

Joint Regional Planning Panel Meeting 1 June 2016
1-13A MARSHALL AVENUE, ST LEONARDS

Subject: 1-13A Marshall Avenue, St Leonards
Record No: DA15/205-01 - 11645/16
Division: Environmental Services Division
Author(s): Rebecka Groth

Property: 1-13A Marshall Avenue, St. Leonards
DA No: DA15/205
Date Lodged: 16 December 2015
Cost of Work: \$95,559,008 (excludes GST)
Owner: Loftex Pty Ltd
Applicant: Loftex Pty Ltd
Author: Rebecka Groth

DESCRIPTION OF PROPOSAL TO APPEAR ON DETERMINATION	Construction of a mixed use development comprising two buildings located over a common basement car park, 269 apartments, 291 parking spaces, commercial and retail space, stratum subdivision and voluntary planning agreement.
ZONE	B4 Mixed Use under the Lane Cove Local Environmental Plan 2009
IS THE PROPOSAL PERMISSIBLE WITHIN THE ZONE?	Yes
IS THE PROPERTY A HERITAGE ITEM?	No
IS THE PROPERTY WITHIN A CONSERVATION AREA?	No
IS THE PROPERTY ADJACENT TO BUSHLAND?	No
BCA CLASSIFICATION	2, 5/6 and 7a
STOP THE CLOCK USED	Yes
NOTIFICATION	2, 4, 6, 8, 10, 12, 14, 15-25 and 16 Marshall Avenue, St Leonards All properties within Holdsworth Street, St Leonards All properties within Berry Road, St Leonards Properties on the eastern side of Park Road, St Leonards All properties within Canberra Avenue, St Leonards

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	<p>52, 54, 71-73, 75, 77 and 79 Lithgow Street, St Leonards</p> <p>2-4, 6-8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, 32-42, 44, 46, 58-64, 66, 82-86, 94-96, 546, 550, 552, 558, 560, 562 and 564 Pacific Highway, St Leonards</p> <p>East Ward Councillors</p> <p>Associations: St Leonards-Wollstonecraft Residents Association</p> <p>Others: Willoughby Council North Sydney Council and properties nominated by North Sydney Council</p> <p>Complete details of the notification are available on Council's file</p>
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REASON FOR REFERRAL:

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

EXECUTIVE SUMMARY:

- The subject site is irregular in shape with an area of 4,133m². The site is located on the northern side of Marshall Avenue.
- The proposed mixed use development meets the requirements of Council's Local Environmental Plan 2009, as amended by the gazettal of LEP amendment No. 19, with regard to maximum permissible floor space ratio and building height.
- A voluntary planning agreement (VPA) accompanied Planning Proposal amendment No. 19.
- The proposal generally meets the requirements of Council's Development Control Plan, the following variations are sought:
 - An alternate solution to access to bathrooms proposed for the visitable units. Accessible bathrooms are provided in each building and visitable bathrooms are accessible for ambulant disabilities.
 - Proportion of the low rise building presenting to the street is 59m, the DCP permits 40m.
 - Setbacks to Marshall Avenue vary from 9.4m to 10m for the low rise and 3.8m to 4.8m for the high rise. The DCP requires 10m for the low rise and 4m for the high rise.
 - Setbacks to Marshall Avenue vary from 3m to 6m for the low rise, the DCP requires 6m.
 - Separation between the existing mixed use development and the proposed low rise building component for Level 1 is 14.6m, the DCP requires 18m.
 - There is no provision made for deep soil plantings within the proposal.

- Council's architect confirms the proposed development generally meets the 10 design quality planning principles of State Environmental Planning Policy 65 – Design Quality of Residential Flat Development.
- A total of 58 submissions were received as a result of the notification period. The primary issues raised in the submissions include the following:
 - The notification timing and period was insufficient for this scale of development
 - The variations proposed are unacceptable
 - Issues of traffic congestion, demands on public transport, parking, insufficient open space, shortage of schools, day care and other essential services are not considered in the SEE
 - The small amount of commercial floor space proposed would not achieve the revitalisation the State Government intends for St Leonards
 - Comparisons should not be made with other development applications and existing buildings within the St Leonards precinct
 - The proposal will interfere with the helicopter flight path associated with the Royal North Shore Hospital
 - The proposal results in a substantial loss of commercial floor space for residential units
 - Proposal does not achieve objectives of SEPP 65
 - The development application pre-empts coordinated strategic planning for the St Leonards Precinct
 - Suitability of the development for the site
 - Bulk and scale of the proposal is unsuitable for the area
 - Noise
 - Overshadowing
 - View loss
 - (VPA process
 - Approval has not been given for the proposed public plaza
 - Traffic congestion
 - Insufficient on-site parking is provided
- On 2 March 2016, Council officers briefed the JRPP on the proposal.
- The proposed development is recommended for approval subject to draft conditions.

Background into Planning Proposal

The applicant controls all northern lots having frontage to Marshall Avenue, St Leonards and sought to amend the height of the eastern third of these lots from 65m to 94m. The amendment to the controls sought to permit the construction of a tower at the end of the site closest to the railway line. The redistribution of building height towards the eastern section of the site to ensure the properties immediately south of Marshall Avenue would continue to enjoy adequate access to sunlight. The above has been endorsed by Council and the Minister by Planning Proposal 19 and gazettal.

Below is a brief history of Planning Proposal 19:

- In April 2015, Council approved the preparation of a Planning Proposal for the above height increase, subject to a VPA for the site as endorsed by Council on 17 November 2014.
- Gateway approval was received from the Department on 14 August 2015 and public exhibition was undertaken from 16 October 2015 for six weeks. A total of 88 submissions were received.
- Transport for NSW, NSW Roads and Maritime Services and Sydney Trains had no objection to the Planning Proposal.
- The Planning Proposal was updated to reference the transport agencies' submissions and VPA.
- At the Council meeting of 7 December 2015, Council resolved to adopt the planning proposal and submit it to the Department of Planning and Environment and the VPA be executed.
- The LEP amendment No. 19 was gazetted on the 10 June 2016.

The current development application pertains to the eastern portion of Marshall Avenue (Lot 100 in DP 1200133) and has been designed with regard to the controls in the recently amended LEP and site specific DCP controls.

As the DA was lodged prior to the gazettal of LEP amendment 19, the following was included within the amendment:

4. Amendment of Lane Cove Local Environmental Plan 2009

Clause 1.8A Savings provisions relating to development applications

Insert after clause 1.8A(2):

(3) To avoid doubt, Lane Cove Local Environmental Plan 2009 (Amendment No 19) applies to the determination of a development application made (but not finally determined) before the commencement of that Plan.

SITE:

The site is located on the northern side of Marshall Ave, south of the Pacific Highway. The site is irregular in shape with an area of 4,133m² and has frontage to Marshall Avenue, Canberra Avenue and Marshall Lane.

A sales office associated with the redevelopment of the Marshall Avenue has approval to operate from the site.

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

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

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

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

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

PROPOSAL:

Proposed Development:

Construction of two (2) buildings which have a total gross floor area (GFA) of approximately 24,597m² and comprise:

- 290m² commercial/ retail space located on Level 1 (123m²) and 3 (167m²) of the high rise building
- Communal facilities including a common room, common outdoor area and communal terrace
- 269 residential dwellings:
 - Low Rise Building: comprising 52 apartments within a part 6 and 7 storey configuration
 - High Rise Building: comprising 217 apartments, 290m² commercial/retail spaces within a 29 storey configuration
- Basement parking levels comprising:
 - 291 car spaces (resident, visitor, retail and 1 car share space), 1 car wash bay, 19 motorcycle spaces and 104 bike spaces
- Vehicular ingress and egress from Marshall Avenue
- Construction of a roundabout within Marshall Avenue, opposite Holdsworth Avenue
- Landscaping
- Consolidation of allotments
- VPA

Dwellings:

The proposal would comprise 269 dwellings:

- 21 x studio = 8%
- 98 x 1 bedroom = 36%
- 113 x 2 bedroom = 42%
- 37 x 3 bedroom = 14%

Of these dwellings, 54 dwellings would be adaptable.

A two lot stratum subdivision is proposed which can generally be described as:

Lot 1 = highrise and carpark

Lot 2 = low rise and carpark

The architectural plans are provided in **ATT 1**.

PREVIOUS APPROVALS/HISTORY:

The following approvals relate to the site:

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

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

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

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

DA14/143 - Construction of a mixed use development comprising 269 residential units, commercial/retail space, communal areas and basement parking for 295 vehicles, construction of a roundabout, subdivision and a voluntary planning agreement for 1-13A and Part 15 and 15A Marshall Avenue, St. Leonards. Application refused by the Sydney East Joint Regional Planning Panel at its meeting of 19 March 2015 for the following reasons:

1. *The majority of the Panel considers that, in order to accept the building height standard variation under cl 4.6 of the LEP, it must be satisfied on a number of matters:*
 - *First, that compliance with the standard is unnecessary and unreasonable in the circumstances of the case;*
 - *Second, that there are sufficient planning grounds to justify contravention of the standard;*
 - *Third, that the variation is in the public interest.*

2. *For the building height standard, the objectives of the standard are to minimise overshadowing, to minimise loss of privacy, to minimise visual impact on neighbouring properties, to maximise sunlight to the public domain and to relate well to the topography.*
3. *The majority of the Panel cannot agree that the proposed development, that increases the height of the tower building by almost 30m (or nine floors) beyond the building height standard, complies with the above objectives. In particular it will have worse impact on views and result in larger shadows on the public domain than would a building of complying height.*
4. *Moreover, the proposed building, at a height of 94m, would be out of scale with both the existing and desired future character of the area, which does not provide a transition of scale to the proposal. The majority of the Panel notes that the Council sought to change its planning controls to allow a building of 65m on the subject site. It assumes therefore that this height suggests the desired future character of the area.*
5. *The Panel notes that the LEP which governs the development of this area is of recent origin. Departures from it so soon after gazettal would be undesirable and undermine the community's confidence in the planning process.*
6. *The majority of the Panel accepts that the Voluntary Planning Agreement (VPA) offered by the applicant and accepted by the Council has some relevance to this application because the funds offered would be spent in the public interest. However, the Panel believes that the proposal must comply with all the requirements of cl 4.6 before any consideration can be given to the VPA, and for that reason the Panel has given minor weight to it.*
7. *For the above reasons, the Panel cannot accept the recommendation of the assessment report for approval and refuses the application.*

The current proposal resolves the above concerns. The current proposal complies with the LEP building height.

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

Lane Cove Local Environmental Plan 2009

Clause	Code	Proposed	Complies/ Comment
Clause 2.2- Zoning	B4 – Mixed Use zone	Mixed use development comprising two (2) buildings, residential units & retail/commercial spaces	Complies
Clause 4.3 - Height of Buildings	The site has two building height	Low rise is RL 95.5 and is below the 25m	Complies

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Clause	Code	Proposed	Complies/ Comment
	controls of 25m and 94m and is evident in Figure 1 below.	height requirement High rise (Tower) is RL 166.8 and is below the 94m height limit	
Clause 4.4 - Floor Space Ratio <i>Note: site area used in this calculation is 3795.1m², excludes 340.5m² used in stage 1 site area</i>	Part 2.5:1 & Part 10:1 as demonstrated in Figure 2 below.	2.5:1 component = GFA 3969m ² within low rise = 2.47:1 10:1 component = GFA 1,261m ² within low rise & GFA 19,367m ² within high rise = 9.44:1	Complies

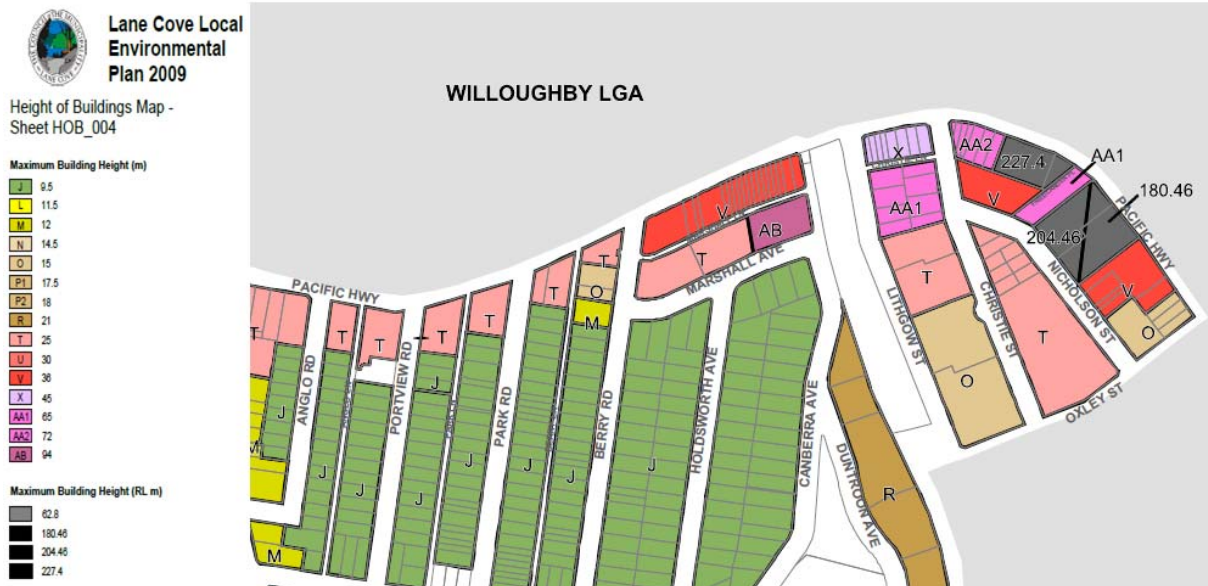


Figure 1 – Height of building map – Lane Cove LEP 2009

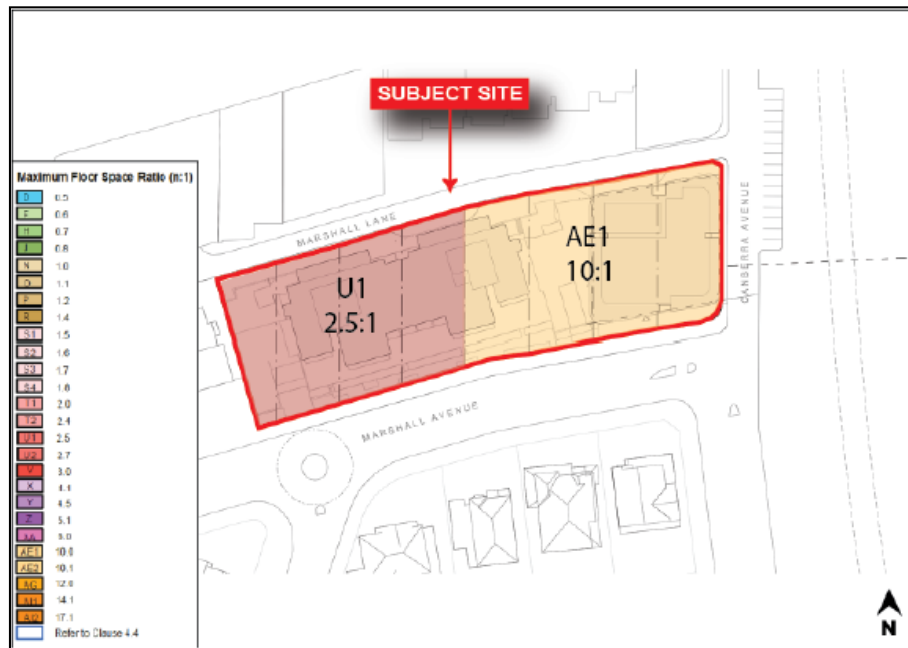


Figure 2 –Floor Space Ratio map – Lane Cove LEP 2009

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

Lane Cove Development Control Plan 2010

Part D – Commercial Development & Mixed Use Localities

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

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

Table 1 – Block C – Low Rise

Clause	Control	Proposed	Complies/ Comment
1. Height	LEP control (25m)	Under 25m RL 95.5	Complies
2. Height podium –	Max 2 level podium is permissible along Marshall Ave, setback 3m from Marshall Ave	Achieved	Complies
4.1 Street setback	6m setback to Marshall Lane boundary. 3m	Range 3m to 6m Low rise building is	Variation to setback to Marshall Lane proposed.

