten (10) design principles of SEPP 65.

Heritage Consultant

The proposed development is in the vicinity of two (2) heritage items of local significance, namely the Lane Cove Senior Citizen Centre at 180 Longueville Road (Item No. I175) and Lane Cove Public School located at 145 – 153 Longueville Road (I178). Accordingly, the application was referred to an external heritage consultant – Trina Day Architects – for an assessment of the likely impact of the proposed development on these items, as well as comments as to any heritage value of the dwellings being demolished. The relevant comments received from the heritage consultant are as follows:

"I believe there will be minimal impact from the new development on these heritage items and therefore I believe the development can be supported.

The reasons that I believe the impact will be minimal are as below.

- *The Lane Cove LEP Heritage Map shows Item I175 to share a rear boundary with the proposed development site, but this is incorrect. The site indicated on the LEP map is actually 182 Longueville Rd. No 180 is further north and this site and the proposed development site do not share a boundary - they just meet at one corner.*
- *The heritage item I175 already has had apartment buildings constructed to its south and east, which have already impacted the site in terms of views & overshadowing.*

Therefore the impact of these proposed new apartment buildings will be negligible.

- *The heritage item I178 is located at a considerable distance from the proposed development site. There is a busy street and existing multi-storey apartment buildings between the Public School and the proposed development site, so the impact of the proposed apartment buildings on this heritage item will be negligible.*
- *The houses slated for demolition are not heritage items, nor are they located in a conservation area. The HIS identifies that No. 27 & No. 29 were built before 1930, and that the other houses on Little Street were built before 1951, but all of these houses have been substantially altered so the significance of these houses is minimal.*

REPORT TO JRPP – DA 223/14 27 – 43 LITTLE STREET, LANE COVE

Recommended condition for Notice of Determination:

In the Heritage Impact Statement for the proposed development there is a recommendation “that photographic archival recording of the properties and associated structures should be undertaken prior to commencement of any works within the site.” I recommend that this be added to the Notice of Determination.”

This condition has been included in the list of draft conditions in Attachment 1.

PLANNING CONTROLS

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

Zoning and Permissibility

As shown on Figure 4 below, the subject site is zoned R4 High Density Residential under Lane Local Environmental Plan 2009 (the LEP). The site comprises all ten (10) allotments contained within the R4 zone on the western side of Little Street and hence represents a single consolidated development site.

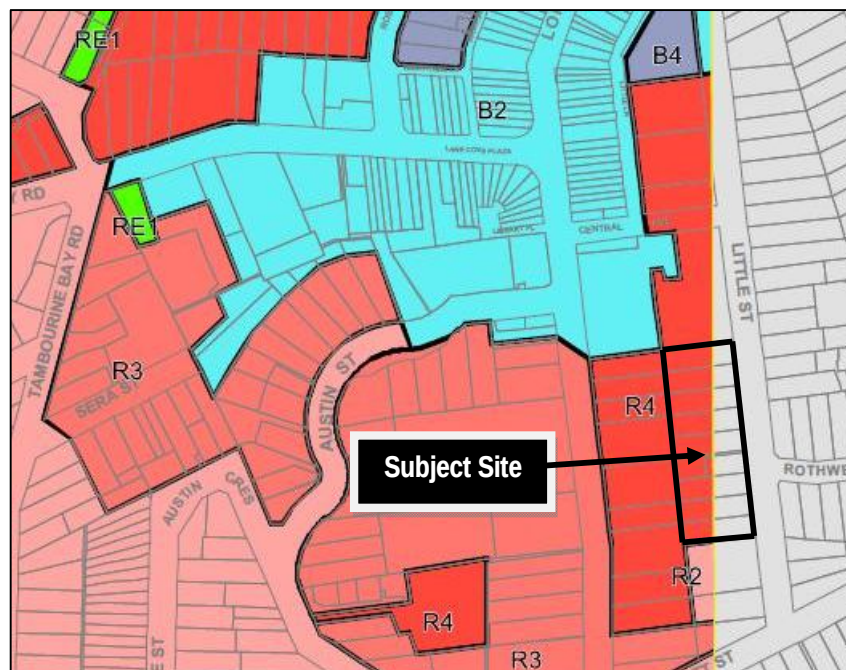


Figure 4 – Extract from LCLEP Zoning Map

Under the dictionary of the LEP, the proposed development would be defined as a “residential flat building” which means:

“residential flat building means a Block Containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.”

Residential flat buildings are a permissible use in the R4 zone subject to consent.

Clause 2.3(2) – Zone Objectives

In accordance with Clause 2.3(2), a consent authority must have regard to the objectives for the development in a zone when determining a development application in respect of land within the zone. In this regard, the proposed development is considered to be consistent with the following objectives of the R4 zone:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To provide for a high concentration of housing with good access to transport, services and facilities.*
- *To ensure that the existing amenity of residences in the neighbourhood is respected.*
- *To avoid the isolation of sites resulting from site amalgamation.*
- *To ensure that landscaping is maintained and enhanced as a major element in the residential environment.*

Clause 4.3 – Height of Buildings

Under Clause 4.3 of the LEP, a maximum height has been adopted for a range of zones and specific sites within the Lane Cove LGA. As shown on Figure 5 below, the subject site has been identified as Category M, which equates to a maximum height limit of 12.0 metres.



