

## COUNCIL ASSESSMENT REPORT

Panel Reference	2016SYE049
DA Number	33/16
LGA	Lane Cove
Proposed Development	Construction of 8 Storey Residential Flat Building comprising 93 dwellings and 153 car parking spaces
Street Address	2 – 4 Burley Street, Lane Cove North, NSW 2066
Applicant/Owner	JBA Urban Planning Consultants Pty Ltd/ GDCO Pty Ltd
Date of DA lodgement	11 <sup>th</sup> March, 2016
Number of Submissions	9 (1 <sup>st</sup> Period) & 5 (2 <sup>nd</sup> Period)
Recommendation	Deferred Commencement Consent
Regional Development Criteria (Schedule 4A of the EP&A Act)	Capital Investment Value > \$20 million
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none"> <li>• Lane Cove LEP 2009, SEPP 55, SEPP 65, SEPP Infrastructure, SEPP State and Regional Development 2011, SEPP BASIX 2004, SREP (Sydney Harbour Catchment) 2005</li> <li>• Lane Cove DCP 2010</li> <li>• Lane Cove S.94 Plan</li> </ul>
List all documents submitted with this report for the Panel's consideration	JRPP Assessment Report plus following attachments: <ol style="list-style-type: none"> <li>1. Draft Conditions of Consent</li> <li>2. Lane Cove DCP 2010 Compliance Table</li> <li>3. Clause 4.6 Variation Submission</li> <li>4. SEPP 65 Assessment</li> <li>5. Notification Plan</li> </ol>
Report prepared by	Tim Shelley – Director, Tim Shelley Planning
Report date	17 <sup>th</sup> October 2016

### Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? Yes/No

### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report? Yes/No/Not Applicable

*eg. Clause 7 of SEPP 55 – Remediation of Land, Clause 4.6(4) of the relevant LEP*

### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? Yes/No/Not Applicable

### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? Yes/No/Not Applicable  
*Note: Certain DA's in the Western Sydney Growth Areas Special Conditions Area may require specific Special Infrastructure Contributions (Sic) conditions*

### Conditions

Have draft conditions been provided to the applicant for comment? Yes/No

*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report.*



# **independent assessment of development application no. 33/2016**

**Construction of an Eight (8) Storey Residential Flat Building  
Containing 93 Apartments**

**Property:**

**Lots 1 and 4 DP 1193301  
Nos. 2-4 Burley Street,  
Lane Cove North**

**Applicant:**

**JBA Urban Planning Consultants Pty Ltd**

**Date:**

**October 2016**

**Prepared by:**

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2 – 4 BURLEY ST, LANE COVE NORTH**

**APPLICATION DETAILS**

**Properties:** Nos. 2 – 4 Burley Street, Lane Cove North

**DA No:** DA 33/16

**Date Lodged:** 11<sup>th</sup> March, 2016

**Cost of Work:** \$28,500,000

**Cadastral and Ownership Details:**

Address	Lot Description	Owner
No. 2 Burley Street	Lot 1 DP 1193301	GDCO Pty Ltd
No. 4 Burley Street	Lot 4 DP 1193301	GDCO Pty Ltd
<b>Total</b>	<b>2 lots</b>	

**Applicant:** JBA Urban Planning Consultants Pty Ltd

<b>DESCRIPTION OF PROPOSAL TO APPEAR ON DETERMINATION</b>	Construction of an eight (8) storey residential flat building comprising 93 units, 153 car parking spaces and associated site works and landscaping.
<b>ZONE</b>	R4 – High Density Residential
<b>IS THE PROPOSAL PERMISSIBLE WITHIN THE ZONE?</b>	Yes
<b>IS THE PROPERTY A HERITAGE ITEM?</b>	No
<b>IS THE PROPERTY WITHIN A CONSERVATION AREA?</b>	No
<b>IS THE PROPERTY ADJACENT TO BUSHLAND?</b>	No
<b>BCA CLASSIFICATION</b>	Classes 2 and 7
<b>STOP THE CLOCK USED</b>	Yes
<b>NOTIFICATION</b> Neighbours	Refer to the Notification Plan in Attachment 5

**REASON FOR REFERRAL TO JRPP**

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

**EXECUTIVE SUMMARY**

- DA No. 33/16 was lodged with Council on 11<sup>th</sup> March, 2016 and sought approval for the construction of an eight (8) storey residential flat building comprising 95 apartments with basement car parking for 157 vehicles on Nos 2 – 4 Burley Street at Lane Cove North. The application also seeks approval for site preparation (including earthworks and tree removal), landscaping and extension/augmentation of services and utilities as necessary.