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Clause	Control	Proposed	Complies/ Comment
	articulation zone (max 30% of boundary length permitted for balcony extensions) <i>Note: Articulation zones subject to SEPP 65. Continuous accessible footpath to be provided in setback zone</i>	articulated as are the balconies	The variation is supported as the setback would not result in adverse impacts on the streetscape or to adjoining land uses
4.3 Street setback to Marshall Ave	10m setback including 3m articulation zone (max 30% of boundary length permitted for balcony extensions)	10m setback generally achieved, minor variation of 9.4m setback due to bedrooms Balconies setback 6.6m from Marshall Avenue.	Variation to setback proposed to Marshall Street for bedrooms only. The setback achieves the objective of the control.
	3m setback to podium level	3m setback to Level 1 (townhouses)	Complies
4.4 Setback, eastern end of Block B	18m separation provided between Block B (approved under DA13/32) & Block C Between Blocks B & C and Blocks C & D: - Dwellings are not permissible - No building, including car parking is to be	L1 = approximately 14.6m proposed. No windows or balconies are proposed within this separation area. L2 onwards = 18m is proposed There are no dwellings proposed between Blocks B, C and D The proposal is at ground level at	Variation proposed at Level 1 only, 14.6m separation is proposed. The proposal is endorsed by Council's Architect. The proposed separation for this level would not affect amenity. Variation supported Complies Complies

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Clause	Control	Proposed	Complies/ Comment
	higher than ground level at Marshall Lane at that point	Marshall Lane	
5 Service vehicles	<i>Note: All servicing – Marshall Lane</i>	Service vehicles are proposed to use Marshall Lane via a shared service lane within the subject site	Complies
6 Car parking	<p>Access from Marshall Ave in the area indicated in the circulation plan opposite end of Holdsworth Ave. Sleeved & predominantly underground.</p> <p><i>Note: One common car park entry for the whole block</i></p>	<p>The current proposal would result in two (2) separate driveways from Marshall Avenue. The driveway proposed under the current proposal for Blocks C and D is proposed to be sited opposite Holdsworth Avenue in line with the DCP.</p> <p>The existing adjoining development (Block B (DA13/32) comprises a separate vehicular access to the current proposal which is located further west along Marshall Avenue.</p>	<p>The proposed variation is the result of the separate development approval of the adjoining Block B (DA13/32). The current proposal was endorsed by the NSW Roads and Maritime Services and Council's Traffic and Transport Team.</p> <p>Variation supported</p>
7 Landscaping	<p>Maximum possible retention of all street trees along Marshall Ave. Landscaping to be provided between Blocks B & C and C & D.</p> <p>3m setback to Marshall Ave to be landscaped for max screening of buildings</p> <p><i>Note: Extreme care to be taken with the</i></p>	<p>One (1) street tree, a casuarinas tree, is proposed to be removed to accommodate the proposed driveway. All other trees are proposed to be retained. Council's Manager Traffic and Transport and Council's Senior Tree Assessment Officer support the removal of this tree.</p>	Complies

Clause	Control	Proposed	Complies/ Comment
	<i>protection of the Marshall Ave street trees</i>		
8 Privacy	Where necessary, building design to include devices/ screens to prevent overlooking to residential dwellings	Commercial uses operate immediately north of the site on the Pacific Highway and as such overlooking into adjoining residential uses is not a concern. A child care centre has been approved to operate at 44-46 Pacific Highway which incorporates outdoor play areas fronting Marshall Lane. At least 10m of space separates the subject site from this site and as such direct overlooking s not a concern	Complies

Table 2 – Block D – **Tower (high rise)**

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

The relevant controls to the Tower are summarised below.

Clause	Control	Proposed	Complies/ Comment
1. Height	LEP control (94m)	94m as per the architectural plans	Complies
2. Uses	Mixed use retail commercial and residential. Building must be designed to be able to accommodate an entry from the future square level , RL 80	High rise (Tower) comprises 290m ² retail /commercial space and 269 residential units. Level 3 of the tower has been designed to accommodate the	Complies

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Clause	Control	Proposed	Complies/ Comment
	<p><i>Notes: Floor to floor heights capable of accommodating commercial & retail to be provided up to future square level RL 80.</i></p> <p><i>Where uses are predominantly residential, RFB controls apply</i></p>	future square level of RL 80	
3.1 Street setback, Marshall Lane	<p>3m setback from Marshall Lane boundary</p> <p><i>Note: A continuous accessible footpath to be provided within 3m setback</i></p>	<p>3m setback to Marshall Lane achieved</p> <p>Accessible pathway provided within the setback which would be shared with service vehicles</p>	Complies
3.2 Street setback, Canberra Avenue	<p>No setback to property boundary</p> <p><i>Note: Building to be able to address future square at RL80m level</i></p>	<p>Nil to approximately 0.6m setback to Canberra Ave. Predominantly residential units from Level 1 to Level 3 are setback 0.6m.</p> <p>Retail setback is 0m.</p> <p>Proposed Tower addresses future public plaza site</p>	Complies
3.3 Street setback to Marshall Ave	4m setback to Marshall Ave	3.8m to 4.8m setback achieved to Marshall Avenue	Minor variation which provides articulation and will be imperceptible. Variation supported.
6 Landscaping	<p>Max possible retention of all street trees along Marshall Ave.</p> <p>Landscaping to be provided between Blocks C & D.</p>	<p>1 street tree proposed to be removed to accommodate the driveway, all other trees are proposed to be retained</p>	Complies

Clause	Control	Proposed	Complies/ Comment
	3m setback to Marshall Ave to be landscaped for max screening of buildings <i>Note: Extreme care to be taken with the protection of the Marshall Ave street trees</i>	No additional screening plantings are proposed	
7 Privacy	Where necessary, building design to include devices/ screens to prevent overlooking to residential dwellings	The closest dwellings to the site are those situated south of the site on the opposite side of Marshall Avenue. Additional screening is not considered necessary.	Complies

Part D – Commercial Development and Mixed Use

Part D.5 – Development in B4 Mixed Use Zone

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

Clause	DCP	Proposed	Complies/ Comment
5.3 Hours of Operation for Lighting	External lighting operates, as a minimum requirement, from dusk until dawn on Thursday, Friday and Saturday nights, and from dusk until midnight on other nights. Control to turn on at dusk is initiated by a suitably adjusted/ calibrated photo-electric switch such that the lights will be at full output when the	Details of lighting are not available at this stage however this matter would be addressed as a condition (refer to draft condition 2).	Complies

Clause	DCP	Proposed	Complies/ Comment
	daylight luminance in the subject areas falls to the required illuminances stipulated.		
5.4 Noise	<p>Noise generated by residents, visitors, retail or commercial part and mechanical plant and equipment should not exceed the following repeatable maximum L Aeq (1 hour) level, on weekdays:</p> <p>Day 7am-6pm: 55dB(A) Evening 6pm- 10pm: 45dB(A) Night 10pm-7am: 40dB(A) and on weekends:</p> <p>Day 8am-7pm: 50dB(A) Evening 7pm-10pm: 45dB(A) Night 10pm-8am: 40dB(A) or in any case not more than 5 dB(A) above the background level during the day and evening and not exceeding the background level at night when measured at the boundary of the property.</p> <p>b) Incorporate noise reduction measures on plant and machinery.</p> <p>c) Use design features or planning that will reduce noise.</p> <p>d) Incorporate</p>	<p>Mechanical plant equipment is unknown at this stage. It is noted that plant equipment would be situated on the rooftop of each building. However this matter would be addressed via conditions (refer to draft conditions 137-139 and 155-160).</p>	Complies

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Clause	DCP	Proposed	Complies/ Comment
	adequate measures for tonal, low frequency, impulsive, or intermittent noise		
5.5 Non residential facilities	Provide a variety of different sized non-residential spaces (eg. cafes). Open space to follow design principles of SEPP No. 65	Retail/commercial spaces are proposed on Level 1 and Level 3	Complies
5.6 Access, entries and servicing	a) Separate commercial service requirements, such as loading docks, from residential access, servicing needs and primary outlook	Service vehicles shall access the site via Marshall Lane	Complies
	b) Locate clearly demarcated residential entries directly from the public street c) Clearly separate and distinguish commercial and residential entries and vertical circulation.	Entries for residential uses are clearly defined and are available directly from Marshall Ave, Marshall Lane and the future plaza The commercial and residential entries are clearly separated	Complies Complies
	d) Provide security access controls to all entrances into private areas, including car parks and internal courtyards.	Achieved	Complies
	e) Provide safe pedestrian routes through the site	Access for residents is proposed	Complies
5.7 Residential Component within Mixed Use	The provisions for Residential Flat Buildings in Part C	Generally complies Addressed in Part C	Generally complies

Clause	DCP	Proposed	Complies/ Comment
	<p>Residential Development section of this DCP and the Residential Flat Design Code associated with SEPP 65 and the additional following provisions shall apply to the residential component within mixed use developments.</p> <p>d) Minimise the amount of glazed area on the eastern and western elevations and incorporate shading devices</p>	<p>assessment table and comments provided from Council's Architect discussed in the referrals section of this report</p>	

D.1 – General provisions

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

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

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Clause	DCP	Proposed	Complies/ Comment
	clear glazing. Provide multiple entrances for large developments including an entrance on each street frontage	Pedestrian entrances available at Marshall Ave, Marshall Lane and the future Plaza frontages	Complies
Building depth & bulk for Mixed Use Developments:	I. The maximum horizontal dimension of the residential component parallel to the street frontage is to be 40m.	Low rise maximum 59m to Marshall Avenue. Low rise is articulated, presenting as town houses to Marshall Avenue and the second portion of the low rise above the townhouses is well setback into the site. Tower generally maximum of 29m to Marshall Ave	Variation considered acceptable and is supported
Building design & exteriors	a) Floor to ceiling heights: 3.3m for commercial uses & 2.7m for residential uses	3.3m floor to ceiling heights achieved for commercial/retail use on Level 1 and Level 3 Min 2.7m Residential floor to ceiling heights achieved for the remaining levels	Complies
	b) Materials, colours, finishes, proportion and scale of new development should add interest to façades and the streetscape	Achieved	Complies
	c) Avoid large unbroken expanses of blank wall on any facade adjacent to the public domain	There are no large unbroken expanses of blank wall on the facades of the proposal. The façade of the development is articulated	Complies

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Clause	DCP	Proposed	Complies/ Comment
	<p>e) The design of roof plant rooms and lift overruns is to be integrated into the overall architecture of the building.</p> <p>f) Balconies and terraces should be provided, particularly where buildings overlook public open spaces. They should be avoided where they overlook the private open spaces and severely impact the privacy of the adjoining residential properties</p>	<p>The lift overrun and plant rooms are well integrated into the proposed architectural roof feature</p> <p>Balconies included in the design of the low rise and the tower. Balconies proposed are orientated towards Marshall Avenue, Marshall Lane and the future Plaza</p>	<p>Complies</p> <p>Complies</p>
Excavation	<p>a) All development is to relate to the existing topography of the land at the time of the adoption of this DCP</p> <p>d) Uses at ground level are to respond to the slope of the street by stepping frontages and entries to follow the slope.</p>	<p>The proposed excavation relates to the footprint of the proposed development</p> <p>The uses at ground level respond to Marshall Avenue and Marshall Lane through stepping entries to follow the slope</p>	<p>Complies</p> <p>Complies</p>
Design & location of on-site parking	<p>b) All developments must incorporate the required car parking on-site.</p> <p>c) All on-site parking, loading facilities and vehicle access points must be: I. accessed from a rear lane wherever available II. fully concealed from view from any public street or arcade</p>	<p>On-site parking is provided on-site</p> <p>Driveway entry accessed from Marshall Avenue. Service vehicles to access garbage room and the like via Marshall Lane via the services vehicle area</p>	<p>Complies</p> <p>Complies</p>

Clause	DCP	Proposed	Complies/ Comment
	<p>III. accessible from only one opening in the rear lane facade for both on-site parking and loading.</p> <p>Access openings are to be fitted with a garage door or roller shutter.</p> <p>f) Vehicle entry should be:</p> <p>I. easily accessible and recognisable to motorists</p> <p>II. located to minimise traffic hazards and queuing of vehicles on public roads</p> <p>III. located to minimise the loss of on street car parking, and to minimise the number of access points.</p>	<p>Achieved refer to low rise building ground level plan in ATT 1</p> <p>Vehicle entry easily accessible and identifiable from Marshall Avenue. The construction of a roundabout on Marshall Avenue would assist in the safe movement of traffic. The proposal is endorsed by the NSW RMS and Council's Traffic and Transport Team</p>	<p>Complies</p> <p>Complies</p>
	<p>IV. Located away from main pedestrian entries and on secondary frontages.</p> <p>V. Located having regard to any approved cycling routes.</p> <p>g) Avoid black holes in the facade for major development by providing security doors to car park entries</p>	<p>The driveway is situated clear of main pedestrian entry and is situated on Marshall Avenue</p> <p>N/A</p> <p>Roller shutter door is proposed within the internal driveway to the basement car park</p>	<p>Complies</p> <p>N/A</p> <p>Complies</p>
	<p>h) Return the facade material into the car park entry recess up to the extent visible from the street.</p> <p>i) Parking and</p>	<p>Achieved</p> <p>The proposed</p>	<p>Complies</p> <p>Complies</p>

Clause	DCP	Proposed	Complies/ Comment
	<p>service/delivery areas are to be located underground within building footprint or screened from adjacent residential uses or the public domain by sleeving with active uses.</p> <p>j) Parking and service/delivery areas are to be located to minimise conflict between pedestrians/ cyclists and vehicles and to minimise impact on residential amenity.</p> <p>o) Integrate ventilation grills or screening devices of carpark openings into the facade design and landscape design.</p>	<p>parking area is accessed via Marshall Avenue and is situated under the footprint of the proposal.</p> <p>Service delivery area situated at the rear of the site within Marshall Lane, away from view of residential uses</p> <p>Marshall Lane would become a shared zone thereby reducing conflict between vehicles and pedestrians</p>	Complies
	p) Provide safe and secure access for building users, including direct access to residential apartments, where possible.	Achieved	Complies
	<p>q) Basement car parking is to be:</p> <p>I. adequately ventilated</p> <p>II. predominantly located within the building footprint</p> <p>III. located fully below natural ground level. Where slope conditions mean that this is unachievable,</p>	<p>Basement is located predominantly within the building footprint.</p> <p>The basement is situated generally below the buildings however a portion of the basement extends 1m above the ground level in Marshall Avenue.</p> <p>The portion of the</p>	<p>The extent of variation is limited to a wall length of 5.5m and is setback from Marshall Avenue.</p> <p>This portion of the proposal comprises the fire boosters/fire control room which is needed for emergency services.</p> <p>Variation is</p>

Clause	DCP	Proposed	Complies/ Comment
	the maximum basement projection above natural ground level is to be 1.2m but not to the street front.	building is 5.5m in length and is located between the low and high rise. This section of the basement comprises the fire boosters/fire control room and is required to be easily accessible by emergency services. The section of the building is also setback and includes doors fronting Marshall Avenue.	considered to be acceptable.
Number of car parking spaces	<p>Total number of spaces required: 283</p> <p>Commercial component</p> <p>DCP control: Max 1 car space per 110m² of GFA for commercial developments within a radius of 800m from St. Leonards Railway Station + 1 disabled space = 290m² commercial/retail proposed = 3 spaces + 1 accessible space</p> <p>Residential component:</p> <p>SEPP 65 and the ADG require the RMS Guide to Traffic Generating Development to be used in this instance.</p> <p>Council's Traffic and Transport Team endorse the rates used within the Traffic Impact Assessment</p>	<p>Total number of spaces proposed: 291</p> <p>Commercial: 3 spaces including 1 accessible space</p> <p>Residential spaces: 234 spaces</p> <p>Visitor spaces: 54 spaces (including 6 disabled spaces)</p> <p>57 accessible spaces, including 2 x accessible visitor space</p> <p>1 x car wash bay</p>	<p>Overall, there is sufficient parking provided on-site.</p> <p>Clause 30 of SEPP 65 provides that car parking cannot be used for a ground for refusal if the car parking provided is equal to or greater than Part 3J of the ADG which is the case in the current development proposal.</p>

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Clause	DCP	Proposed	Complies/ Comment
	Report however raised concern as to the allocation of accessible visitor car spaces. This matter is discussed in detail within the referrals section of this report however the number of accessible visitor car spaces proposed is supported by the assessing officer, no further amendments are recommended.	1 x car share space	Complies
Traffic & accessibility report	A Transport and Accessibility Report may be required by the Traffic Manager	Traffic Impact Assessment report was submitted	Complies
Reflectivity	Visible light reflectivity from building materials used on the facades of new buildings should not exceed 20%	Achieved.	Complies
External lighting to buildings	a) Any external lighting of buildings is to be considered with regard to: I. the integration of external light fixtures with the architecture of the building (for example, highlighting external features of the building) II. the contribution of the visual effects of external lighting to the character of the building, surrounds and skyline III. the energy efficiency of the external lighting system IV. the amenity of residents in the	These details are not available at this stage	Addressed via a draft condition (refer to draft condition 2).