Figure 5 – Extract from LCLEP Building Height Map

The majority of the development falls within the 12.0 metre height plane, with the exception of the encroachments of 620 mm and 300 mm for Block A; encroachments of 276mm, 600mm, 840 mm, 1020mm, 1300mm, 1610mm and 2300mm for Block B; and 300mm and 385mm for Block C.

These encroachments are shown by dashed lines on the elevations of the building submitted with the application as well as in 3D form in Figures 7 – 10 of the applicant's Clause 4.6 Variation Submission. The impact of these encroachments and the merits of the applicants request to vary the height restriction to allow these encroachments are discussed under Section 4.6 below.

Clause 4.4 – Floor Space Ratio

Under the relevant floor space ratio (FSR) map adopted under Clause 4.4 of the LEP, the subject site has been identified as Category P, which equates to a maximum FSR of 1.2:1.

As indicated earlier in the report, the proposed development comprises total floor space of 8292m² which, when compared to a total site area of 6912m², equates to a FSR of 1.199:1, or rounded up to 1.2:1, which complies with this maximum FSR.

OTHER MAPPING LAYERS

Under the LEP, the subject site is not affected by the following mapping layers:

- Lot Size Map – the development does not include subdivision;
- Land Reservation Acquisition Map – the site is not identified for acquisition for any purpose;
- Acid Sulphate Soils – the site is not identified as containing any potential acid sulphate soils;
- Heritage Map – the site does not contain any known heritage sites; and
- Environmental Protection Land Map/Foreshore Building Line Map/Riparian Land Map - the site does not contain any items of environmental protection; is not affected by the foreshore building line; and does not contain any riparian land.

CLAUSE 4.6 – EXCEPTIONS TO DEVELOPMENT STANDARDS

As indicated above and as identified in 3D form in Figures 7 – 10 of the applicant's Clause 4.6 Variation Submission, the development encroaches into the maximum height limit of 12 metres in the following locations:

- Block A – a variation of 300 mm comprising the east-facing overhang of the roof on Unit A503 and a variation of 620 mm comprising the north-facing overhang of the roof on Unit A501 and the stairwell and lift shaft to the east.
- Block B – variations of 276 mm, 600 mm, 840 mm, 1020 mm, 1300 mm, 1610 mm and 2300 mm variation to the height above units B407, B409, B501, B502 and B503, comprising predominantly east-facing and some north-facing sections of the roof and walls of the building. The encroachments of 1610mm and 2300mm relate to Unit B503, where more than half of the habitable floor level exceeds the height limitation, which is understood to be Council's general "rule of thumb" in the consideration of variations.
- Block C – a variation of 300 mm comprising the south-facing overhang of the roof on Unit C502 and a variation of 385 mm comprising the south and east-facing overhang of the roof on Unit C504.

Accordingly, the applicant has submitted a submission under *Clause 4.6 Exceptions to Development Standards* requesting a variation to the height limit under the height map and providing a justification for same.

The objectives of Clause 4.6 of the LEP states as follows:

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

Sub-clauses (3) and (4) then provide the matters to be considered by the consent authority in deciding whether or not to vary the development standard. These matters are as follows:

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (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, and*
 - (b) *the concurrence of the Director-General has been obtained.*

To address the requirements of Clauses 3 and 4, the submission from the applicant has referenced the Land and Environment Court decisions *Wehbe v Pittwater Council* [2007] NSW LEC 827 (5 part test) in regard to proposed variation being as well as the principles outlined in *Winten Developments Pty Ltd v North Sydney* [2001] NSW LEC 46.

A brief summary of the reasons and arguments put forward by the applicant in the Clause 4.6 submission are identified below, in addition to a copy of the conclusion of the submission. A comment as to the merits of the submission is provided immediately following. A full copy of the applicant's Clause 4.6 Variation Request is provided as Attachment 2 to this report.

The proposed variation in height is considered below in terms of the impact on surrounding properties specifically with regard to overshadowing, loss of privacy and visual impact and with reference to the interface of zones.

Overshadowing:

Given the topography, and the dominant orientation of the site and buildings (in a east west orientation) the impact of the proposed development in terms of overshadowing is as follows:

- *Northerly direction - the adjoining northern site is No. 2 Central Avenue and given the orientation of the buildings there is no overshadowing associated with the proposed development;*

- *Southern direction - the proposal is setback 9m from the common boundary, 30% greater than required. At the winter solstice (21st June), No 45 Little Street is still able to receive more than 3 hours of sunlight. Refer to the following shadow diagram below for confirmation of the above. At the boundary the proposal is compliant with the 12m control and therefore the breach of height impact has no impact on overshadowing.*
- *Easterly direction – there will be no impact on neighbouring properties given that there is a 30m separation between the proposed buildings and existing dwellings.*
- *Westerly direction – given the building separation to the rear and the orientation of the site, there is no overshadowing cast from the proposed development onto the buildings to the rear of the site.*

In addition, given that the front setback of the buildings is 7.5m from the boundary, the proposed development and the associated variation in height does not impact upon nor reduce access to sunlight to the street.