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- The applicant and its team attended a pre-lodgement meeting with Council on 19<sup>th</sup> January 2016, wherein Council identified a range of issues needing to be addressed as part of the development application. Of particular note, Council raised a number of specific issues in relation height and FSR, acoustic impact, tree retention, BCA compliance, unit mix and the proximity of the Lane Cove Tunnel and the need to have regard to same in the design of and excavation for the building. The applicant has indicated that the matters raised in the meeting have been addressed via the submission of information and further refinements to the design of the development since this time, with each item identified and discussed in Section 1.1 of the SOEE lodged with the DA.
- Due to a surge in applications, an independent assessment of this application has been undertaken by Tim Shelley Planning.
- A total of nine (9) submissions were received in relation to the proposal during the notification period. The concerns raised in these submissions included: height; zoning of site; access off Taylors Lane; inadequate parking; traffic congestion; privacy, overlooking and overshadowing; noise; fumes; construction impacts; tree removal; geotechnical issues; insufficient public transport; inadequacy of utility services; and loss of property value.
- Of the issues raised in submissions, the location of the access into the development off Taylors Lane was considered to have the greatest potential adverse impact. In this regard, the submissions raised significant concerns in relation to the narrow nature of Taylors Lane and the potential conflict caused by the location of the access next to the existing parking area and access into the existing unit development at 11 -13 Longueville Road (immediately to the south-west). As a result, the majority of objectors that raised this issue requested the access be relocated to Burley Street.
- In addition, Council's Manager Traffic and Transport advised that the location of the access off Taylors Lane was not supported due to concerns in relation to traffic speed and volume; the narrow nature of the lane and the potential conflict with pedestrians, waste vehicles, visitors and emergency vehicles; and concerns with visibility, sight distance and intersection geometry. As a result, access was to be via Burley Street. This view was shared by the RMS who raised no objection to an access off Burley Street at a sufficient distance (approximately 27 metres) from its intersection with the Pacific Highway.
- Accordingly, Council advised the applicant on 7<sup>th</sup> June 2016 that vehicle access to the proposed development was to be relocated to Burley Street. Minor issues in relation to waste, BCA compliance and accessibility were also raised. In response, the applicant submitted additional information on 8<sup>th</sup> June addressing the waste, BCA and accessibility matters and provided two options for access. Option A retained access off Taylors Lane in a modified arrangement, whilst Option B relocated the access to Burley Street, in conjunction with the inclusion of two additional units and an increase in height in a new level 9.
- The application was referred to a JRPP Briefing meeting on 9<sup>th</sup> June 2016, wherein the development was generally supported subject to the relocation of the access generally in accordance with Option B, subject to further amendments as recommended by Council's Traffic manager. The applicant was subsequently advised to submit amended plans which relocated the access and also a requirement to delete the two units and additional level (Level 9), which encroached excessively and unnecessarily above the height limit and resulted in yield where ordinarily this wouldn't have been achieved.

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- As such, amended plans were submitted on 19<sup>th</sup> August 2016 which identified access off Burley Street and which resulted in the reduction of the number of dwellings to 93, comprised of 35 x 1 bedroom (down from 37), 44 x 2 bedroom and 14 x 3 bedroom apartments, and a reduction in the number of parking spaces to 153. To compensate for the loss of two (2) x 1 bedroom apartments, additional floor space was re-instated in other apartments on lower levels. The amended proposal also included construction of a 1.5m wide footpath along Taylors Lane for the safe movement of pedestrians and dedication of the necessary land to Council for same (for which Council has indicated a credit is applicable to offset against the S.94 contributions). No changes were made to the height, shape, setbacks or footprint of the building.
- The amended plans and updated supporting information where necessary, the application was re-notified for a period of 14 days between 24<sup>th</sup> August and 7<sup>th</sup> September 2016 during which five (5) submissions were received. These submissions predominantly re-iterated concerns identified during the first period of notification, with the exception of access, which was deemed to be have been satisfactorily addressed. The concerns raised during both notification periods have been considered within this report and have been addressed either by commentary or the inclusion of appropriate draft conditions.
- The amended proposed development complies with all provisions of Lane Cove Local Environmental Plan 2009 with the exception of some minor encroachments to the 25 metre height limitation. In this regard, a 1.0m encroachment is apparent within one small section of the building at the north-west corner where a minor part of the roof form (predominantly lift overruns) has a height of 26 metres. A detailed Clause 4.6 variation submission has been provided with the application and is considered to be well founded such that the variation is able to be supported.
- The amended proposal now submitted is consistent with the nine (9) design principles of SEPP 65 and complies with all relevant requirements of the Apartment Design Guide (ADG).
- The amended proposal also complies with the relevant requirements of Lane Cove Development Control Plan 2010.
- However, due to the identification of potential contamination on the site, it is recommended that a “Deferred Commencement” consent be granted pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979 requiring the applicant to undertake a detailed investigation of the site and preparation of a remediation action plan (RAP) in accordance with the provisions of SEPP 55. This information is to be submitted to and approved by Council prior to the consent becoming operational. Upon confirmation of compliance with the conditions of deferred commencement, the consent shall become operational subject to the draft conditions listed in Attachment 1.