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Clause	DCP	Proposed	Complies/ Comment
	<p>locality.</p> <p>b) Floodlights for buildings are prohibited</p>		
Landscaping	<p>a) Locate basement car parking predominately under the building footprint to maximize opportunities for landscaped area</p> <p>b) Deep soil zones in atria, courtyards and boundary setbacks are encouraged</p>	Basement parking is situated within the building footprint. Deep soil zones are not incorporated into the design of the proposal. Given the proposal is to be situated within a high density urban environment this design is considered acceptable.	Complies
Planting on structures - controls apply for planting on roof tops or over car park structures.	<p>a) Areas with planting on structures should be irrigated with recycled water and appropriate drainage provided.</p> <p>b) Provide sufficient soil depth and area to allow for plant establishment and growth. The recommendations are:</p> <p>I. Large trees (canopy diameter of up to 16m at maturity)</p> <p>i. minimum soil volume 150m³</p> <p>ii. minimum soil depth 1.3m</p> <p>iii. minimum soil area 10m x 10m area or equivalent</p> <p>II. Medium trees (8m canopy diameter at maturity)</p> <p>i. minimum soil volume 35 m³</p> <p>ii. minimum soil depth 1m</p>	Council's Landscape Architect advised that the landscape proposed is acceptable given the high density urban environment in which the site is located	Complies

Clause	DCP	Proposed	Complies/ Comment
	iii. approximate soil area 6m x 6m or equivalent III. Small trees (4m canopy diameter at maturity) i. minimum soil volume 9m ³ ii. minimum soil depth 800mm iii. approximate soil area 3.5m x 3.5m or equivalent IV. Shrubs i. minimum soil depths 500-600mm V. Ground cover i. minimum soil depths 300-450mm VI. Turf i. minimum soil depths 100-300mm		
Solar access	a) Mixed use developments are not to reduce sunlight to dwellings in the adjacent or same zone below a minimum of 3 hours of sunlight on a portion of the windows of the habitable rooms between 9am and 3pm on 21 June (mid winter).	The design and siting of the proposal ensures surrounding dwelling houses receive access to at least 3 hours of sunlight in mid winter. Refer to the applicant's shadow diagrams prepared by Nettletontribe in ATT 1 Solar access is discussed in detail in the SEPP 65 section of this report.	Complies
	c) Habitable rooms in at least 70% (188 units) of dwellings in high density residential developments should receive a min of 3 hours direct sunlight between 9am & 3pm	70% of apartments were found by Council's consultant architect to receive 2 hours of direct solar access between 9-3pm mid winter. Given the site is	Complies

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Clause	DCP	Proposed	Complies/ Comment
	<p>on 21st June, in total between any portions of those rooms.</p> <p>In dense urban areas a minimum of two hours may be acceptable.</p> <p>A reasonable proportion of both the common & private open space in those sites is also to receive sunlight during that period, according to the circumstances of the sites</p>	<p>located in a dense urban area, this level of solar access is considered acceptable.</p> <p>Achieved</p>	
	<p>The number of single-aspect dwellings with a southerly aspect (SW-SE) should be limited to a maximum of 10% of the total dwellings within a high density residential development (27 dwellings)</p>	<p>25% of dwellings (68 dwellings) are single aspect with a southerly aspect.</p> <p>The SEPP 65 assessment within this report details the overriding controls for solar access. This assessment concludes the proposal achieves the minimum solar access as summarised above</p>	<p>Variation considered to be acceptable.</p> <p>The proposal offers a high level of amenity for future residents with views being available in a southerly direction of the site of the distant city view.</p> <p>The proposal achieves solar access to 70% of units for 2 hours between 9-3pm mid winter. This control is derived from SEPP 65, which the proposal complies with.</p>
Access & mobility	<p>Any new development must comply with Australian Standards AS 1428 Design for Access and Mobility, AS 4299 Adaptable Housing, AS 2890 Parking Facilities and AS 1735 Lifts,</p>	<p>The proposal complies with AS1428 and AS2890.</p> <p>Compliance with AS4299 is discussed within the DCP Part F assessment of this</p>	Complies

Clause	DCP	Proposed	Complies/ Comment
	Escalators and Moving Walks and with the Part F of this DCP – Access and Mobility	report	
Signage	a) All signage shall comply with the Part N of this DCP – Signage and Advertising	No signage proposed	N/A

Part B – General Controls

Clause	DCP	Proposed	Complies/ Comment
B4 – View sharing	<p>Views are to be shared</p> <p>Views from commercial development will not carry the same weight as views from dwellings.</p> <p>Views will be tested against the extent of view available. Where appropriate the views will also be tested against the view sharing principles stated by the Land and Environment Court.</p>	View sharing is discussed in detail in the impacts section of this report. Current views from properties in a northerly direction of the site enjoy views of the Sydney Harbour Bridge, Sydney Tower, CBD and Harbour. Some views will be impacted as a result of the Tower (high rise) portion of the development.	<p>View sharing is detailed in the impacts section of this report.</p> <p>The proposed design of the Tower is considered reasonable from a view sharing perspective and the proposed development represents a skilful and compliant design. The proposal enables view sharing whilst achieving the desired future character of the locality.</p>
<p>B6 – Environmental Management</p> <p><i>6.1 Sunlight to public spaces</i></p>	a) New development must allow for a minimum of 2 hours of solar access to at least 50% of new and existing public open areas or plazas between the hours of	The subject site adjoins the future Plaza site to its east. The submitted shadow plans demonstrate the future Plaza site would be free of	Complies

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Clause	DCP	Proposed	Complies/ Comment
	<p>11am and 2pm on 21st June.</p> <p>b) The location of the sunlight during these hours for urban plazas is to be adjacent to building frontages to allow for outdoor seating during the lunchtime period.</p>	<p>overshadowing as a result of the proposal until 1pm in mind winter. From 1pm onwards the shadow cast by the Tower would gradually move across a minor portion of approximately less than 10% of the future Plaza site.</p>	
6.2 Wind Standards for St Leonards	<p>The following maximum wind criteria are to be met by new buildings in St Leonards Centre:</p> <p>a) 13 metres/second along major streets and public places and 16 metres/second in all other streets.</p> <p>b) Design buildings to minimise the adverse wind effects on recreation facilities on podium terraces within developments.</p> <p>c) A Wind Effects Report is to be submitted for all buildings within the St Leonards precinct taller than 40m above street level.</p>	<p>Wind Tunnel Tests prepared by CPP was submitted with the DA.</p>	<p>The anticipated wind impact is detailed in the impacts section of this report. The study concludes the wind environment would be acceptable for the intended future uses, subject to further investigation into wind mitigation measures.</p> <p>Impact considered acceptable.</p>
B7 – Development near busy Roads and Rail Corridors	<p>L_{Aeq} levels:</p> <p>(i) In any bed room 35dB(A) 10.00pm to 7.00am.</p> <p>(ii) anywhere else 40dB(A)</p>	<p>The submitted Acoustic Report prepared by Renzo Tonin and Associates, dated 27/06/2014 Revision 1 assessed the external noise and vibration intrusion into the proposal and concludes that</p>	<p>Compliance achievable through a draft condition of consent (Refer to draft Condition 3).</p>

Clause	DCP	Proposed	Complies/ Comment
		appropriate controls can be incorporated into the building design to achieve a satisfactory accommodation environment consistent with the intended quality of the building and relevant standards. The Report concludes in order to control airborne traffic and train noise intrusion and comply with the nominated criteria, glazing of the north, south, east and west facades of both buildings is recommended. A draft condition is recommended in this regard (refer to draft Condition 3). The Renzo report is provided in ATT 2 .	
B8 – Safety & security	A safe and secure environment encourages activity, vitality and viability, enabling a greater level of security	The proposal has been considered with regard to the safer by design principles. The design provides safe and secure entries and well observed communal open spaces.	Complies

Part C3 – Residential Flat Buildings

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

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Clause	DCP	Proposed	Complies/Comment
3.10 Size & mix of dwellings	At least 10% of 1, 2 & 3 bedroom dwellings to be provided	Total development proposal 269 units: 21 x studio = 8% 98 x 1 bedroom = 36% 113 x 2 bedroom = 42% 37 x 3 bedroom = 14%	Complies
3.14 Storage	b) In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: I. studio dwellings 6m ³ II. one-bedroom dwellings 6m ³ III. two-bedroom dwellings 8m ³ IV. three plus bedroom dwellings 10m ³ A minimum of 50% of this storage volume is to be provided within the dwelling accessible from the hall or living area as hall cupboards.	Achieved	Complies
3.16 Natural Ventilation	Sixty percent (60%) (161 units) of dwellings should be naturally cross ventilated. Ventilation provided to one end of a dwelling via windows onto an open access corridor does not satisfy this requirement due to privacy and acoustics' impacts. Twenty five percent (25%) (67 units) of	Nearly 60% of the units are cross ventilated 25% Achieved	Ventilation was considered within the SEPP 65 assessment and was found to be acceptable by Council's Architect.

Clause	DCP	Proposed	Complies/Comment
	kitchens within a development should have access to natural ventilation.		

Part F - Access and Mobility

Clause	DCP	Proposed	Complies/ Comment
3.3 Public spaces and link to private properties	Development on public and private properties must provide and maintain accessible links and paths of travel between Class 2 to Class 10 buildings and to adjacent public spaces or pedestrian networks	Achieved	Complies
3.5 Parking	Provide 1 accessible parking space per 100 spaces, in Class 2 to 9c buildings 3 spaces required for commercial/retail uses. No requirement for accessible car spaces in this instance	1 accessible space provided for retail use 3 spaces in total provided for commercial/retail uses in basement Level 1	Complies
	Provide 1 accessible parking space (dimensions in accordance with relevant Australian Standards) for each adaptable housing unit within the total calculation of spaces required for that dwelling = 54 spaces	54 accessible spaces provided for residents	Complies
3.6 Adaptable and Visitable housing	Adaptable housing to be provided at the rate of 1 dwelling per 5 dwellings = 54 dwellings	54 adaptable dwellings proposed	Complies
	Adaptable housing to be equitably distributed	Adaptable units are provided on	Complies

	throughout all types and sizes of dwellings	levels 4 to 27 within the Tower and levels 2 to 6 in the low rise and comprise 1, 2 and 3 bedrooms	
	80% of the dwellings are to be visitable = 215 dwellings	In lieu of a visitable toilet within 80% of the units, it is proposed to provide a minimum of one (1) ambulant toilet within 100% of the units.	Variation discussed in detail below. On balance, the proposed alternative is considered acceptable.
3.7 Mobility impaired access to and within buildings	Mobility impaired access is required to common areas and all dwellings.	Achieved	Complies

Variations to Council's Development Control Plan/Policies

The proposal meets the Development Control Plan requirements with the exception of the following matters.

Part F– Clause 3.6 Visitable housing

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

The DCP requires visitable housing that provides for a continuous path of accessible travel from the property frontage or car parking area to the living area and to a toilet that is either accessible or visitable and common areas within the building. Dwellings are to be visitable at the rate of 80% in developments requiring adaptable housing as per the DCP. The current proposal incorporates the provision of 54 adaptable dwellings which is consistent with this DCP requirement.

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

'54 adaptable dwellings have been provided complying with AS 4299 and Part D4 of the DCP. Adaptable dwellings are distributed between dwelling types and throughout various levels of the building.

The Access Report confirms that there is an accessible path to all dwellings enabling all dwellings to be visitable. McKenzie Group notes that not all toilets in all visitable dwellings have dimensions (900mm x 1250mm) prescribed by AS4299, however they meet the minimum circulation requirements of AS1428.1 for ambulant toilet design (being 900mm x 900mm).

The Access Report confirms that all adaptable units are capable of complying with the essential features of Appendix A to AS4299. Adaptable layouts are provided in the architectural plans'.

The Accessibility Review Report prepared by the McKenzie Group advise 100% of units are visitable for persons with an ambulant disability in conjunction with fully accessible toilet facilities on common property, in lieu of 80% of the apartments as visitable as per the DCP. The attached expert opinion assessment also prepared by the McKenzie Group states:

'In accordance with the current BCA requirements, Class 2 residential buildings are not required to provide accessible/adaptable units.

However to meet Lane Cove Development Control Plan requirements, the following adaptable and visitable housing provisions apply:

- *A minimum of 20% adaptable units are to be provided and designed in accordance with AS4299-1995*
- *A minimum of 80% visitable housing is required which requires a continuous path of accessible travel from the property frontage or carparking area to the living area and to a toilet that is either accessible or visitable and common areas within the building.*

Technical Departure:

In lieu of a visitable toilet within 80% of the units, it is proposed to provide a minimum of one (1) ambulant toilet within 100% of the units'.

'It is our professional opinion that the proposed solution to provide 'ambulant toilets' within 100% of the residential units in lieu of 'visitable toilets' within 80% of the units, is a better outcome. We support this approach to visitable housing and believe that the departure from the Lane Cove DCP is acceptable given that the proposed solution provides a more functional and dignified outcome that will meet the range of needs by all occupants'.

The above approach was adopted in the previous development application (DA14/143) and was supported overall by Council officers as a higher degree of compliance for bathroom accessibility was proposed within each building. The approach is supported by Council officers also in this instance.

The McKenzie Group Accessibility Review Report and Expert Opinion Report are available in **ATT 3**.

REFERRALS:

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

Council's Architect provided the following concluding comments in relation to the proposed development:

'The proposal meets all the objectives of the principles of good design. The proposed development would meet the minimum requirements for solar access and cross ventilation. The mix of the unit types is considered appropriate to provide adequate housing choice.

The apartments are well designed and provide for adequate amenity. The apartment design does not include circulation through usable spaces such as kitchens. The internal layouts are efficient and the sizes of the apartments have not been compromised. All corridors have access to natural light and ventilation. The apartments utilise the available distant views which provide amenity.

The integration of structural elements to demonstrate verticality and their integration with the roof features makes an architectural statement and shall become a landmark within the precinct.

The proposed development meets the principles set out within the State Environmental Planning Policy 65, Design Quality of Residential Apartment Development'.

The consulting architect's report is provided in **ATT 4**.

Building Surveyor

Council's Building Surveyor reviewed the proposal and initially raised concerns relating to numerous BCA non-compliances. The main concern being the low rise tower having one exit to access from the sole occupancy units. In response to these concerns, the applicant submitted further information and amended plans were received by Council in March and April 2016. A statement from a Fire Engineer advising the BCA non-compliances could be dealt with under a performance solution was also submitted. The conditions recommended by the Senior Building Surveyor are included within the draft conditions (refer generally to draft conditions 8-35).