Therefore the proposed height variation would have no impact on access to sunlight.

Loss of privacy:

The buildings have been designed in accordance with the SEPP 65 building separation requirements (in excess in some instances) and the proposed development does not duly impact on the neighbouring properties, thus reducing direct overlooking and associated loss of privacy.

Balconies will be provided with privacy screens, whilst the topography of the site – particularly the steep slope up to the rear – will also act to protect neighbouring properties from direct overlooking and provides filtered out looks due to the varying interface of the buildings.

Therefore given the generous setbacks, topography of the site and tree planting the surrounding building will not be negatively impacted by the height variation in terms of loss of privacy.

Visual impacts:

The visual impact of the additional height on the surrounding neighbours is minimal particularly due to the topography of the site. The land is valley shaped, with the lowest point being to the centre of the subject site and the building steps down the slope which ensures that at no point on the site does the building exceed four (4) storeys. The variations are a primary function of the site topography and a number of elevations of the development are significantly lower than the 12 m limit. Where the variations occur they are visually negligible.

The following contentions are provided in support of this submission to vary the height control in this particular instance:

- *The desired future character of the area is achieved, which is for a higher density residential development, within the Lane Cove context;*
- *Council have specifically nominated these sites for R4 high density residential development. Therefore the proposed RFB is consistent with the zoning of the sites and is in fulfilment of Councils land use intention;*

- *The proposed development has been designed to incorporate adequate building separation and side setbacks, and to ensure future development of surrounding sites are not compromised, whilst maintaining the amenity to existing development in the area;*
- *Amenity is not compromised for the surrounding residential sites as a result of the non-compliance with the height standard; and*
- *The objectives of the height standard, and the zone objectives, are achieved.*

Moreover, the various technical reports and plans accompanying the development application provide a comprehensive assessment of potential environmental and amenity impacts associated with this project. Notwithstanding the height variation, the proposed development will not result in an adverse environmental or amenity outcome for the adjoining sites, or the wider locality. Therefore strict compliance with the development standard would be unreasonable and unnecessary. Strict compliance would not result in any tangible benefits.

Summary

On balance, it is clear that the additional height proposed is largely in response to the topography of the site and that the variation has no impact in terms of overshadowing, loss of privacy and visual impacts of height on neighbouring properties and sunlight into the public domain.

A number of diagrams to demonstrate the above points were provided as part of the submission, showing separation between proposed buildings on the site and also to buildings on adjoining sites, as well as building elevations and sections through the site showing the impact on height planes.

Public Interest

Pursuant to case law of Ex Gratia P/L v Dungog Council (NSWLEC 148), the question that needs to be answered is “Whether the public advantages of the proposed development outweigh the public disadvantages of the proposed development”.

This Clause 4.6 variation and the accompanying plans and technical reports demonstrate the public advantages of providing a new, high quality residential flat building on this site. No public disadvantages have been identified as it has been demonstrated that any environmental or other impacts associated with the development are minimal.

The Public Benefit of Maintaining the Standard

There is no public benefit in maintaining the height control within LCLEP, 2009. There will be no negative consequences in terms of the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment.

The departure from the height control within the LCLEP, 2009 allows for the orderly and economic use of the site in a manner which achieves the outcomes and objectives of the relevant planning controls. The departure from the height control within the LCLEP, 2009 allows for the critical mass to be achieved for the site.

Conclusion

The proposal does not strictly comply with the maximum height standard prescribed by Clause 4.3 of the LCLEP, 2009.

Having reviewed the possible effects arising from this non-compliance in height, we are satisfied that the objectives of Clause 4.6 of the LCLEP, 2009 are satisfied because the non-compliant portions of the height of the building on the site, are minor and do not in itself create any adverse environmental impacts. The purpose of Clause 4.6 is to provide an appropriate degree of flexibility in applying development standards to particular development, and to achieve a better planning outcome for, and from development, by allowing flexibility in particular circumstances.

The possible effects arising from this non-compliance have been evaluated against all planning controls and objectives applying to the site and that analysis concludes this proposal will not result in any adverse built form, public domain, amenity or environmental outcomes.

Consequently strict compliance with this development standard is unreasonable and unnecessary in this particular case and that the use of Clause 4.6 of the LCLEP, 2009 to vary this development control is appropriate in this instance and that there are significant environmental planning ground to justify the proposed variation.

The identified breaches of the height standard, with no identifiable environmental planning outcomes, must be balanced against the importance of meeting housing targets and the benefits that arise from providing a contemporary Architect designed residential flat building within the Lane Cove locale.

Therefore it is reasonable to conclude that more adverse outcomes would actually accrue from strict compliance with the height standard, or conversely in the terms of clause 4.6(1) (b), a better outcome will be achieved for this development by allowing flexibility in the application the height standard in this particular instance.