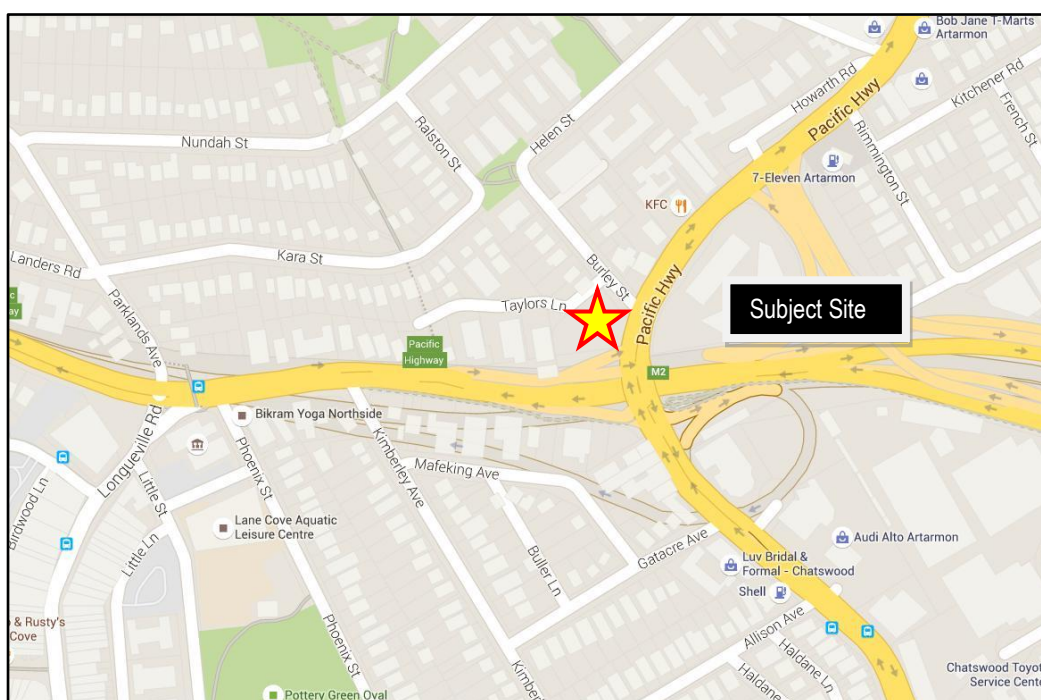
### THE SITE

The site is located on the northern side of Longueville Road to the east of Lane Cove town centre and comprises 2 allotments identified as Lots 1 and 4 in DP 1193301 at Nos. 2-4 Burley Street (see locality plan as Figure 1 on the following page). It has an area of 3,029m<sup>2</sup> and is irregularly shaped with frontages to Burley Street to the north; Taylors Lane to the west and north-west; Longueville Road to the south; and the Pacific Highway to the east. Vehicular access is currently gained via Burley Street towards Taylors Lane.

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The eastern portion of the site from Longueville Road around to Burley Street is predominately level, with a gradual fall of around 3 metres evident across the western portion from the centre of the site towards Taylors Lane to the west. The site is currently vacant, with a number of trees located within the property adjacent to the eastern, northern and western boundaries, ranging roughly from 4m to 20m in height.

The site does not contain any known items of Aboriginal or European heritage nor located in a heritage conservation area. In addition, the site is not located in a coastal zone, not bushfire prone or to any potential acid sulphate soils or identified as being affected by any local road widening.