Traffic and Transport Manager

Council's Traffic and Transport Team reviewed the development application and endorse the the roundabout within Marshall Avenue being constructed at the applicant's expense. Overall sufficient on-site parking is provided as per the RMS Guide to Traffic Generating Developments for high density residential in 'Subregional centres'. However concern was raised with regards to the allocation of residential and accessible visitor car spaces. Six (6) disabled residential visitor car spaces are required, resulting in a shortfall of 4 disabled residential visitor car spaces.

Assessing Officer's response to accessible visitor car spaces:

Traffix prepared the Traffic Impact Assessment which accompanies the development application and demonstrate a total of 291 car parking spaces are provided within the development proposal which complies with the ADG. The applicant provided a response to this issue which is summarised below.

Traffix reviewed the car park design against AS 2890.1 (2004) including ramp gradients, manoeuvring areas, head heights and dead-end aisle and determined that the access and internal design is generally compliant with AS2890.1. The disabled car parking spaces were also found to comply with AS2890.6 with a clear 2.4m width adjacent to a minimum shared area of 2.4m.

A total of 54 visitor car parking spaces are provided in accordance with the ADG. However, *Part R Traffic, Transport and Parking* of the DCP requires 1 disabled car parking space for every 10 visitor car parking spaces provided for sites near St Leonards railway station (as per Table 2 – Car parking rates near St Leonards Railway Station of Part R of the DCP). This means of the 54 visitor car parking spaces, the DCP requires a total of 6 to be disabled visitor car parking spaces. The development provides 2 disabled visitor car parking spaces.

The DCP has a much lower rate of 1 disabled visitor car parking space per 50 visitor spaces for sites not near St Leonards station (refer to Table 1 of Part R of the DCP). If that rate was applied to

the proposed development, then 2 disabled visitor car parking spaces would be required. The rationale behind a higher rate of disabled car parking spaces close to St Leonards railway station is not explained in the DCP. Section 2.3 of Part R of the DCP states that on-site parking rates shall be reduced for land within 400m of St Leonards railway station, therefore increasing the rate of disabled visitor car parking spaces from 1 disabled car parking space/50 visitor spaces to 1/10 spaces is contrary to the objectives of the DCP.

Part F – Access and Mobility of the DCP requires 1 space/100 car parking spaces which results in 3 spaces. The proposal complies with this requirement. It is noted the application was lodged prior to the adoption of Part R of the DCP.

The applicant advises '*it is considered that the provision of disabled parking at the rate of 10 percent of overall parking is high. For example, AS 2890.6 (Off-street parking for people with disabilities) typically requires parking at the rate of 3 to 4 percent of overall parking and this is achieved*'. Review of the relevant AS reveals this situation refers to New Zealand only.

Officer's Comment: The overall number of on-site car parking complies with the ADG and Part F of Council's DCP. As such, the applicant's proposal of 2 accessible visitor car spaces is considered sufficient.

Draft conditions including the requirement of the design of the car park, car spaces, the shared zone and construction management plan (refer to draft conditions 57 - 74).

Manager Open Spaces

Council's Tree Assessment Officer raises no concern with the removal of one mature Forest Oak (Tree 17) to facilitate the new driveway crossing. It is noted all other street trees are retained and protected. The Tree Assessment Officer recommended conditions which are included in the draft conditions of consent (refer to draft conditions 75-82).

Council's Landscape Architect notes despite the limited provision for on-site soft landscaping, this outcome is considered appropriate given the site is within an urbanised area. The Landscape Architect supports the recommendation of the retention of the existing street trees as they would benefit the new streetscape. The conditions recommended by the Landscape Architect are included in the draft conditions of consent (refer to draft conditions 83-92).

Manager Urban Design and Assets

Council's Development Engineer reviewed the proposal and raised no concern with the proposal subject to draft conditions which include a new driveway, extent of excavation, 1.5m wide concrete pedestrian pathway along the sites entire frontage of Marshall Avenue and Marshall Lane (refer to draft conditions 93-130).

Manager Environmental Services

The Environmental Services Team raised no objection to the proposal subject to the recommended conditions addressing noise and construction concerns. Council's Waste Coordinator advised the proposal can address the requirements as per Part Q of Council's DCP in relation to waste management (refer to draft conditions 93-130).

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

Lane Cove Local Environmental Plan 2009

Clause 2.2 - Zoning

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

Clause 4.3 - Height of Buildings

The maximum permissible height limit for the site is part 25m and part 94m. The proposed development is well below the maximum permissible height limit for the low rise component of the development and the Tower complies with the 94m height limit.

Clause 4.4 - Floor Space Ratio

The proposal complies with the maximum permissible floor space ratio of 2.5:1 and 10:1.

Section 94 Contribution Plan

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

The Section 94 Contribution is calculated in the following manner:

Residential Contributions

Dwelling Type	Number of dwellings	Persons per dwelling	Total Number of persons	Contribution payable @ \$9,900/person 2015/2016 fees and charges
Studio	21	1.2	25.2	\$249,480.00
1 bedroom	98	1.2	117.6	\$1,164,240.00
2 bedroom	113	1.9	214.7	\$2,125,530.00
3 bedroom	37	2.4	88.8	*\$740,000.00
Total	269	N/A	446.30	\$4,279,250.00

***Note:** A cap of \$20,000 per dwelling has been imposed under the *Reforms of Local Development Contribution*. As such, the Section 94 Contributions for the proposed three-bedroom dwellings are capped at \$20,000 per dwelling, i.e. 37 dwellings x \$20,000 = \$740,000.00

Retail/Commercial Development - Traffic Management and Streetscape improvement

290m² @ \$100 per m² (2015/2016) = \$29,000.00

Credit for dwelling houses - demolished

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Dwelling type	Number of persons
14 x Semi-detached dwelling houses at 1-13A Marshall Avenue	14 x 2 bedrooms @ 1.9 persons per dwelling = 53.2 persons
Half of the Semi-detached dwelling houses (x2) at 15&15A Marshall Avenue	0.5 x [2 x2 bedrooms] @1.9 persons per dwelling = 3.8 persons
Total Credit	57 persons @ \$9,900 per person = \$549252

Total Section 94 Contributions Payable

Contribution Type	Amount
Commercial/Retail:	\$29,000.00
Residential:	\$4,279,250.00
- (Credit for dwellings):	\$549,252.00
Total Contribution:	\$3,758,998.00

The total Section 94 contribution for the proposal is **\$3,758,998.00**

State Environmental Planning Policy (Building Sustainability Index) 2004

Basix Certificate number 615829M was submitted with the application demonstrating the development can achieve the water, thermal comfort and energy targets.

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

RailCorp

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

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

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

- a) the potential effects of the development (whether alone or cumulatively with other development or proposed development) on:
 - (i) the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor, and

- (ii) the safe and effective operation of existing or proposed rail infrastructure facilities in the rail corridor, and
- b) what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects.

Sydney Trains granted its concurrence to the proposed development subject to Council imposing operational conditions.

The recommended conditions are included in the recommended draft conditions (refer draft conditions 36-52). The above advice received from Sydney Trains was forwarded to the applicant

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

NSW Roads and Maritime Services (RMS)

Pursuant to Schedule 3 of the Infrastructure SEPP the application was referred to the RMS who raised no objection to the proposal subject to the inclusion of a condition relating to the layout of parking spaces (refer to draft condition 56). A copy of the advice from RMS is provided in **ATT 6**.

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

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

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

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

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

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

In resolving to grant approval in the previous application (DA14/143), the Department had regard to the opinions of the applicant, CASA, Airservices Australia and SACL. The Department imposed the following conditions:

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

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

On the 17 December 2015 Sydney Airport advised the determination previously issued by the Department of Infrastructure and Regional Development, dated 2 February 2015 for DA14/143, is still in effect, no further assessment or approval is required for the current application (DA15/205).

The above conditions are included within the draft conditions (refer draft conditions 53-55). A copy of the approval is provided in **ATT 7**.

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

The planning proposal (Amendment 19) was accompanied with a Voluntary Planning Agreement (VPA). The applicant sought to enter into a VPA to amend the LEP height to accommodate an increased building height for the eastern portion of the site from 65m to 94m. The redistribution of height towards the eastern section of the site, sought to ensure the single dwelling houses properties immediately south of Marshall Avenue would receive adequate access to sunlight. As demonstrated in this report, it is clear the redistribution of height has achieved an adequate level of sunlight for the dwelling houses.

At a full Council meeting on 7 December 2015, the Council resolved that LEP Planning Proposal 22 for 1-13A Marshall Ave, St Leonards be adopted and submitted to the NSW Department of Planning and Environment for finalisation and the VPA be executed. The applicant and Council have entered into a VPA and the LEP has been amended to accommodate an increased building height for the eastern portion of the site from 65m to 94m.

A draft condition has been recommended regarding the VPA (refer draft condition 6). A copy of the signed VPA is provided in **ATT 8**.

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

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

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

The likely impacts anticipated as a result of the proposal are discussed throughout this report. However the key anticipated impacts are detailed below.

View Sharing

The views currently enjoyed by surrounding properties in a northerly direction of the site would be impacted as a result of the Tower component of the development and would be largely unaffected as a result of the low rise component of the proposal given its height and the height of the surrounding buildings along the Pacific Highway.

The following view sharing assessment focuses on the Tower portion of the development proposal using photographs and photomontages which approximate the anticipated views as a result of the development proposal. The assessment has been undertaken with regard to the planning principles of view sharing in the *Tenacity Consulting v Waringah 2004*.

The potential view impacts have been considered in relation to:

- The residential dwellings in the Forum East and Forum West buildings
- The residential dwellings in the Abode apartment building
- The commercial development located on the northern side of the Pacific Highway
- The commercial development located on the southern side of the Pacific Highway which also has frontage to Marshall Lane

It is important to note, in the consideration of the Planning Proposal for the site, the impact on views was a key consideration for Council and the Department of Planning and Environment as part of the Planning Proposal process. It is important to note the objectives of focussing residential development at major transport and employment hubs as is the case in this instance.

The following provides an assessment of the view sharing principles stated by the Land and Environment Court as relevant at the date of lodgement of this application in December 2015.

1. Assessment of views to be affected

District views of the iconic Sydney Central Business District (CBD) are available from properties situated in a northerly direction of the site. The views include the Sydney Harbour Bridge, Sydney Tower, Anzac Bridge and Parramatta and Lane Cove Rivers and the interface between land and water. These distant views are enjoyed from surrounding properties including the Forum East building (3 Herbert Street) and Forum West building (1 Sergeants Lane), 207 Pacific Highway, the Abode (599 Pacific Highway), the Northmark building (52 Christie Street) and the Shoremark building (54 Christie Street).

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

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

The Abode apartments are located to the east of the site on the corner of the Pacific Highway and Albany Street. It is anticipated the development enjoys views to the southwest and west towards the subject site. The view opportunities available to the apartments situated on the lower levels would be obstructed by the existing buildings fronting the Pacific Highway. The high rise building on the site would be visible from the upper levels of the Abode building. The high rise building would not affect any views that might be enjoyed to the south west across the Greenwich Peninsula, Lane Cove River and Hunters Hill Peninsula. The proposal will only affect part of the westerly views available from the apartments within the building and the distance separation will maintain a significant proportion of the currently southerly, south westerly and westerly available views. It is considered unlikely the High Rise would impact iconic views given the location of the subject site.

It is also important to note the context of the future buildings that are likely to be constructed to take advantage of the recent amendment to Lane Cove LEP 2009. Of note is increased building height at 500-504 Pacific Highway (commonly known as the Charter Hall site) to 37 storeys as this height will impact on views enjoyed by the Abode residents. A current Development Application for this site has been lodged and is being assessed by Council (DA15/212) which utilises the maximum permissible height within the planning proposal. The applicant's View Sharing Assessment provides a view cone from the Abode apartments which demonstrates future developments and their heights and is provided in **ATT 9**.

The following view sharing assessment focuses on the buildings situated north of the Pacific Highway, the Forum East, Forum West and 207 Pacific Highway.

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

Forum Apartments

The Forum Apartments are located approximately 150m from the site in a north-eastern direction. The Forum is a mixed use development. The Forum residential buildings are sited on a north-south axis. The balconies of the Forum apartments are generally orientated east or west. The west facing apartments located in the south western corner of the Forum would view the proposed high rise (Tower) building.

The analysis used in this assessment was used in the assessment of the site specific Planning Proposal and previous Development Application DA14/143 for the subject site.

Apartments orientated south on Levels 17, 20 and 29 of the Forum were inspected by Council officers and photographs of the existing views, whilst standing were taken. The applicant's analysis is based on the photographs taken by Council officers.

Forum East

Level 17

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

Level 20

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

Level 29

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

Forum West

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

Level 18

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

Level 24

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

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

207 Pacific Highway – Building B

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

A view sharing analysis was prepared by the applicant following council officer's inspections of the above properties having regard to the RL of the buildings inspected, with the exception of 207 Pacific Highway. The submission received on behalf of 207 Pacific Highway incorporated a photograph of the view enjoyed from Level 6 of Building B and this photograph has been used by the applicant in their analysis. The applicant's view sharing analysis is included in **ATT 9**.

3. Assess the extent of the impact

Forum East

Level 17

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

Level 20

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

Level 29

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

Forum West

Level 18

Angled views of the distant Sydney CBD, the majority of Sydney Harbour Bridge, Sydney Tower, Sydney Harbour, Anzac Bridge and Parramatta River are enjoyed from the primary living area and

most southern balcony whilst sitting and standing on Level 18. A portion of the city skyline and Sydney Harbour would be lost as a result of the Tower. The portion of the Sydney Harbour Bridge and Sydney Tower currently enjoyed would remain. This view loss is considered to be moderate however the highly valued iconic views enjoyed remain unobstructed.

Level 24

Views of the distant Sydney CBD, Sydney Harbour Bridge, Sydney Tower, Sydney Harbour, Anzac Bridge and Parramatta River would continue to be enjoyed from the primary living areas, master bedroom and most southern balconies whilst sitting and standing on Level 24. A portion of Sydney Harbour would be lost as a result of the additional Tower height. This view loss is considered to be minor, given the iconic views enjoyed remain unobstructed.

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

207 Pacific Highway

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

It is anticipated approximately half of the iconic Sydney Harbour Bridge and district water views would be lost as a result of the Tower building. The view loss is considered to be significant however the remainder of the iconic views enjoyed are unobstructed.

4. Assess the reasonableness of the proposal causing the impact

The proposed development complies with the maximum permissible floor space ratio and maximum permissible building height. The proposal would affect a portion of angled views obtained from the residential buildings. It is considered likely that a portion of the Sydney Harbour Bridge would be obstructed from the Forum West building as a result of the Tower proposal. Some of the view loss of the city skyline and Sydney Harbour would be experienced. The impacts anticipated for the Forum buildings are considered to be reasonable.

Iconic views from the commercial building at 207 Pacific Highway would be affected. The view enjoyed of the distant Sydney Harbour Bridge would likely be lost as the result of the proposed Tower. Despite this the siting of the proposal Tower and low rise would permit the majority of the existing view of the Sydney Harbour Bridge to be retained. It is noted that the properties immediately north of the subject site which address the Pacific Highway are largely underdeveloped. The maximum building height permitted as per the Lane Cove LEP for these properties is 36m. Should these properties be developed to this maximum height, loss of iconic views of the city would likely occur.

As the proposed development complies with the relevant planning controls relating to building envelope, the remaining question to be addressed is whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours.

A tall and slender building is proposed in lieu of a shorter building with wider floor plate which would likely have on balance a greater adverse impact upon view corridors of nearby buildings. This was the intent of the site specific DCP which the proposal is consistent with.

Summary: In light of the above assessment, the proposed design of the Tower is considered reasonable from a view sharing perspective and the proposed development represents a skilful and compliant design. The proposal enables view sharing whilst achieving the desired future character of the locality.

Environmental Wind

Wind Tunnel Tests were prepared by CPP Wind Engineers (CPP Report) for the proposed development in November 2015, given the existing windy environment experienced in this area. Wind tunnel tests were conducted at locations in and around the development site and included existing vegetation and surrounding buildings within 450m radius of the site. The testing focused on point locations near the main tower at ground level to ensure the wind environment would be suitable for pedestrians walking and sitting and at selected balcony locations on each of the building facades.