The proposed residential flat building proposes 94 apartments, no other land uses are proposed, in association with this particular application. Therefore the issue of public interest has been addressed pursuant to case law of Ex Gratia P/L v Dungog Council (NSWLEC 148).

Comment:

The applicant's submission is detailed and is considered to provide suitable evidence that the majority of encroachments in height are essentially in response to the topography of the land and result in no unreasonable adverse impact to surrounding properties in terms of privacy, view loss and overshadowing; a better built form outcome; and do not diminish the external appearance or design quality of the development, as confirmed by the comments of the external SEPP 65 design consultant.

In addition, it is evident that the majority of height encroachments – that is, all but the encroachments of 1610 mm and 2300 mm pertaining to Unit B503 (as discussed below) – are not designed to obtain additional yield, but rather are simply a mechanism to achieve the floor space allowable on the site under the LEP. The alternative to incorporating these generally minor height encroachments to achieve the allowable floor space would be to reduce the height of the Block And expand the footprint, thereby reducing the amount of landscaping, open space and setbacks, all of which are currently compliant or in excess of the requirements specified under the DCP.

In turn, larger-than-required setbacks to the northern and southern boundaries and additional areas of open space combine to provide increased buffers and hence greater amenity to adjoining residences, as well as a superior design outcome on the site, as verified by the SEPP 65 consultant. In doing so, these aspects of the design are considered to provide an increased public benefit as alluded to in the Webhe case.

As such, when considering the extent of controls under the LEP, DCP and SEPP 65 to the development is required to comply with (and the extent to which it does comply) – as well as the inconsistent topography of the land – the extent of the encroachments other than those pertaining to Unit B503 is considered reasonable. In this regard, the encroachments identified are generally minor for the buildings at each end of the site where they are closer to adjoining properties (i.e. 620 mm and 300 mm for Block A at the southern end and 300mm and 385mm for Block C at the northern end) with the larger encroachments of between 276mm and 1300mm applicable to Block B where the drop in the level of the land is greatest and the impact on adjoining residents is the least.

It is also noted the height of the buildings at each setback – where the potential impact on adjoining properties would be the greatest – is either at or below the maximum height level, thereby ensuring the impact of the proposed development is minimised, again as verified by the SEPP 65 report and independent review of same.

On this basis, the applicant's justification for a variation to the maximum height restriction pertaining to the land – other than the variations of 1610mm and 2300mm above Unit B503 in Block B – is considered to be well founded and therefore supported.

However, it is considered that the largest of the variations proposed to the height of Block B, which range from 1610mm to 2300mm on the eastern façade of the Block Above Unit B503, cannot be justified simply because they result in no major impact on the amenity of adjoining or nearby residences. In this regard, whilst the submission is able to demonstrate that the encroachment of this part of the Block Above the height plane results in a limited impact on overshadowing, view loss and privacy, it is nonetheless an encroachment that is not necessary or justified simply by the topography of the site or the need to achieve the maximum floor space allowable. Rather, the topography of the site is a constraint, or factor, that has to be considered in the design of the development and which, as stated in the DCP, may in fact mean that the maximum allowable FSR may not always be achieved. In this instance, the majority of the habitable section of Unit B503 protrudes above the height plane, meaning that it is only due to a significant encroachment of the maximum height limit for the site that the maximum yield is being achieved. This is in contrast to the other smaller encroachments proposed and deemed reasonable, where the majority of the units are below the height plane and only small sections of rooves or walls encroach the height limit due to changes in the topography immediately below and which cannot reasonably be expected to be avoided – or accommodated – in every instance.

It is considered that agreement to these particular variations would result in an additional unit being achieved where ordinarily it wouldn't be able to due to the fall of the land and in contravention to the objective of the planning control, which is to provide the community and nearby residents with a reasonable and consistent expectation as to the type and scale of development likely to be achieved on any given site. Such an outcome is considered likely to set an unwarranted precedent for other developments within the Lane Cove Local Government Area and potentially have the effect of undermining the community's confidence in the consistent application of the maximum height requirement by Council.

As such, this outcome can be avoided simply by deleting Unit B503, which keeps the extent of variations to a minimum and limits the encroachments to those justified on the basis of the topography of the site rather than simply a mechanism to achieve the maximum floor space allowable. The loss of one unit out of a total yield of 94 represents essentially only one percent of the total number of units and therefore unlikely to significantly affect the viability of the development as whole.

To effect this change, it is recommended that a “Deferred Commencement” consent be granted pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979 requiring the submission of amended plans to the consent authority that shows the deletion of Unit B503 prior to the consent becoming operational.

Therefore, subject to the deletion of Unit B503 as required via a condition of the deferred commencement consent, it is considered that sub-clause (4) of Clause 4.6 of Lane Cove LEP 2009 has been met as follows:

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by sub-clause (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.*

OTHER RELEVANT CLAUSES OF LANE COVE LEP 2009

Clause 59AA – Preservation of Trees or Vegetation

Under Clause 59AA, consent must be granted for the removal, destruction or injury to any tree or other vegetation. As such, approval for the removal of trees on the subject site required as part of the civil works is sought under this application. Further discussion on the extent and significance of the vegetation has provided in earlier sections of this report.