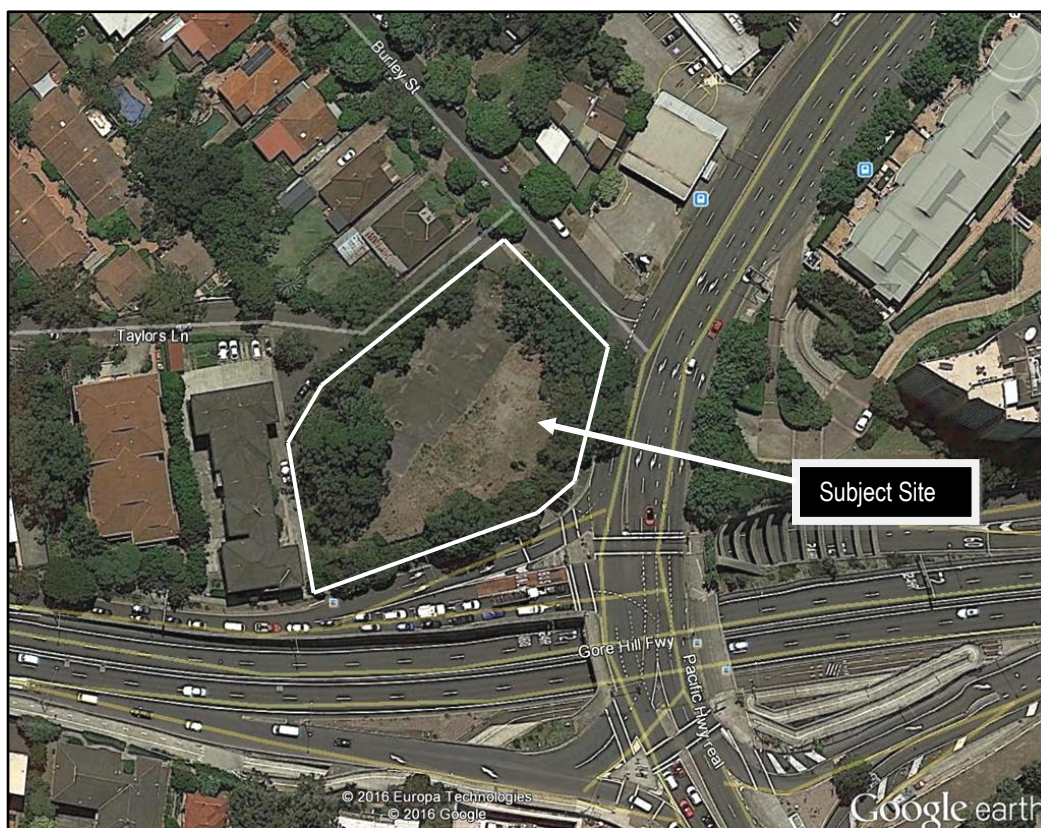
**Figure 1** – Locality Plan

### SURROUNDING USES

The area surrounding the site is characterised predominantly by low to medium density residential development. In this regard, a 3 storey residential flat building is located to the immediate south-west of the site off Taylors Lane. Development to the west of Taylors Lane comprises a single storey cottage fronting the southern side Burley Street, with two storey town houses and a service station located on the opposite side of Burley Street to the north. Two large multi-storey residential flat buildings known as 'The Northview' are located to the east of the site on the opposite side of the Pacific Highway, with three and four storey residential flat buildings and located on the opposite side of Longueville Road to the south of the site. In addition, a 7 storey residential flat building is currently under construction on the south-western corner of the intersection of Longueville Road and the Pacific Highway.

The southern part of the site is affected by an easement adjacent to Longueville Road which restricts excavation in relation to the Lane Cove Tunnel. No part of the development or any excavation is proposed in this area.

An aerial photo of the site is provided on the following page.



**Figure 2** – Aerial Photograph

As shown on the zoning map provided as Figure 3 on page 12, the area to the immediate west and south of the site on both sides of Longueville Road is zoned R4 and is either currently developed as or being redevelopment as residential flat buildings. The land to the north-west of the site on the same side of Burley Street is zoned R3 and is characterised by predominantly detached dwelling houses without any significant redevelopment occurring at this stage. The land opposite the site to the north containing the petrol station is zoned B2, with the surrounding land to the west and north the zoned R4. The land on the opposite side of the Pacific Highway to the east is located within the Willoughby LGA and is zoned R4 under Willoughby LEP 2012, with a maximum building height of 138 metres.

## PROPOSED DEVELOPMENT

Following the submission of amended plans, the proposed development comprises:

- Site preparation works, bulk earthworks and removal of 46 trees (43 on site, 3 off site);
- Construction of an eight (8) storey residential flat building comprising:
  - 93 apartments, including:
    - 35 x one bedroom (37%);
    - 44 x two bedrooms (47%); and
    - 14 x three bedroom apartments. (16%)
  - four (4) basement levels of car parking with a single access point from Burley Street, providing for 153 car parking spaces, including:
    - 111 residential spaces;
    - 19 residential adaptable spaces;
    - 22 visitor spaces; and
    - 1 visitor adaptable space.