According to the CPP Report overall the intended uses of the spaces surrounding the site would result in an acceptable wind environment. The CPP Report identified that Location 4 being the site subject to the future public plaza adjacent to the proposed Tower (high rise), is exposed to relatively strong wind conditions. If the future intended use for this site is for stationary activities including sitting, then local amelioration measures would be required within and around the plaza. Information regarding landscaping and public structures in the proposed plaza is unavailable at this stage as such further testing would be needed.

One location north-east of the site would require trees to be planted along Marshall Lane in order to pass the relevant wind criteria. The private communal outdoor area situated between the low and high rise was classified as uncomfortable and suitable for able bodied persons only. This space would meet the wind speed associated with the outdoor sitting criteria for approximately 60% of the time. The CPP report advises the podium is redirecting downwash away from pedestrians at ground level. The podium roof area is a private space and will be used by residents when environmental conditions suit personal requirements. Due to the wind environment in this location, being a combination of horizontal and vertical flow it is considered that there would be no single solution to improve the wind conditions across the entire podium roof. CPP make several recommendations to provide calm areas within this space including an awning extending from the western façade of the tower with a solid portion along the southern edge of the awning to provide protection from downwash, may improve the usability of this space. CPP advises further development of such measures could be developed during detailed design.

Locations 27, 28 and 29 being corner balconies on Level 12 of the south-west corner of the Tower were found to be very windy, failing the distress criterion and may pose a safety risk to residents. This wind environment is anticipated to be repeated for Levels 13 onwards. CPP recommends these balconies be partially or fully enclosed or deleted from the plans. Draft Condition 5 requires the applicant to either partially or completely enclose these balconies.

Locations 30 to 33 are located on balconies on Level 21 of the main tower and passed the distress criteria, being identified as useable for over 80% of the time.

The report reaches the conclusion that the existing wind conditions around the site were found to be comparative to the conditions anticipated with the proposed development, however the test locations along Canberra Avenue and adjacent to the railway line would be windier with the proposed development.

Location 21 being the north-eastern corner of the high rise would require mitigation measures. The complex nature of the wind environment in this area is a result of the channeling between the proposed and neighbouring building to the north, which is accentuated by the open nature of the terrain to the west and the location of the site with respect to the St Leonards CBD.

CPP conclude the proposal would have an impact on the wind environment within the immediate area, resulting in windier conditions than are currently experienced. Mitigation measures including porous vertical barriers such as trees along Marshall Lane have been shown to improve wind conditions in the public space to an acceptable level, however further testing would be required.

The recommendations of the CPP report are included in the draft condition of consent (refer to 5). The CPP report is provided in **ATT 10**.

Overshadowing

The applicant has sought to design a tall, slender building to ensure the shadow cast by the building does not unreasonably impact the surrounding residential properties. The submitted shadow diagrams demonstrate the cumulative impact of the current proposal and existing development at the western section of Marshall Avenue. The shadow diagrams demonstrate the proposed development does not affect any residential property for more than one hour during mid winter. Reasonable access to sunlight is maintained as a result of the proposal. The applicant's overshadowing analysis is provided in **ATT 1**.

Noise

It is acknowledged that the construction associated with the development proposal would result in additional noise for surrounding residential and commercial properties. This noise is anticipated to be experienced during the construction phase of the proposal and is unavoidable. The Construction Noise and Vibration Management Plan (CNVMP) prepared by Renzo Tonin and Associates provides guidelines to reduce noise and vibration impacts to nearby affected receivers during construction. Council's Manager Environmental Services reviewed the CNVMP and advised it is satisfactory however the hours in which work is sought were not supported. The Renzo CNVMP is provided in **ATT 11** and forms a draft condition of consent (refer to draft Condition 155).

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

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

The site has been considered by experts in relation to contamination, vibration and acoustic investigations, urban design and accessibility and is found to be suitable for the proposed development. The proposal is fully compliant with the LEP in relation to height and floor space.

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

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

The proposal was notified in accordance with Council's notification policy. The application was notified on 22 December 2015 for a period of 28 days. The notification period was extended as a result of the Christmas holiday period.

A total of 58 submissions were received as a result of the notification period including a petition with 90 signatures. All submissions received were provided to the JRPP for its review.

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

- *The notification timing and period which occurred over the Christmas break was insufficient for this scale of development*

Comment:

The development application was lodged with Council on the 16 December 2015. The notification period for this application commenced on the 22 December 2015 and closed on the 18 January 2016. The notification period was extended as a result of the Christmas holiday period.

- *The DCP variations proposed are unacceptable*

Comment:

It is acknowledged the applicant seeks to vary from the Development Control Plan as detailed in this report. It is also acknowledged the site is situated opposite from low density residential properties, on the southern side of Marshall Avenue. These DCP variations have been considered in the above assessment and are found to have no impact on view sharing or solar access levels. The proposal is considered to provide an acceptable level of amenity for surrounding residents given the nature of the proposed development, the site specific controls relating to the site and the changing character of the precinct.

- *Issues of traffic congestion, demands on public transport, parking, insufficient open space, shortage of schools, day care and other essential services are not considered in the SEE*

Comment:

The applicant's statement of environmental effects has been prepared in accordance with the Environmental Planning and Assessment Act 1979 and the associated Regulations. It is acknowledged additional people within the St Leonards precinct would result in additional demands on infrastructure. It is further acknowledged that the density for this site is endorsed by the Planning Minister.

The applicant's traffic impact assessment considered the impact on traffic within the site and surrounds. Council's Traffic and Transport Team endorse the proposed on-site parking. Draft condition 66 requires the applicant to prepare a Sustainable Transport Action Plan (STrAP) detailing proposed mode shares, bike routes, car-share services and bus route frequencies and submit this to Council. This information would be required to be distributed to residents. Knowledge

of these services and the specific locations of the services will ensure that the development provides maximum opportunity to use non car travel modes.

- *The small amount of commercial floor space proposed would not achieve the revitalisation the State Government intends for St Leonards*

Comment:

The site is zoned for mixed use. The proposed development comprises 290m² of retail/commercial floor space and 269 residential apartments. The proposed development will result in a greater concentration of people within the St Leonards precinct after business hours and during the weekends. In conjunction with other approved applications and proposals under consideration within the St Leonards precinct, it is considered that the intent to revitalise St Leonards will be achieved.

- *Comparisons should not be made with other development applications and existing buildings within the St Leonards precinct*

Comment:

The applicant has provided indicative heights and envelopes derived from the St Leonards South Masterplan to demonstrate the transition in scale between the subject site and the adjoining proposed scale recommended for the St Leonards South Strategy Master Plan area. The diagram also details existing buildings within St Leonards to establish the context of this precinct refer to Figure 16 in **ATT 11**.

- *The proposal will interfere with the helicopter flight path associated with the Royal North Shore Hospital*

Comment:

The application has approval from the NSW Department of Infrastructure and Development for a building height of a maximum of 166.8m AHD. The Department provided their approval in consultation with the Civil Aviation Authority, Airservices and Sydney Airport.

- *The proposal results in a substantial loss of commercial floor space for residential units*

Comment:

The gazetted planning proposal requires the provision of commercial floor space. It is noted the site previously comprised residential dwelling houses.

- *Proposal does not achieve objectives of State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development (SEPP 65)*

Comment:

Council's Consultant Architect advises the proposed development meets all the objectives of SEPP 65 and further advises the apartments are well designed and provide for adequate amenity for future occupants.

- *The development application pre-empts coordinated strategic planning for the St Leonards Precinct*

Comment:

The development application for the redevelopment of this site has been assessed with regard to the recently gazetted planning proposal endorsed by the Department of Planning. The proposal is compliant with the maximum permissible building height and floor space ratio for this site.

- *The development is unsuitable for the site being opposite low density residential land*

Comment:

The strategic planning policies for St Leonards encourage increased residential accommodation and employment generating development within proximity to established transport nodes. It is noted that the assessment of the recently gazetted Planning Proposal for the subject site considered site suitability.

The proposal has been designed with regard to the protection of the residential amenity of surrounding properties. The proposal would allow for acceptable solar access to residential properties south of the site and to public open spaces including a future public plaza site. The proposal would impact views currently enjoyed over the site. As detailed in this report the proposal would not unreasonably reduce iconic views of distant Sydney CBD. The analysis undertaken for the proposal as a whole, concludes the development is suitable for the site. The applicant's view sharing analysis is provided in **ATT 9**.

- *The proposed bulk and scale of the proposal is unsuitable for the area*

Comment:

The proposed development is fully compliant with the site specific LEP controls for the site. The proposal is within the maximum building height for the Tower component and is below the maximum building height permitted for the low rise component. The proposed development does not achieve the maximum permissible FSR for the site. The proposal redistributes the building height from the low rise building to the Tower to ensure solar access to surrounding residential properties is maintained to an acceptable level. The low rise and Tower are well articulated, in particular the low rise building presents as a two storey development similar to a townhouse development.

- *The proposal will result in unacceptable noise impacts for surrounding commercial, medical and residential properties*

Comment:

It is acknowledged that the construction associated with the development proposal would result in additional noise for surrounding residential and commercial properties. This noise is anticipated to be experienced during the construction phase of the proposal and is unavoidable. Draft conditions have been recommended to ensure noise and vibration mitigation measures are implemented to ensure noise from works on site include excavation and construction works are in accordance with the relevant standards.

Further, the submitted Construction Noise and Vibration Management Plan (CNVMP) prepared by Renzo Tonin and Associates provides guidelines to reduce noise and vibration impacts to nearby affected receivers during construction. Council's Manager Environmental Services reviewed the CNVMP and advised it is satisfactory however the hours in which work is sought were not supported. The Renzo CNVMP is provided in **ATT 11** and forms a draft condition of consent (refer to draft Condition 155).

- *Overshadowing will be experienced by surrounding properties*

Comment:

The submitted shadow diagrams demonstrate the cumulative impact of the current proposal and the mixed use development under construction at the western section of Marshall Avenue. The shadow diagrams demonstrate the proposed development does not affect any residential property for more than one hour during mid winter. Reasonable access to sunlight is maintained as a result of the proposal. The applicant's overshadowing analysis is provided in **ATT 1**.

- *View sharing and view loss impacts will be experienced by surrounding properties*

Comment:

The proposal would impact upon the distant views currently enjoyed over the site by surrounding properties in a northerly direction of the site. The analysis prepared by the applicant provides an indication of the extent of this impact. These photomontages within the analysis were used in the assessment of the Planning Proposal which has since been approved by the Minister for Planning.

The proposal would affect views enjoyed by the residential buildings situated north of the site on the opposite side of the Pacific Highway. The view loss assessment found that some of the view loss of the city skyline and Sydney Harbour would be experienced.

Iconic views of the Sydney Harbour Bridge from the commercial building at 207 Pacific Highway would be impacted.

The assessment detailed previously within this report found the proposal to represent a skilfull and compliant design and enables view sharing.

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

It is considered that the proposal would not unreasonably impact views. The proposal is compliant with the FSR and building height controls for the site and is generally compliant with the DCP controls.

- *Objection is raised to the Voluntary Planning Agreement (VPA) process*

Comment:

Section 93(f) of the Environmental Planning and Assessment Act 1979 provides that a VPA may be entered into under which the developer is required to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit, or any combination of them, to be used for or applied towards a public purpose generally within the St Leonards precinct and is intended to be used towards the construction of a public plaza and bus interchange. Council has entered into a VPA.

- *Approval has not been given for the proposed public plaza*

Comment:

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

- *Traffic congestion and additional traffic movements will be experienced by this development proposal*

Comment:

The proposed development would generate additional vehicular movements within the St Leonards precinct, especially compared to the previous use being dwelling houses. However the anticipated traffic generation as a result of the current proposal on the surrounding streets and intersections is endorsed by the NSW RMS and Council's Transport and Traffic Team.

Council's Transport and Traffic endorse the proposed roundabout at Marshall Avenue and Holdsworth Avenue being designed and constructed by the developer.

- *Insufficient on-site parking is provided for a development of this size*

Comment:

The proposed on-site parking is compliant with SEPP 65, the ADG and Council's DCP as detailed in this report. The site is situated within an accessible location, being within 400m walking distance to public transport which is regularly serviced with trains and buses. The proposed development is endorsed by the NSW RMS and Council's Traffic and Transport Team.

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

The proposed development meets the objectives of Lane Cove Council's Local Environmental Plan 2009. The proposal is fully compliant with the building height and floor space ratio requirements of the LEP. The proposal is consistent with the objectives of the Development Control Plan.

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

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

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

CONCLUSION

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

The proposal complies with the provisions of Lane Cove Council's Local Environmental Plan 2009 with regards to the maximum FSR and building height. It is noted the architect has integrated the roof elements into the maximum permissible height limit for the site.

The proposed development generally complies with the provisions of the Lane Cove Development Control Plan. The proposal seeks to provide an alternative to visitable access within bathrooms of the visitable units by providing an accessible bathroom in the ground floor of each building and increase the general accessibility through the building for residents and visitors. The proposal is accompanied by expert advice in this regard detailing its compliance with the relevant Australian Standards (AS). It is noted Council's DCP exceeds the AS requirements.

The issues raised in the submissions received are considered and discussed in the body of the report.

The proposal meets the objectives of the 10 planning principles of SEPP 65 and is considered to represent a high quality development. The proposal is considered to be well designed and would provide for a high level of amenity for future residents.

This proposal maintains adequate solar access to residential properties surrounding the site, particularly those to the south of the site. Despite views of the distant Sydney Harbour Bridge and Sydney Harbour being impacted for properties located in a northerly direction of the site, in particular from residential dwellings, the proposal maintains reasonable access to existing iconic views of the CBD given the character of St Leonards.

The Planning Proposal was accompanied with a VPA which would become operative if the application is approved. The VPA would be made for the purposes of contributing towards the funding of the construction of a proposed St Leonards Rail Plaza and Bus/Rail Interchange over the railway line in St Leonards. In the event the St Leonards Rail Plaza and Bus/Rail Interchange does not proceed, funds may be used for the provision of public infrastructure generally within the St Leonards area.

The proposed development application is considered to be in the public interest. The development proposal would make a positive contribution to the St Leonards Precinct and Lane Cove Local Government Area generally. The proposal is recommended for approval subject to conditions.