Clause 6.1A – Earthworks

Under Clause 6.1 of the LEP, development consent is required for earthworks unless the earthworks are exempt or ancillary to other development already approved. As neither of these two exemptions applies, consent has been sought as part of this application for the earthworks required for the proposed development.

INTEGRATED DEVELOPMENT

The application does not require the separate approval of any other referral body listed under S.91 of the Environmental planning and Assessment Act 1979 as such, does not constitute “Integrated Development”.

OTHER PLANNING INSTRUMENTS

State Environmental Planning Policy (State and Regional Development) 2011

The proposed development does not constitute State Significant Development under this SEPP and hence the provisions relating to same are not relevant.

Of more relevance, Clause 20 of this policy cross-references Schedule 4A to the Environmental Planning and Assessment Act 1979 (“the Act”) which identifies a range of developments that – either due to their nature, scale, value, impact or location – are deemed to be of regional significance and which, as a result, require that the Joint Regional Planning Panel (JRPP) become the consent authority.

In this regard, Schedule 4A (3) indicates as follows:

3 General development over \$20 million

Development that has a capital investment value of more than \$20 million.

As indicated on the DA form and as confirmed by a quantity surveyors report accompanying the application, the proposed development has a capital investment value in excess of \$20 million. As such, the consent authority for the application will be the Joint Regional Planning Panel.

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

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

In accordance with SEPP 65, a Design Verification Statement has been prepared by Matthew Cumming (Registered Architect No. 8927) of Mijollo International Architects. This Statement provides detailed discussion as to how the proposed development satisfies each of the ten (10) design principles of SEPP 65.

As indicated previously, Council's consulting architect has reviewed this Statement and advised that the proposed design complies with each of the ten principals and is considered to be an exemplary development in this regard. The comments from the consulting architect are provided earlier in the report.

State Environmental Planning Policy (Infrastructure) 2007

Schedule 3 of SEPP Infrastructure identifies those developments that, due to either their scale or location (on or near an arterial road), require referral to Roads and Maritime Services (RMS) as traffic generating developments.

In this instance, the proposal is not of a scale listed under Column 2 (apartment buildings with 300 or more apartments) and the site does not include a direct or indirect connection (within 90 metres) of a classified road. In addition, the proposed parking supply of 154 spaces does not exceed the thresholds noted in Column 2 of Schedule 3 of the Policy (200 or more).

As such, the proposed development is not affected by the provisions of this SEPP and the application therefore does not require referral to the RMS on this basis.

State Environmental Planning Policy No 55 – Contaminated Lands

SEPP 55 aims to provide a framework for the assessment, management and remediation of contaminated land throughout the State. Clause 7 (1) of SEPP 55 prevents Council from consenting to a development unless:

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

In accordance with Clause 7, a Preliminary Site Investigation for Contamination has been carried out by a geotechnical engineer on behalf of the applicant, which indicates that the potential for any site contamination is limited. This investigation has been carried out to the satisfaction of Council's Manager, Environmental Health and as such, no further investigation is required in this instance.

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

The plans were accompanied by a BASIX report, including certification indicating that the proposed development was able to meet each of the required water, thermal comfort and energy efficiency targets, with the commitments noted on the accompanying plans. Compliance with the certification and the commitments therein will be conditioned on the consent. The proposal therefore satisfies the policy and raises no further issues.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The proposal raises no issues regarding the provisions of policy.

APPLICABLE REGULATIONS

Environmental Planning and Assessment Regulation 2000

The proposal involves demolition of the existing dwelling houses on the site. Under Clause 92 of the Environmental Planning and Assessment Regulation 2000, Council must take into consideration Australian Standard (AS2601-2001): The Demolition of Structures. This matter can be addressed by conditions of consent and has been included in the list of draft conditions provided as an attachment to this report.

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

The application was advertised for a period of 28 days between the dates of 6th January and 2nd February 2015. During this period, a total of 105 submissions were received. In addition, Council held a public information evening on 26th February 2014 which included a presentation of the proposed development by Council officers and provided the opportunity for a question and answer session.

Given the extent of concerns raised in relation to traffic in the submissions and at the meeting – particularly the content and findings of the traffic report and the perception of short comings in same – Council requested the submission of an updated traffic report addressing these concerns, as well as the additional items identified by Council's Transport Planner (as highlighted earlier on the report).

Following the submission of the updated traffic report, the application was re-notified for 14 days between 29th April and 12th May 2015, during which time a further 17 submissions were received (the majority of which re-iterated and added to previous issues in relation to building height, overshadowing, privacy, traffic, construction management, geotechnical issues).

The main issues raised in the submissions received during both periods have been summarised in the table below, with comments provided in response to each. A full list of objections submitted during both notification periods and a more detailed summary of the issues raised in each is provided in Attachment 3.

Summary of Issues	Response
Building Height Breach/Non-compliance with LEP in regard to height	The encroachment of the maximum building height is acknowledged by the applicant. In response, the applicant has submitted detailed documentation to describe the extent and impact of the encroachments and justify the variation. This included a detailed Cl. 4.6 submission, as well as a SEPP 65 report, both of which have discussed in detail the impact of the additional height on privacy, overshadowing, bulk, scale and view loss. From an assessment of this documentation – including an assessment by Council's consulting architect – it is considered that the impacts of the majority of the variations to the height are minor and limited and justified on the basis of the level of compliance with FSR provisions of the LEP, as well as requirements of the DCP and SEPP 65, and the fact that the height of all buildings is compliant at each setback. The additional height is also balanced in the majority of instances by larger than required setbacks to the northern and southern boundaries which is considered to increase amenity for residents. As indicated earlier in the report, the largest variation proposed to Block B of 1610mm to 2300 is not considered justified and as such, it recommended that Unit B503 be deleted to ensure the height variations are more moderate and justified on the basis of the topography as opposed to the need to achieve the maximum FSR allowable.
Building height increase only maximising yield	The yield of the development does not exceed the maximum floor space allowable on the site. However, it is agreed that the increase in height has enabled the applicant to achieve the maximum floor space and has resulted in the provision of an additional dwelling (Unit B503) where ordinarily it wouldn't have been achievable. As such, it is recommended this unit be deleted.
Development 5 storeys in parts	Agreed. Small sections of Block B and C comprise a fifth storey due to the drop in levels of the land in the middle of the site. There is no restriction on the number of storeys in the R4 High Density zone or for this site in the DCP (only the Mowbray Rd precinct). Rather, height is governed by the

REPORT TO JRPP – DA 223/14
27 – 43 LITTLE STREET, LANE COVE

Summary of Issues	Response
	Building Height map, for which variations have been acknowledged and generally considered to be justified, with the exception of the largest variation pertaining to Block B as discussed above.
No justification for increase in height	The increase in height has been justified in detail by the applicant in the SOEE and the Clause 4.6 variation submission lodged with the DA. As indicated above, the submission is considered to satisfactorily justify the majority of the encroachments on the basis they are the result of the topography of the site and essentially only comprise roof overhangs and only small portions of the buildings in a limited number of locations. It is agreed that there is no suitable justification for the largest proposed increase in height to Block B and hence Unit B503 has been recommended to be deleted to keep the encroachments to a minimum and to maintain the veracity of the height control.
Could excavate further to reduce height	The possible extent and implications of this additional excavation are unknown, nor is there any information as to the type of material and any possible difficulties imposed by same to determine if this is feasible. In any event, the impact of additional excavation would be that units on the western side of the development would fail to achieve adequate solar access and hence fail to meet the requirements of SEPP 65 and possibly BASIX targets. Therefore, it is not clear that such a proposal would result in a better design outcome.
Impact on privacy of adjoining properties	The impact on privacy has been extensively discussed in the 4.6 variation and the SEPP 65 report, with Council's consulting architect satisfied that this issue has been satisfactorily addressed and the impact on adjoining properties not unreasonable due to the topography of the site; the larger setbacks to the south; retention of existing vegetation in these setbacks, the orientation of balconies, the provision of screening devices on balconies; the separation of the buildings; the higher nature of the land to the west; and the orientation of east facing units over the street.
Impact on view loss/assessment inadequate	The impact of the proposed development on potential view loss was addressed satisfactorily by the applicant in the DCP compliance table submitted with the DA and also addressed further in the SEPP 65 report. This has been confirmed in the comments from Council's consulting architect who has indicated that view loss has been addressed by the provision of separate buildings. These documents also note that the proposed buildings are all at – or below – the required height level at the northern, southern and western setbacks where the interface of the development with adjoining properties occurs. This means that the height is compliant with the LEP at these points thereby ensuring that any impact would be both limited and as envisaged (including view loss). It is only the drop in levels as the site falls away from this point to the east towards Little Street that creates the height encroachment. Given the buildings remain at the same height from this point as viewed from the properties to the west, view loss as a result of the height encroachment is likely to be minimal. The incorporation of a flat roof design as encouraged by the DCP and the large separation between