RECOMMENDATION

That pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act, 1979, as amended, the Sydney East Joint Regional Planning Panel grant development consent to Development Application DA15/205 for the construction of a mixed use development comprising of 269 residential units and retail/commercial, subdivision and Voluntary Planning Agreement at Lot 100 in DP 1200133, 1-13A Marshall Avenue, St Leonards subject to the following conditions:

General

1. That the development be strictly in accordance with the following drawings prepared by Nettleton Tribe Partnership Pty Ltd:

Plan reference	Title
4264_DA002	Site Plan, Rev B, dated 3.12.2015
4264_DA003	Basement Level 3 Plan, Rev B, dated 3.12.2015
4264_DA004	Basement Level 2 Plan, Rev C, dated 14.4.2016
4264_DA005	Basement Level 1 Plan, Rev C, dated 3.12.2015
4264_DA006	Ground level – overall Plan, Rev C, dated 14.4.2016
4264_DA007	Level 1 – Overall Plan, Rev B, dated 3.12.2015
4264_DA008	Level 2 – Overall Plan, Rev B, dated 3.12.2015
4264_DA009	Level 3 – Overall Plan, Rev B, dated 3.12.2015
4264_DA010	Typical Overall Level Plan, Rev B, dated 3.12.2015
4264_DA011	Low Rise Building – Ground Level Plan, Rev B, dated 3.12.2015
4264_DA012	Low Rise Building – Level 1 Plan, Rev B, dated 3.12.2015
4264_DA013	Low Rise Building – Level 2 Plan, Rev B, dated 3.12.2015
4264_DA014	Low Rise Building – Level 3 Plan, Rev B, dated 3.12.2015
4264_DA015	Low Rise Building – Level 4 Plan, Rev B, dated 3.12.2015
4264_DA016	Low Rise Building – Level 5 Plan, Rev B, dated 3.12.2015
4262_DA17	Low Rise Building – Level 6 Plan, Rev B, dated 3.12.2015
4264_DA018	Low Rise Building – Roof Plan, Rev B, dated 3.12.2015

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4264_DA019	High Rise Building – Ground Level Plan, Rev B, dated 3.12.2015
4264_DA020	High Rise Building – Level 1 Plan, Rev B, dated 3.12.2015
4264_DA021	High Rise Building – Level 2 Plan, Rev B, dated 3.12.2015
4264_DA022	High Rise Building – Level 3 Plan, Rev B, dated 3.12.2015
4264_DA023	High Rise Building – Midrise Level 4-8 Plan, Rev B, dated 3.12.2015
4264_DA024	High Rise Building – midrise level 9-10 Plan, Rev B, dated 3.12.2015
4264_DA025	High Rise Building - Level 11-15 Plan, Rev B, dated 3.12.2015
4264_DA026	High Rise Building – High Rise Level 16-27 Plan, Rev B, dated 3.12.2015
4264_DA028	High Rise Building – Penthouse Level 28 Plan, Rev B, dated 3.12.2015
4264_DA029	High Rise Building –Plant Level Plan, Rev B, dated 3.12.2015
4264_DA030	High Rise Building Roof Plan, Rev B, dated 3.12.2015
4264_DA031	Overall North Elevation, Rev B, dated 3.12.2015
4264_DA032	Overall South Elevation, Rev B, dated 3.12.2015
4264_DA033	High Rise Building East/West Elevation, Rev B, dated 3.12.2015
4264_DA034	Low Rise Building East/West Elevation, Rev B, dated 3.12.2015
4264_DA036	East-West Overall Section, Rev B, dated 3.12.2015
4264_DA037	Sections – Low Rise Building, Rev B, dated 3.12.2015
4264_DA038	Sections – High Rise Building, Rev B, dated 3.12.2015
4264_DA066	Adaptable Units – Sheet 1, Rev B, dated 3.12.2015
4264_DA067	Adaptable Units – Sheet 2, Rev B, dated 3.12.2015
4264_DA068	Adaptable Units – Sheet 3, Rev B, dated 3.12.2015
4264_DA069	Adaptable Units – Sheet 4, Rev B, dated 3.12.2015
4264_DA070	Adaptable Units – Sheet 5, Rev B, dated 3.12.2015

and Site Image, Landscape Architects:

SS14-2817 100	Landscape Masterplan, Rev D, dated 1.12.2015
SS14-2817 501	Landscape Details, Rev B, dated 24.7.2014
SS14-2817 502	Landscape Details, Specification Notes and Plant Schedule, Rev B, dated 24.7.2014

except as amended by the following conditions.

2. Prior to the issue of the construction certificate, details of external lighting and the operation system shall be submitted to the Private Certifying Authority and shall be implemented prior to the issue of an occupation certificate.
3. Prior to the issue of the construction certificate the applicant shall implement the recommendations of the Acoustic Assessment Report prepared by Renzo Tonin and Associates and dated 27 June 2014 (Revision 1), Ref TG788-01F02(r1).
4. Prior to the issue of a construction certificate, the recommendations within the Accessibility Review, prepared by McKenzie Group Rev 3 and dated 30.11.2015, shall be implemented on the plans and submitted to the Certifying Authority for approval.
5. Prior to the issue of an occupation certificate the applicant shall submit to Council evidence of mitigation measures which create an acceptable wind environment for the site and

surrounding areas. The mitigation measures must result in the site and surrounding areas being fit for the intended use of a public plaza and recreation area.

The applicant may partially or completely enclose the balconies on Level 12 and upwards if a suitable mitigation measure cannot be formulated for the locations specified within the CPP Wind Tunnel Tests submitted with this application.

6. The Developer is to pay the monetary contribution required by the Planning Agreement that applies to the site entered into on 16 December 2015 in accordance with the terms of the Planning Agreement and prior to the issue of a Construction Certificate for all of any part of the Development.
7. a) In order to ensure the design quality of the development is retained:
 - i. The design architect is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
 - ii. The design architect shall have full access to the site and shall be authorised by the applicant to respond directly to the consent authority or Council where information or clarification is required in the resolution of design issues throughout the life of the project;
 - iii. Evidence of the design architect's commission shall be provided to Council prior to the release of the Construction Certificate.b) The design architect of the project shall not be changed without notice to the Council.
8. The submission of a Construction Certificate and its issue by Council or Private Certifier PRIOR TO CONSTRUCTION WORK commencing.
9. All building works are required to be carried out in accordance with the provisions of the Building Code of Australia.
10. The approved plans must be submitted to a Sydney Water Check agent or Customer Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped. For Quick Check agent details please refer to the web site www.sydneywater.com.au see Your Business then Building & Developing then Building & Renovating or telephone 13 20 92.

The consent authority or a private accredited certifier must:-

- Ensure that a Quick Check agent/Sydney Water has appropriately stamped the plans before the issue of any Construction Certificate.
11. Approval is subject to the condition that the builder or person who does the residential building work complies with the applicable requirements of Part 6 of the Home Building Act 1989 whereby a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy Council or the PCA that they have complied with the applicable requirements of Part 6. **Council as the PCA will not release the Construction Certificate until evidence of Home Owners Warranty Insurance or an owner builder permit is submitted.** THE ABOVE CONDITION DOES NOT APPLY TO COMMERCIAL/INDUSTRIAL CONSTRUCTION, OWNER

BUILDER WORKS LESS THAN \$5000 OR CONSTRUCTION WORKS LESS THAN \$20,000.

12. THE PAYMENT OF A CONTRIBUTION FOR AN ADDITIONAL **446.3 PERSONS AND 290M² OF RETAIL/COMMERCIAL FLOOR SPACE** IN ACCORDANCE WITH COUNCIL'S SECTION 94 CONTRIBUTIONS PLAN. THIS PAYMENT BEING MADE PRIOR TO THE ISSUE OF CONSTRUCTION CERTIFICATE AND IS TO BE AT THE CURRENT RATE AT TIME OF PAYMENT. **THE AMOUNT IS \$3,758,998.00 AT THE CURRENT RATE OF \$9900 PER PERSON AND \$100 PER M² RETAIL/COMMERCIAL FLOOR SPACE (CALCULATED AT 2015/2016 RATES).** THIS AMOUNT INCORPORATES THE CREDIT FOR PREVIOUS DEVELOPMENT.

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

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

Section 94 Contribution Plan

The Section 94 Contribution is calculated in the following manner:

Residential Contributions

Dwelling Type	Number of dwellings	Persons per dwelling	Total Number of persons	Contribution payable @ \$9,900/person 2015/2016 fees and charges
Studio	21	1.2	25.2	\$249,480.00
1 bedroom	98	1.2	117.6	\$1,164,240.00
2 bedroom	113	1.9	214.7	\$2,125,530.00
3 bedroom	37	2.4	88.8	*\$740,000.00
Total	269	N/A	446.30	\$4,279,250.00

***Note:** A cap of \$20,000 per dwelling has been imposed under the *Reforms of Local Development Contribution*. As such, the Section 94 Contributions for the proposed three-bedroom dwellings are capped at \$20,000 per dwelling, i.e. 37 dwellings x \$20,000 = \$740,000.00.

Retail/Commercial Development - Traffic Management and Streetscape improvement

290m² @ \$100 per m² (2015/2016) = \$29,000.00

Credit for dwelling houses demolished

Dwelling type	Number of persons
14 x Semi-detached dwelling houses at 1-13A Marshall Avenue	14 x 2 bedrooms @ 1.9 persons per dwelling = 53.2 persons

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Half of the Semi-detached dwelling houses (x2) at 15&15A Marshall Avenue	0.5 x [2 x2 bedrooms] @1.9 persons per dwelling = 3.8 persons
Total Credit	57 persons @ \$9,900 per person = \$549252

Total Section 94 Contributions Payable

Contribution Type	Amount
Commercial/Retail:	\$29,000.00
Residential:	\$4,279,250.00
- (Credit for dwellings):	\$549,252.00
Total Contribution:	\$3,758,998.00

The total Section 94 contribution for the proposal is **\$3,758,998.00**

13. Critical concrete pours

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

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

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

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

NOTE:

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

14. An Occupation Certificate being obtained from the Principal Certifying Authority before the occupation of the building.
15. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

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

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

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

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

Monday to Friday (inclusive) 7am to 5.30pm. A one hour respite period must be provided at midday for **high noise generating activities, including rock breaking and saw cutting**

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

Sunday No work Sunday or any Public Holiday.

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

17. Stockpiles of topsoil, sand, aggregate, spoil or other material capable of being moved by water to be stored clear of any drainage line, easement, natural watercourse, footpath, kerb or roadside.
18. The development shall be conducted in such a manner so as not to interfere with the amenity of the neighbourhood in respect of noise, vibration, smell, dust, waste water, waste products or otherwise.
19. Deleted.
20. Depositing or storage of builder's materials on the footpath or roadways within the Municipality without first obtaining approval of Council is PROHIBITED.

Separate approval must be obtained from Council's Works and Urban Services Department PRIOR TO THE PLACEMENT of any building waste container ("Skip") in a public place.

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

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

22. Structural Engineer's details being submitted PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE for the following:-
- a) underpinning;
 - b) retaining walls;
 - c) footings;
 - d) reinforced concrete work;
 - e) structural steelwork;
 - f) upper level floor framing;
23. Where Lane Cove Council is appointed as the Principal Certifying Authority, it will be necessary to book an inspection for each of the following stages during the construction process. Forty eight (48) hours notice must be given prior to the inspection being required:-
- a) All reinforcement prior to filling with concrete.
 - b) The dampcourse level, ant capping, anchorage and floor framing before the floor material is laid.
 - c) Framework including roof and floor members when completed and prior to covering.
 - d) Installation of steel beams and columns prior to covering
 - e) Waterproofing of wet areas
 - f) Stormwater drainage lines prior to backfilling
 - g) Completion.
24. A check survey certificate is to be submitted at the establishment of each floor level prior to pouring concrete and at completion of the development.

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

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

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

26. (a) The use of mechanical rock pick machines on building sites is prohibited due to the potential for damage to adjoining properties.
- (b) Notwithstanding the prohibition under condition (a), the principal certifying authority

may approve the use of rock pick machines providing that:-

- I. A Geotechnical Engineer's Report that indicates that the rock pick machine can be used without causing damage to the adjoining properties.
- II. The report details the procedure to be followed in the use of the rock pick machine and all precautions to be taken to ensure damage does not occur to adjoining properties.
- III. With the permission of the adjoining owners and occupiers comprehensive internal and external photographs are to be taken of the adjoining premises for evidence of any cracking and the general state of the premises PRIOR TO ANY WORK COMMENCING. Where approval of the owners/occupiers is refused they be advised of their possible diminished ability to seek damages (if any) from the developers and where such permission is still refused Council may exercise its discretion to grant approval.
- IV. The Geotechnical Engineer supervises the work and the work has been carried out in terms of the procedure laid down.

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

27. The site being properly fenced to prevent access of unauthorised persons outside of working hours.
28. **BASIX** - Compliance with all the conditions of the BASIX Certificate lodged with Council as part of this application.
29. **Long Service Levy** Compliance with Section 109F of the *Environmental Planning and Assessment Act 1979*; payment of the Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 (or, where such a levy is payable by instalments, the first instalment of the levy) – All building works in excess of \$25,000 are subject to the payment of a Long Service Levy at the rate of 0.35%.

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

30. Depositing or storage of builder's materials on the footpath or roadways within the Municipality without first obtaining approval of Council is PROHIBITED.

Separate approval must be obtained from Council's Works and Urban Services Department PRIOR TO THE PLACEMENT of any building waste container ("Skip") in a public place.

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

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

32. All spillage deposited on the footpaths or roadways to be removed at the completion of each days work.
33. The site being properly fenced to prevent access of unauthorised persons outside of working hours.
34. Deleted.
35. A copy of Sydney Water's Notice of Requirements must be submitted to the Principal Certifying Authority **PRIOR TO THE CONSTRUCTION CERTIFICATE BEING ISSUED.**

Sydney Trains (RailCorp)

36. A1. All excavation and construction works are to be undertaken in accordance with the details, methodology, advice, undertakings and recommendations detailed in the following documents:
 - Geotechnical Report prepared by JK Geotechnics (Ref:24766SB3rpt) dated 23 June 2014.
 - Geotechnical Comments prepared by JK Geotechnics (Ref:24766SB3let) dated 04/03/2016.
 - Construction Management Plan – Revision C, prepared by Hutchinson Builders, dated 18/02/2016.
 - Soldier Pile Shoring Wall Design Report - Issue 5, prepared by Pile Design Solutions (Ref: 137-005), dated 04/03/2016.
 - Site Retention Plan – Drawing No. S070 – Revision E, dated 29/07/2015 prepared by BG&E Engineering.
 - Site Retention Elevations Sheet 1 – Drawing No. S075 – Revision G, dated 26/02/2016 prepared by BG&E Engineering.
 - Site Retention Elevations Sheet 2 – Drawing No. S076 – Revision F, dated 26/02/2016 prepared by BG&E Engineering.
 - Site Retention Elevations Sheet 3 – Drawing No. S077 – Revision E, dated 26/02/2016 prepared by BG&E Engineering.
 - Site Retention Sections Sheet 3 – Drawing No. S082 – Revision F, dated 26/02/2016 prepared by BG&E Engineering.
 - Site Retention Details – Drawing No. S085 – Revision D, dated 26/02/2016 prepared by BG&E Engineering.

The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that the documentation listed in this condition have not be superseded with the approval/certification of documentation in Condition A2. Should Sydney Trains advise that any of the documentation listed in this condition have not been superseded, then the measures detailed in those specific documents are to be incorporated into the construction drawings and specifications prior to the issuing of the Construction Certificate. Prior to the commencement of works the Principal Certifying Authority is to provide verification to Sydney Trains that this condition has been complied with.

37. A2. If required by Sydney Trains, prior to the commencement of works and prior to the issue of the Occupation Certificate, a joint inspection of the rail infrastructure and property in the

vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by Sydney Trains.

38. A3. Unless advised otherwise the Applicant shall comply with the following items:

- All excavation works with 25m of the rail corridor are to be supervised by a geotechnical engineer experience with such excavation projects.
- No rock anchors/bolts are to be installed into RailCorp's property or easements.
- On completion of the basement slab works all temporary rock anchors/bolts along the rail corridor boundary are to be distressed.
- The project engineer is to conduct vibration monitoring during the course of the excavation.

A Construction Certificate is not to be issued until the measures detailed in this condition of consent have been incorporated into the construction drawings and specifications. Prior to the commencement of works the Principle Certifying Authority is to provide verification to Sydney Trains that this condition has been complied with.

39. A4. The following items are to be submitted to Sydney Trains for review and endorsement prior to the issuing of a Construction Certificate:

- Machinery to be used during excavation/construction.
- If required by Sydney Trains, track monitoring plan detailing the proposed method of track monitoring during excavation and construction phases.

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

40. A5. Sydney Trains and Transport for NSW, and persons authorised by it for this purpose, are entitled to inspect the site of the approved development and all structures to enable it to consider whether those structures on that site have been or are being constructed and maintained in accordance with these conditions of consent, on giving reasonable notice to the principal contractor for the approved development or the owner or occupier of the part of the site to which access is sought.

41. A6. Copies of any certificates, drawings or approvals given to or issued by Sydney Trains must be submitted to Council for its records.

42. A7. Prior to the issuing of an Occupation Certificate the Applicant is to submit the as-built drawings to Sydney Trains, Transport for NSW and Council. The Principal Certifying Authority is not to issue the Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

43. A8. Prior to the issue of a Construction Certificate the Applicant must hold current public liability insurance cover for a sum to be determined by Sydney Trains. This insurance shall not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure. The Applicant is to contact Sydney Trains Rail Corridor Management Group to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction

Certificate the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains written advice to the Applicant on the level of insurance required.

44. A9. Prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains Rail Corridor Management Group to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.
45. A10. In exercising its functions in relation to any Sydney Trains conditions, Sydney Trains reserves the right to liaise with Transport for NSW and impose any requirements (as advised by those entities) on their behalf as if they were Sydney Trains requirements.
46. A11. An acoustic assessment is to be submitted to Council prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".
47. A12. Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.
48. A13. The design, installation and use of lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of Sydney Trains. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
49. A14. If required by Sydney Trains, prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
50. A15. Prior to the issuing of a Construction Certificate the Applicant is to submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from the Sydney Trains confirming that this condition has been satisfied.
51. A16. The Sydney Trains corridor access gates located opposite the development site shall be unobstructed at all times.
52. A17. No construction vehicles (including staff vehicles), equipment, bins or building material shall occupy the land used for car parking purposes located opposite the development site.

Department of Infrastructure and Regional Development

- 53. The building must not exceed a maximum height of 166.8m AHD, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lighting rods, any roof top garden plantings, exhaust flues etc.
- 54. Separate approval must be sought under the Airports (Protection of Airspace) Regulations 1996 for any cranes required to construct the building.
- 55. At completion of the construction of the building, a certified surveyor must notify in writing the airfield design manager of the finished height of the building.

NSW Roads and Maritime Services

- 56. The layout of the proposed car parking areas associated with the subject development (including driveway, grades, turn paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions) should be in accordance with AS2890.1-2004 and AS2890.2-2002 for heavy vehicle usage.

Traffic and Transport

Intersection operations

- 57. There is currently no roundabout facility on Marshall Avenue crossing Holdsworth Avenue. The developer is required to fund, design and build an appropriate roundabout facility on Marshall Avenue crossing Holdsworth Avenue. The roundabout facility must be compliant with relevant Austroads Standards and allow appropriate pedestrian crossing facilities on both Marshall Avenue and Holdsworth Avenue. All pedestrian crossing facilities are to be provided with adequate street lighting, to ensure pedestrian safety. This new roundabout facility is required to improve the movement and safety of all road users. Construction of the roundabout facility and associated pedestrian facilities shall not commence until the design and locations have been approved by the Council's Traffic Committee.

Parking and servicing

- 58. All accessible car spaces in the public car park are to be adequately signposted and linemarked, and provided in accordance with AS2890.6: 2009 including the adjacent shared space and the height clearance.
- 59. The garbage collection area is to be clearly signposted and linemarked, and provided in accordance with AS2890.2: 2002. The developer is required to fund, design and build any on-street layby facilities for garbage collection. Construction of the on-street layby facilities for garbage collection shall not commence until the design and locations have been approved by the Council's Traffic Committee. Any on site garbage collection must be provided for with sufficient headroom and to allow the vehicle to enter and exit in a forward direction.
- 60. At least one on-site car share spaces is to be provided as part of the development. The car share spaces is to be dedicated to commercial car share use and must be accessible to both residents and the general public (ie. on common property within the site boundary and

not located behind security doors).

Pedestrians / Cycling

61. Deleted.
62. All cycling racks and secure bike parking provided on-site must meet the minimum standards as outlined in Section 4.3 in Part R of the DCP and designed in accordance with AS 2890.3:2015. Alternative designs that exceed the Australian Standards will also be considered appropriate.
63. Resident cycle parking in the basement car park should be as close to the car park entrance as possible so as to be both convenient and safe for cyclists to use. Secure bike lockers or a bike cage should be provided for residents' bikes.
64. The bicycle facilities are to be clearly labelled, and advisory/directional signage is to be provided at appropriate locations.
65. The design of the development, particularly access and egress arrangements to/from the property, must not restrict cycling activities on Nicholson Street. The development must complement and facilitate the implementation of this green infrastructure and should generally be designed with the needs of cyclists in mind.

Public Transport

66. A Sustainable Transport Action Plan (STrAP) showing the proposed mode shares, relevant bike routes, access to existing car-share spaces and bus route frequencies will need to be submitted and approved by the Traffic and Transport Manager in Lane Cove Council prior to Occupation Certificate.

Construction Traffic Management Plan

67. Construction Traffic Management Plan (CTMP) shall be submitted to Council prior to the commencement of works.
68. Consultation with NSW Police, RMS and Transport for NSW / Sydney Buses will be required as part of the Construction Traffic Management Plan.
69. Vehicles, particularly trucks will not be permitted to queue on public roads within the site vicinity. Trucks will therefore need to be appropriately timed.
70. Any construction vehicles exiting the site during demolition/construction should have their tyres washed in order to avoid any construction material, dust, etc coming in contact with the road pavement.
71. All complaints and concerns from the community must be dealt with by the Private Certifying Authority in the first instance.
72. Any changes to the Construction Traffic Management Plan must be submitted to Lane Cove

Council for further approval.

73. Council reserves the right to revoke the approval for the CTMP at any time.

Works Zones

74. Due to requirements for safe traffic and pedestrian movement, loading or unloading of any vehicle or trailer carrying material associated with the development must not take place on the public road unless within a Works zones. The proposed works zones along Marshall Avenue must be approved by the Council and have a minimum length of 20 metres (to accommodate a large truck). Works zones signs are only to be erected by Council staff. The works zones application is to be submitted to and approved by Council prior to the earlier of the following two situations occurring; either (a) issue of any Construction Certificate or (b) any work commencing, in the case where work is to occur on a Public Road during demolition.

The developer must give the Council written notice of at least 14 days prior to the date upon which use of the Works zones will commence and the duration of the Works zones approval shall be taken to commence from that date. All vehicle unloading/loading activities on a public roadway/footway are to be undertaken within an approved Works zones.

Tree Protection

75. The applicant shall obtain written authority from Council prior to the pruning of any street trees or trees in neighbouring properties. Tree 33 (the Forest Oak street tree) is exempt from this condition and may be removed by the developer.
76. There shall be no stockpiling of topsoil, sand, aggregate, spoil or any other construction material or building rubbish on any nature strip, footpath, road or public open space park or reserve.
77. Excavation within 6 metres of street trees directly adjacent to the site shall be carried out under the supervision of the project arborist (Level 5). Any tree roots encountered during excavation must be cut cleanly by the arborist.
78. The footings supporting the front boundary walls shall remain in place as a root protection measure. Machinery usage in close proximity to the wall footings shall be carried out in such a way that the footings are not disrupted.
79. A 1.8m high chain mesh fence shall be erected encompassing the entire nature strip between the footpath and the street gutter. Adequate room must be provided to allow car passengers to exist parked cars. The tree protection zones must not enclose the parking metres. The tree protection area shall not be used for the storage of building materials, machinery, site sheds, or for advertising and soil levels within the tree protection area shall remain undisturbed.
80. A waterproof sign must be placed on tree protection zones at 6 metre intervals stating 'NO ENTRY TREE PROTECTION ZONE – this fence and sign are not to be removed or relocated for the work duration.' Minimum size of the sign is to be A4 portrait with NO ENTRY TREE PROTECTION ZONE in capital Arial Font size 100, and the rest of the text in Arial font size 65.

81. All tree protection measures and signage must be erected **PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE OR THE COMMENCEMENT OF WORKS, WHICHEVER OCCURS FIRST**. This includes site preparation works, and tree protection measures must remain in place for the duration of the development, including construction of the driveway crossing.

BOND ON STREET AND COUNCIL TREES

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

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

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

Advice:

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

Landscaping

83. Prior to the issue of a Construction Certificate, the applicant shall submit detailed landscape working drawings to the private certifying authority. The plans shall comply with the

conditions of development consent and be certified by a qualified landscape architect / environmental designer or horticulturist. The landscape plan for construction shall show the treatment of common open space areas, front, rear and side setbacks, balconies or on-structure plantings, any decking and raised screening or general landscaping treatment (including sections, elevations, landscape profiles and specifications, consistent with Councils Landscape Checklist and landscape policy).

84. Prior to the issue of the Construction Certificate the applicant shall submit detailed landscape working drawings for construction including sections, elevations and landscape profiles and specifications of the proposed public open space to the private certifying authority.

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

85. The applicant must make provision for adequate on- structure soil depth, volume and a suitable profile to support the thirteen (13) proposed canopy tree plantings illustrated on Landscape plan DWG No: SS14 – 2817 100 Rev D prepared by Site image dated 01.12.2015.

Such provision and detailed design must be consistent with Councils Landscape DCP provisions equal to: Medium trees (8m canopy diameter at maturity) will require a minimum soil volume 35m³ with minimum soil depth 1m providing an approximate soil area 6m x 6m or equivalent .In the case of proposed Small trees (4m canopy diameter at maturity) will require a minimum soil volume 9m³ with minimum soil depth 800mm providing an approximate soil area 3.5m x 3.5m or equivalent per tree.

86. Groundcovers and low shrubs, planted at appropriate distances and depths shall be planted within twelve (12) months of completion of all landscaping works. Where screen planting is required throughout the development, plants must have a height of 2m at planting as per Landscape Documentation Package prepared by Site Image.
87. All landscape works is to be completed to a professional standard, free of any hazards or unnecessary maintenance problems and that all plants are consistent with NATSPEC specifications.
88. The proposed tree plantings shall have a mature height of no less than 6m at maturity, to be installed in pot sizes no smaller than 45 litres in accordance with the Landscape Documentation Package prepared by Site Image.

MATTERS TO BE SATISFIED PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

89. A qualified practising landscape architect, Landscape / environmental designer or horticulturist, shall certify that the proposed subsoil drainage and any associated waterproofing membrane, have been installed in accordance with the details shown on the landscape working drawings and specification. Works are not to progress until the principal certifying authority has confirmed that this condition has been satisfied.
90. A landscape practical completion report shall be prepared by a consultant landscape

architect and submitted to Council or the accredited certifier within 7 working days of the date of practical completion of all landscape works. This report shall certify that all landscape works have been completed in accordance with the approved landscape working drawings. A copy of this report is to accompany a request for the issue of an Occupation Certificate

91. Prior to the issue an Occupation Certificate, the applicant / developer shall submit evidence of an agreement for the maintenance of all site landscaping by a qualified horticulturist, landscape contractor or landscape architect, for a period of 12 months from date of issue to the Private Certifying Authority.
92. At the completion of the landscape maintenance period, the consultant landscape architect/designer shall submit a report to the private certifying authority, certifying all plant material has been successfully established and that all of the outstanding maintenance works or defects have been rectified prior to preparation of the report and that a copy of the 12 month landscape maintenance strategy has been provided to the Strata Managers /Owners/ Occupiers.

Engineering

General Engineering Conditions

93. **(A1) Design and Construction Standards:** All engineering plans and work shall be carried out in accordance with Council's standards and relevant development control plans except as amended by other conditions.
94. **(A2) Materials on Roads and Footpaths:** Where the applicant requires the use of Council land for placement of building waste, skips or storing materials a "*Building waste containers or materials in a public place*" application form is to be lodged. Council land is not to be occupied or used for storage until such application is approved.
95. **(A3) Works on Council Property:** Separate application shall be made to Council's Urban Services Division for approval to complete, any associated works on Council property. This shall include vehicular crossings, footpaths, drainage works, kerb and guttering, brick paving, restorations and any miscellaneous works. Applications shall be submitted **prior to the start of any works on Council property.**
96. **(A4) Permit to Stand Plant:** Where the applicant requires the use of construction plant on the public road reservation, an "*Application for Standing Plant Permit*" shall be made to Council. Applications shall be submitted and approved **prior to the start of any related works.** Note: allow 2 working days for approval.
97. **(A5) Restoration:** Public areas must be maintained in a safe condition at all times. Restoration of disturbed Council land is the responsibility of the applicant. All costs associated with restoration of public land will be borne by the applicant.
98. **(A6) Public Utility Relocation:** If any public services are to be adjusted, as a result of the development, the applicant is to arrange with the relevant public utility authority the alteration or removal of those affected services. All costs associated with the relocation or removal of services shall be borne by the applicant.
99. **(A7) Pedestrian Access Maintained:** Pedestrian access, including disabled and pram

access, is to be maintained throughout the course of the construction as per AS-1742.3, *'Part 3 - Traffic control devices for works on roads'*.

100. **(A8) Council Drainage Infrastructure:** The proposed construction shall not encroach onto any existing Council stormwater line or drainage easement. If a Council stormwater line is located on the property during construction, Council is to be immediately notified. Where necessary the stormwater line is to be relocated to be clear of the proposed building works. All costs associated with the relocation of the stormwater line are to be borne by the applicant.
101. **(A9) Services:** Prior to any excavation works, the location and depth of all services must be ascertained. All costs associated with adjustment of the public utility will be borne by the applicant.
102. **(B1) Council infrastructure damage bond:** The applicant shall lodge with Council a \$150,000 cash bond or bank guarantee. The bond is to cover the repair of damage or outstanding works to Council's roads, footpaths, kerb and gutter, drainage or other assets as a result of the development. The bond will be released upon issuing of the Occupation Certificate. If Council determines that damage has occurred as a result of the development, the applicant will be required to repair the damage. Repairs are to be carried out within 14 days from the notice. All repairs are to be carried in accordance with Council's requirements. The full bond will be retained if Council's requirements are not satisfied. Lodgement of this bond is required **prior to the commencement of any demolition works.**
103. **(H3) Heavy Vehicle Duty Employee and Truck Cleanliness:**
- The applicant shall
- Inform in writing all contractors of Council's requirements relating to truck cleanliness leaving the site.
 - Keep a register of all contractors that have been notified, the register is to be signed by each contractor. The register must be available for access by Council officers at all times.
 - Place an employee within close proximity of the site exit during site operation hours to ensure that all outgoing heavy vehicles comply with Council's requirements. This employee shall liaise with heavy vehicle drivers and provide regular written updates to drivers on the conditions of entry to the subject site.
- Those drivers who have been determined to continually not comply with Council's requirements, either by the developer or authorised Council officers, shall not be permitted re-entry into the site for the duration of the project.
104. **(H4) Truck Shaker:** A truck shaker ramp must be provided at the construction exit point. Fences are to be erected to ensure vehicles cannot bypass the truck shaker. Sediment tracked onto the public roadway by vehicles leaving the subject site is to be swept up immediately.
105. **(H5) Covering Heavy Vehicle Loads:** All vehicles transporting soil material to or from the subject site shall ensure that the entire load is covered by means of a tarpaulin or similar material. The vehicle driver shall be responsible for ensuring that dust or dirt particles are not deposited onto the roadway during transit. It is a requirement under the Protection of the Environment Operations (Waste) Regulation, 1996 to ensure that all loads are adequately

covered, and this shall be strictly enforced by Council's ordinance inspectors. Any breach of this legislation is subject to a "*Penalty Infringement Notice*" being issued to the drivers of those vehicles not in compliance with the regulations.

106. **(O3) On-Site Stormwater Detention System - Marker Plate:** The on-site detention system shall be indicated on the site by fixing a marker plate. This plate is to be of minimum size: 100mm x 75mm and is to be made from non-corrosive metal or 4mm thick laminated plastic. It is to be fixed in a prominent position to the nearest concrete or permanent surface or access grate. The wording on the marker plate is described in part O Council's DCP- Stormwater Management. An approved plate may be purchased from Council's customer service desk.
107. **(K2) Cast in Situ Drainage Pits:** Any drainage pit within a road reserve, a Council easement, or that may be placed under Council's control in the future, shall be constructed of cast in situ concrete and in accordance with Part O Council's DCP- Stormwater Management.
108. **(O4) On-Site Stormwater Detention Tank:** All access grates to the on site stormwater detention tank are to be hinged and fitted with a locking bolt. Any tank greater than 1.2 m in depth must be fitted with step irons.
109. **(S1) Stormwater Requirement:** The following details need to be added to the amended stormwater design plans:

- The design needs to incorporate an adequate gross pollutant trap.
-

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

Engineering conditions to be complied with prior to Construction Certificate

110. **(D2) Drainage Plans Amendments:** The stormwater drainage plan **numbered 27459-SYD Rev 3 & 4** prepared by **Wood and Greeve Pty Ltds** dated **30-11-15** is to be amended to reflect the above condition titled '*Stormwater requirement*'. The amended design is to be certified that it fully complies with, AS-3500 and part O Council's DCP-Stormwater Management; certification is to be by a suitably qualified engineer. The amended plan and certification shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate**.