REPORT TO JRPP – DA 223/14
27 – 43 LITTLE STREET, LANE COVE

Summary of Issues	Response
	the three buildings internal to the site also assists in minimising this impact and allows the sites to the west to continue to look out across and through the subject site, whilst the removal of Unit B503 will ensure view loss is minimised further.
Size of development Scale of the proposal in regard to adjoining and adjacent development	The size and scale of the development is in keeping with the type of development permissible and envisaged in the R4 High Density Residential zone, as confirmed by Council's consulting architect. The development does not exceed the maximum floor space ratio allowable for the site and complies with (or exceeds) the setback requirements. The subject site is a "bowl" – or amphitheatre – and lower than the surrounding properties to the north, south and west, which has naturally assisted in minimising the scale of the development. As such, the scale is considered to be consistent with the adjoining developments, all of which are either medium or higher density units ranging between two, three and four storeys in height located on higher land than the subject site. However, the removal of Unit B503 will further reduce the scale and perceived bulk of the development – particularly from the Little Street elevation – by further recessing the façade and in doing so, providing greater articulation.
Overshadowing	Shadow diagrams were submitted with the original application, followed by additional diagrams to more clearly show the potential impact of the proposed development on overshadowing of surrounding properties, particularly those to the south and west. As indicated in the SEPP 65 report and verified by Council's consulting architect, overshadowing from the proposed development is considered to be acceptable, especially given the height of the building is compliant at all setbacks, with the additional overshadowing created by the additional height essentially contained within the development site. This impact will be further minimised by the removal of Unit B503.
Topography/suitability of the development for the site	The site has been deemed suitable for high density residential development on the basis of its R4 zoning by Council given its proximity to the Lane Cove commercial centre, as well its proximity to public transport and a range of health, recreation and community facilities in the vicinity. The site itself has a number of features, such as slope, vegetation and orientation, which are considered to have been adequately addressed in the design of the development.
Tree preservation and protection/Loss of existing vegetation. Inclusion of exotic plants in the proposed landscaping	It is acknowledged that a number of trees will require removal as part of the proposed development. However, as indicated in the comments from Council's Tree Officer, the design is sympathetic to the majority of larger trees on the site, particularly the trees adjacent to the rear boundary line that provide screening for the neighbouring residential apartment buildings. Overall, fifty six (56) trees are recommended for retention and protection in the arborist report submitted with the DA. This report identified measures to ensure these trees are protected during construction and compliance with this report will be conditioned. Extensive

REPORT TO JRPP – DA 223/14
27 – 43 LITTLE STREET, LANE COVE

Summary of Issues	Response
	replacement planting has been proposed, with a number of exotic species originally identified on the landscape recommended for substitution by natives by Council's Landscape Architect.
Traffic: • report inadequate • single/narrow road • increase traffic volume • driveway locations, including one opposite Rothwell Crescent • already congested • safety concerns with increased traffic • traffic congestion from the proposal and the lack of a comprehensive traffic study for area as a whole	It is agreed that the proposed development would increase local traffic movement. Council's Transport Planner has advised that the traffic consultant who prepared the assessments of the development has followed a recommended procedure using the data that is available. Given the use of this accepted methodology, the overall level of traffic generated by the site is satisfactory and will not have detrimental effects on the local area. All local intersections are operating at very good levels of service and as such have capacity for more than the proposed increases in traffic as a result of the site. In relation to driveways, only two (2) are proposed instead of the existing nine (9), with these being located where gradient and sight distance are maximised. Whilst one driveway is opposite Rothwell Crescent, it will be signposted internally to require vehicles to give way and designed in accordance with the requirements of AS 2890. Further specific comments in relation to these issues are provided in the response from Council's Transport Planner earlier in the report.
Impact/loss of parking. Already parking issues	The proposed development provides the required number of off street parking spaces required under the DCP to ensure the impact of on-street parking is limited.
No Construction Management Plan. Impact of construction activities, including: • works • traffic • noise	Council's Transport Planner has recommended the consent be conditioned to provide a detailed Construction Management Plan (CMP) address issues related to the movement of construction vehicles to and from the site, safe access of construction vehicles, and any conflict with other road users in the street including public transport. In addition, Council's Environmental Health Manager has recommended the consent be conditioned to require a comprehensive Construction Noise Management Plan to address noise during the construction phase, in addition to further conditions to mitigate the impact of construction activities such as vibration and dust generation.
Impact of air conditioners (heat/visual issues). Air conditioning unit noise upon completion of the project.	It is agreed that noise from air conditioning units can be an issue. Whilst not shown on the plans, the BASIX report for the development indicates that a 3 phase air conditioning system is proposed for the development, presumably with the plant room required for same to be located on the roof on each block. A condition will therefore be attached to address the noise output of any air conditioning units to be located on the roof of the proposed buildings. It is proposed to install solar panels on the roof of each block for heating and hot water as part of the BASIX solution for energy efficiency of the development and these will be screened from view from ground and street level by the