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

111. **(F1) Overland Flow through the podium /common space area:** Overland flows generated from a 1 in 100 year storm event must be accepted at the upstream boundary and conveyed through the site. A suitably qualified engineer needs to certify the depth velocity product and freeboard in this area strictly comply with Part O of Council's DCP – Stormwater Management. The certification shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate**.

112. **(O1) Positive Covenant Bond:** The applicant shall lodge with Council a \$2000.00 cash bond to cover the registration of the required positive covenants. Lodgement of this bond is required **prior to the issue of the Construction Certificate.**
113. **(T1) Design of Retaining Structures:** All retaining structures greater than 1m in height are to be designed and certified for construction by a suitably qualified engineer. The structural design is to comply with, all relevant design codes and Australian Standards. The design and certification shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**
114. (D2) Geotechnical Report: A geotechnical report is to be completed for the excavation and ground water impacts associated with this development. The Geotechnical Report and supporting information are to be prepared by a suitably qualified geotechnical engineer and be submitted to Principle Certifying Authority prior to issue of a Construction Certificate.
115. (D3) Geotechnical Monitoring Program: Excavation works associated with the proposed development must be overseen and monitored by a suitably qualified engineer. A Geotechnical Monitoring Program shall be submitted to the principle certifying authority prior to issue of a Construction Certificate. The Geotechnical Monitoring Program must be produced by suitably qualified engineer ensuring that all geotechnical matters are regularly assessed during construction.

The Geotechnical Monitoring Program for the construction works must be in accordance with the recommendations of the Geotechnical Report and is to include:

- Recommended hold points to allow for inspection by a suitably qualified engineer during the following construction procedures;
 - Excavation of the site (face of excavation, base, etc)
 - Installation and construction of temporary and permanent shoring/ retaining walls.
 - Foundation bearing conditions and footing construction.
 - Installation of sub-soil drainage.
- Location, type and regularity of further geotechnical investigations and testing.

Excavation and construction works must be undertaken in accordance with the Geotechnical and Monitoring Program.

116. (D4) Construction Methodology Report: There are structures on neighbouring properties that are deemed to be in the zone of influence of the proposed excavations. A suitably qualified engineer must prepare a Construction Methodology report demonstrating that the proposed excavation will have no adverse impact on any surrounding property and infrastructure. The report must be submitted to Principal Certifying Authority prior to issue of a Construction Certificate. The details must include a geotechnical report to determine the design parameters appropriate to the specific development and site. The Report must include recommendations on appropriate construction techniques to ameliorate any potential adverse impacts. The development works are to be undertaken in accordance with the recommendations of the Construction Methodology report.
117. **D5) Dilapidation Report** The applicant is to provide a dilapidation report of all adjoining

properties and any of Councils infrastructure located within the zone of influence of the proposed excavation.

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

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

118. **(H1) Road Dilapidation Survey:** The applicant shall prepare a dilapidation survey and a dilapidation report detailing the existing state of repair / condition of the road surfaces along Marshall Avenue, Marshall Lane and Canberra Avenue adjacent the site. The survey and report need to be submitted to the Council prior to the issue of the first **Construction Certificate**. Following completion of construction of the development and prior to the issue of the first Occupation Certificate, the applicant is to prepare a second dilapidation survey and a dilapidation report that includes details of all changes and damage caused to the surface of the said public roads as a consequence truck movements associated with the construction of the development. The Council may apply funds realised from the security referred to in applicable condition to meet the cost of making good any damage caused to the surface of the said public road as a consequence truck movements associated with the construction of the development to which the consent relates. The dilapidation surveys and reports must be prepared by an engineer registered with the Institute of Engineers.
119. **(V4) Car Parking Certification:** The plans and supporting calculations of the internal driveway, turning areas, ramps, garage opening widths, parking space dimensions and any associated vehicular manoeuvring facilities shall be submitted to the Principal Certifying Authority.
- The plans shall be prepared and certified by a suitably qualified engineer. The design is to be certified that it fully complies with AS 2890 Series and Council's standards and specifications. The design and certification shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate**.
120. **(V1) Proposed Vehicular Crossing:** The proposed vehicular crossing shall be constructed to the specifications and levels issued by Council. A '*Construction of a Multi Unit Footpath Crossing*' application shall be submitted to Council **prior to the issue of the Construction Certificate**. All works associated with the construction of the crossing shall be completed **prior to the issue of the Occupation Certificate**.
121. **(A10) Boundary Levels:** The levels of the street alignment shall be obtained from Council. These levels are to be incorporated into the design of the internal pavements, car parking, landscaping and stormwater drainage plans and shall be obtained **prior to the issue of the Construction Certificate**. Note: The finished floor level of the proposed basement shall be determined by Council.
122. **(A11) Work Zone:** A Traffic Construction Management Plan and an application for a Work Zone adjacent the development shall be submitted to Lane Cove Council for determination,

prior to the commencement of the demolition and prior to any works that require construction vehicle and machinery movements to and from the site. If the development has access to a State Road, the Construction Management Plan and Work Zone need to be referred to RMS for approval. The approval of the Traffic Construction Management Plan and application for a Work Zone by Council's Traffic Section must be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**

123. **(K1) Council Construction Requirements:** The applicant shall construct / reconstruct the following:

1. New 1.5m wide footpath adjacent the entire frontage of Marshall Avenue and Canberra Avenue
2. New Kerb and Gutter along all frontages of the site
3. Reinstate all adjustments to the road surface to Council's satisfaction.
4. Reinstate all existing nature-strips with turf and soil to Council's satisfaction
5. Construction or diversion of the existing Council stormwater pipe line in accordance with drawing numbered **D02 Rev C** by **Wood & Greeve Pty Ltd** and dated 13/01/16.

A \$10,000.00 cash bond or bank guarantee shall be lodged with Council to cover the satisfactory construction of the above requirements. Lodgement of this bond is required **prior to the issue of the Construction Certificate.** The Bond will be held for a period of six months after satisfactory completion of the works. All works shall be carried out **prior to the issue of the Occupation Certificate.** All costs associated with the construction of the above works are to be borne by the applicant.

124. **(K4) Council Inspection Requirements:** The following items shall require Council inspections.

- All new footpaths on Council Property
- New kerb and gutter on Council Property
- All asphalt adjustments to the roadway
- All the approved stormwater drainage works on Council property

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

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

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

Engineering condition to be complied with prior to commencement of construction

126. **(C2) Erosion and Sediment Control:** The applicant shall install appropriate sediment control devices **prior to the start of any works on the site.** The devices are to be installed in

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

Engineering Condition to be complied with prior to Occupation Certificate

127. **(M1) Stormwater System Engineering Certification:** On completion of the drainage system a suitably qualified engineer shall certify that the drainage system and the Council stormwater pipeline diversion have been constructed in accordance with the approved plans, Part O Council's DCP-Stormwater Management and AS-3500. The certification is to include a work as executed plan. The work as executed plan shall:

- (a) be signed by a registered surveyor, &
- (b) clearly show the surveyor's name and the date of signature.

All documentation is to be submitted to the Principle Certifying Authority **prior to the issue of the Occupation Certificate.**

128. **(V3) Redundant Gutter Crossing:** All redundant gutter and footpath crossings shall be removed and the kerb, gutter and footpath reinstated to the satisfaction of Council's Urban Services Division. These works shall be carried out **prior to the issue of the Occupation Certificate.**
129. **(D6) Certification of Retaining Structures and Excavations:** A suitably qualified engineer shall provide certification to the principal certifying authority that all retaining structures and excavations have been carried out in accordance with the relevant Australian Standards and Codes of Practice. The certification and a complete record of inspections, testing and monitoring (with certifications) must be submitted to the principal certifying authority **prior to the issue of the Occupation Certificate.**
130. **(O2) Positive Covenants OSD and Pump Out System:** Documents giving effect to the creation of a positive covenants over the on-site detention system and over the basement pump out system shall be registered on the title of the property **prior to the issue of the Occupation Certificate.** The wordings of the terms of the positive covenants shall be in accordance with part O Council's DCP-Stormwater Management.

Environmental Health

General

131. **Demolition Works and Asbestos Removal/Disposal**
The demolition of any existing structure is to be carried out in accordance with *Australian Standards AS 2601-1991: The Demolition of Structures*. All vehicles leaving the site carrying demolition materials are to have the loads covered and are not to track any soil or waste materials into the road. Pursuant to Section 27A of the Occupational Health and Safety Act 1983 "notification to Commence Demolition Work" form is to be submitted to Workcover at least seven days prior to work commencing. All asbestos, hazardous and/or intractable wastes are to be disposed of in accordance with the Workcover Authority and EPA guidelines and requirements. The asbestos must be removed by a bonded asbestos licensed operator. Dockets/receipts verifying recycling/disposal must be kept and presented to Council when required.

132. Dust Control

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

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

133. Erosion and Sedimentation Controls – Major Works

Erosion and sediment control devices are to be provided. All devices are to be established prior to the commencement of engineering works and maintained for a minimum period of six months after the completion of all works. Periodic maintenance of the erosion and sedimentation control devices is to be undertaken to ensure their effectiveness.

134. Stabilised Access Point

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

135. Site Water Management Plan

A site water management plan is to be submitted to Council for approval. The plan is required to be site specific and be in accordance with “Managing Urban Stormwater – Soils and Construction” (the blue book) produced by the NSW Department of Housing.

136. Garbage storage area – Commercial/Industrial

All garbage shall be stored in a designated garbage area, which includes provision for the storage of all putrescible waste and recyclable material emanating from the premises. The area is to be constructed with a smooth impervious floor graded to a floor waste and connected to the sewer. The garbage area/room is to be well ventilated and fitted with fire sprinklers and meet fire safety standards in accordance with the Building Code of Australia. Detailed plans and specifications for the construction of the designated garbage area are to be submitted with the Construction Certificate.

137. Operation of Plant or Equipment

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

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

138. Noise Control – Car Park Security Grills

To minimise the impact on the amenity of surrounding residents, all sound producing plant, equipment, machinery or fittings within or forming part of the proposed security door fitted to the car parking area entrance shall be acoustically attenuated so that the noise emitted does not exceed 5db(A). Notwithstanding the above any noise that is emitted shall not be audible within any premises and comply with the Protection of the Environmental Operations Act 1997.

139. Noise Monitoring

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

140. Storage of Potentially Contaminated Soils

All stockpiles of potentially contaminated soil must be stored in an environmentally acceptable manner in a secure area on the site.

141. Assessment of Potentially Contaminated Soils

All stockpiles of potentially contaminated soil must be assessed in accordance with relevant NSW Environment Protection Authority guidelines, such as the publication titled *Environmental Guidelines: Assessment, Classification and Management of Liquid and Non – Liquid Wastes* (EPA, 1999).

142. Offsite Disposal of Contaminated Soil

All contaminated soil removed from the site must be disposed at a waste facility that can lawfully receive that waste.

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

143. Hazardous or intractable wastes arising from the demolition, excavation and remediation process being removed and disposed of in accordance with the requirements of WorkCover NSW and the Environment Protection Authority, and with the provisions of:

- *New South Wales Occupational Health and Safety Act, 2000;*
- *The Occupational Health and Safety (Hazardous Substances) Regulation 2001;*
- *The Occupational Health and Safety (Asbestos Removal Work) Regulation 2001;*
- *Protection Of the Environment Operations Act 1997 (NSW) and*
- *Environment Protection Authority's Environmental Guidelines; Assessment, Classification and Management of Liquid and Non Liquid Wastes (1999).*

144. Clean water only to stormwater system

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

145. Ventilation – Garbage Rooms

Garbage rooms shall be ventilated by:-

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

146. Car Park Ventilation

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

147. Landscaping not to Impede Ventilation of Car Park

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

Waste Management

148. Prior to the issue of the Construction Certificate The garbage receptacle area must comply with the following:

- I. To be drained to a floor waste and connected to the sewer
- II. To be installed with a ventilation system
- III. To have adequate lighting from outside & inside the room.

149. Prior to the issue of an Occupation Certificate, the applicant must make written application to Council for the provision of domestic waste services. As part of this application, a Deed of Indemnity will be required to be submitted by the applicant and endorsed by the Owners Corporation or representatives thereof, council and council's waste contractors. At the time of lodgement of the application for the provision of waste services, all fees and charges associated with the supply of waste and recycling bins and for the cost of the contractor services are to be paid at this time.

Readily accessible bulky waste storage areas must be provided for the use of all residents. Bulky waste storage rooms must be of sufficient size to accommodate a minimum of 30m³ of bulky waste at any given time. Doorways and travel paths must be of sufficient height and width, and be free of obstructions to permit easy transport from individual units to the storage area, and from the storage area to collection point.

All waste must be collected on-site. Dimensions and turning circles of Council's waste collection vehicles are found in Appendix E to Part Q of Council's DCP.

Operational

150. Litter Control

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

151. Garbage Room Location & Access

Garbage rooms shall:

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

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

152. Construction Requirements – Garbage Room

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

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

Construction

153. Compliance with the Waste Management Plan approved under application15/205.

Contamination

154. Any soils proposed for removal from the site are to be initially classified in accordance with the “Waste Classification Guidelines, Part 1: Classifying Waste” NSW DECC (2009) and in accordance with the Preliminary Stage 2 Environmental Site Assessment report prepared by EIS, dated June 2014, which itself shall be taken within the context of the previous reports prepared by EIS for the Stage 1 DA pertaining to the development of 15-25 Marshall Avenue. Details of waste classification shall be submitted to Council prior to the issue of a Final Occupation Certificate.

Noise

155. The PCA shall ensure all works onsite are consistent with the recommendations made within the Construction Noise and Vibration Management Plan (CNVMP) prepared by Renzo Tonin and Associates dated 20.6.2014, Rev 0, reference TG788-01F03 (r0) CNVMP. The hours of operation outlined in the CNVMP do not form part of this consent.
156. **Noise Control – Offensive Noise**
To minimise the noise impact on the surrounding environment, the use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to an offensive noise as defined under the provisions of the Protection of the Environmental Operations Act 1997.
157. **Noise Control – Residential Air Conditioning units**
To minimise the impact of noise from the air conditioning unit, it shall be located 3 meters from the boundary and/or attenuated so that noise generated does not exceed 5db(A) above the ambient background level between 7am and 10pm on weekdays and 8am and 10pm on Weekends and Public Holidays.
- Any noise emitted by the air conditioning unit shall not be audible within a room of any residential dwelling or sole occupancy unit at any time within the hours of 10pm and 7am on weekdays and 10pm and 8am on weekends and public holidays.
158. **Noise Control**
Noise must be minimised as far as practicable, by the selection of appropriate methods and equipment, and by the use of silencing devices where practicable.
159. **Road Traffic Noise**
The residential flat building must be constructed so that road traffic noise levels comply with the satisfactory design sound level in *Australian/New Zealand AS/NZS 2107:2000 Acoustics – Recommended design sound level and reverberation times for building interior*, with windows and doors closed.
160. **Mechanical Ventilation of Rooms**
If the noise level with the windows and doors open exceeds the above noise criteria by more than 10dB(A), an approved system of mechanical ventilation must be provided.

Compliance with NSW Industrial Noise Policy

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

Ventilation

162. To ensure that adequate provision is made for ventilation of the premises, mechanical and/or natural ventilation systems shall be designed, constructed and installed in accordance with the provision of:
- a) The Building Code of Australia
 - b) AS 1668 Part 1 and 2 – 1991

c) Protection of the Environment Operations Act 1997

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

Indemnity

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

Provision of Waste Services

164. Prior to the issue of any Occupation Certificate, the applicant shall make written application to Council for the provision of domestic waste services.
165. Prior to the issue of a construction certificate the applicant shall submit plans to the Private Certifying Authority demonstrating 4 additional accessible car parking spaces designed to Australian Standard AS2890.6.
166. The adaptable units shall be identified by the applicant in marketing material and in the strata subdivision.

Michael Mason
Executive Manager
Environmental Services Division

ATTACHMENTS:

There are no supporting documents for this report.