REPORT TO JRPP – DA 223/14
27 – 43 LITTLE STREET, LANE COVE

Summary of Issues	Response
	parapets of each Block And further screening on top of the parapets.
Geo-technical concerns regarding changing groundwater and stability of excavation Affects to neighbouring properties/foundations/excavation	A Geotechnical Report identifying any possible impact of excavation for the proposed development on ground water and stability, as well investigating potential contamination, was submitted with the DA and deemed to be satisfactory by Council's manager of Environmental Health. A condition will be attached to the consent requiring that Construction Methodology report be submitted before the commencement of works demonstrating that the proposed excavation will have no adverse impact on any surrounding property and infrastructure. The Report must include recommendations on appropriate construction techniques to ameliorate any potential adverse impacts.
Adequacy of report concerns (plans/SEE/Planning Report)	The plans and documentation submitted with the application and following lodgement was comprehensive and deemed to be adequate and sufficient to enable assessment of the application.
Loss of Village Atmosphere	It is agreed that the proposed development is of a large scale that is inconsistent in character with the existing low density residential nature of the site. However, the development is in keeping with the type of development envisaged for the site under the R4 high density zone and compatible with the higher density developments immediately to the west of the property fronting Longueville Road. Retention of a number of trees in the northern and southern setbacks will assist in maintaining the existing landscape setting and also assist in the scaling of the development. This aspect of the development will be further enhanced by extensive landscaping across the site as indicated on the landscape plan, subject to further modifications recommended by Council's Landscape Architect to require additional native and locally endemic species, consistent with the existing character of the area.
BCA Issues	As indicated by Council's Building Surveyor, the development is able to meet the relevant BCA requirements either by Deemed-To-Satisfy provisions or Alternate Solutions. These solutions where necessary will be addressed as part of the Construction Certificate process.
Clause 4.6 not addressed/Adequacy of Clause 4.6 Variation Submission	A detailed submission was provided by the applicant addressing the relevant considerations under sub-clauses (3) and (4) of Clause 4.6, supported by diagrams and reference to two industry accepted court precedents which have since been used as planning principles. Whilst it is accepted that not all parties will agree with the merits and/or findings of the submission, it is nonetheless considered that the submission was adequate to allow a satisfactory assessment of the request to vary the building height, although it is also noted that not all variations sought have been accepted.
Development fails to meet SEPP 65 - <i>Design Quality of Residential Flat Buildings</i> - guidelines	As required by the SEPP, a Design Verification report was submitted by the applicant's architect indicating how the development met the 10 design principles of SEPP 65. As discussed earlier in the report, Council's consulting architect

REPORT TO JRPP – DA 223/14 27 – 43 LITTLE STREET, LANE COVE

Summary of Issues	Response
	has confirmed that the development meets (and in many cases exceeds) these principles and is considered to be an <i>“exemplary development that observes the design controls for the site and meets all the objectives of the principles of good design”</i> .
Need to ensure drainage easement not built over	The existing drainage easement running through the middle of the site taking stormwater from properties from the west to Little Street has been maintained within the development between Buildings A and B.

Overall, it is considered that the issues raised in the public submissions do not warrant refusal of the application, particularly when weighed up against – or viewed in the context of – the level of compliance with all other aspects of the DCP and the design principles of SEPP 65 – including privacy, overshadowing, bulk, height and scale – as confirmed by Council’s consulting architect. Rather, the relevant issues raised have already been addressed in either the design of the development; the documentation submitted with the application or following lodgement; or in comments provided by Council assessing officers, or can be addressed via the deferred commencement condition or operational conditions of consent where necessary (particularly in relation to construction issues, landscaping and traffic management).

CONCLUSION

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

The proposed development is permissible on the land with consent under Lane Cove LEP 2009 and is consistent with all relevant provisions of Lane Cove Development Control Plan 2010 and the ten (10) design principles of SEPP 65. The development also complies with all other relevant provisions of the Lane Cove LEP 2009, with the exception of some encroachments to the maximum height limit relating to the site, for which a detailed Clause 4.6 variation submission has been provided by the applicant. Upon review and when weighed up against the impact of the encroachments and the level of compliance with other planning controls – particularly the extent to which the development meets the requirements of SEPP 65 and Lane Cove DCP 2010 – this submission is considered to be generally well founded such that the majority of variations have been justified and can therefore be supported. However, the largest variation of 2.3 metres is not supported as it results in the encroachment of Unit B503 to a level above the height plane considered unreasonable. As such, this unit is recommended is to be deleted.

Furthermore, the issues raised in submissions against the proposal are not considered to warrant refusal or modification of the proposal. Where necessary, these issues have been addressed in the design of the development or can be addressed via the deferred or operational conditions of consent.

Subject to the deletion of Unit B503, the proposal is not considered to result in any significant or undue adverse impacts for the locality and is not considered to be contrary to the public interest.

Accordingly, it is recommended that a “Deferred Commencement” consent be granted requiring the submission of amended plans to the consent authority that removes Unit B503 prior to the consent becoming operational. Upon the consent becoming operational, the consent is recommended to be subject to the draft conditions listed in Attachment 1.

RECOMMENDATION

1. That pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, a “Deferred Commencement” consent be granted to Development Application No. 223-14 for the demolition of ten (10) dwelling houses and construction of three (3) residential flat buildings comprising 93 apartments units and 154 car parking spaces, subject to the following condition being met to the satisfaction of Council within twelve (12) months from the date of this consent:
 - a. the submission of amended plans to Council that deletes Unit B503.
2. Upon written confirmation by Council of compliance with the condition of deferred commencement, the consent shall become operational subject to the draft conditions listed in Attachment 1.
3. That the concurrence of the Director-General be assumed for the use of Clause 4.6 to permit the remainder of the variations sought to the maximum height limit applying to the land.

Report Prepared by:

Tim Shelley
Director – Tim Shelley Planning

Bachelor Urban and Regional Planning, University of New England



Attachments:

1. Draft Conditions
2. Applicant's Clause 4.6 Variation Submission
3. Table of Submissions – First Notification Period
4. Table of Submissions – Second Notification Period