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- Landscaping works, including ground level landscaping for communal open space; and
- Extension/augmentation of services and utilities to service the development.

Of the 93 apartments, 19 (21%) have been designed as adaptable, 19 (21%) liveable and 74 (80%) visitable.

As part of the amended development proposal, Council is also requiring the construction of a 1.5m footpath along Taylors Lane and the dedication of such land to Council, with this land to form an offset, as a material public benefit, against the required Section 94 Contribution for the development.

The building comprises eight storeys and generally maintains a 7.5m setback from the road boundaries and a 9.0m setback from the adjoining property to the west. The building utilises the 500mm encroachment permitted for balcony elements under the Longueville Locality section of the DCP for the road boundary. The building presents as a 'U shape' orientated towards the north but also addresses each respective road frontage.

The building contains two lifts servicing each wing of the building, with apartments arranged off the lift lobbies generating a mix of apartment aspects. The building form allows for a variety of balcony designs which assist in providing articulation to the various facades.

The primary pedestrian access into the building is provided via the proposed footpath from Burley Street along Taylors Lane into the main entry off the communal open space area, with secondary access gained from the Longueville Road frontage. Both entries are directed to an internal pathway that circulates around the building footprint and also through the site via provision of an internal north/south pedestrian link.

Each apartment is to be serviced with an internal area to store household waste and recyclables. Both building wings (off each lift core) will be supplied with a waste chute in the lobby. The discharge will be directed to waste storage rooms located in level one of the basement for servicing by Council.

The development provides for 1,182m<sup>2</sup> of communal open space (39% of the site area) including 684m<sup>2</sup> of deep soil planting (22% of the site area). This open space is provided in two (2) distinct landscaped zones, those being: a central courtyard in the void space created by the 'U shape' of the building; and a deep soil and tree zone surrounding the building linking the courtyard area and incorporating existing vegetation where possible.

The landscape scheme proposes a mixture of shrubs, deep soil zones and planters. Periphery planting has been provided to soften the interface with the adjoining roadways and reinforce the landscaped character of Lane Cove.

### PREVIOUS APPROVALS

From aerial photographs, it appears that the site was occupied by dwelling houses from at least 1930 through to 1980, when the site was cleared. The property has been owned by the Department of Main Roads (now known as the RMS) since 1985 and during that time has been used as a storage facility with large hardstand areas for the widening of surrounding roads. As such, there is no record of any recent approvals on the land and none that are relevant to the proposed development.

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**PROPOSAL DATA/POLICY COMPLIANCE**

**LANE COVE LOCAL ENVIRONMENTAL PLAN 2009**

LEP 2009	Provision	Proposed	Complies/ Comment
<b>ZONE</b>	R4 – High Density Residential zone	Residential Flat Buildings	<b>YES.</b> Permissible with consent.
<b>MAXIMUM PERMITTED BUILDING HEIGHT UNDER BUILDING HEIGHT MAP</b>	25.0m	Predominantly 25m or less but up to 26.0m maximum to accommodate lift overruns and roof in north-western corner of building	<b>NO</b> (but supported – see discussion below and later in report)
<b>MAXIMUM PERMITTED FSR UNDER FSR MAP</b>	2.4:1	2.39:1	<b>YES</b>

From the above, it is apparent that the amended proposal is consistent with all major requirements and development standards of the LEP with the exception of height, where a minor variation to permit the development is deemed appropriate. This issue is discussed later in report under sections “height” and “Clause 4.6”.

**LANE COVE DEVELOPMENT CONTROL PLAN 2010**

The following sections of Lane Cove DCP 2010 (the DCP) are relevant to the proposed development.

Part B – General Controls

Part C – Residential Flat Buildings (including Part C – *Locality 3 Longueville Precinct*)

Part F – Access and Mobility

Part J – Landscaping

Part O – Stormwater Management

Part Q – Waste Management and Minimisation

Part R – Traffic, Transport and Parking (*formerly included within Part C*)

The extent to which the proposed development complies with the relevant provisions of these sections of the DCP is identified in the compliance table provided as Attachment 2 and also discussed further within the relevant Council officers’ comments where necessary later in the report. For the purpose of this assessment, it is noted that the provisions of the DCP have no effect where they are inconsistent with the Apartment Design Guide (as per Clause 6A of SEPP 65). Each of these instances is highlighted in the table.

From the table, it is apparent that the proposed development complies (or can comply) with the all relevant requirements with the DCP. With respect to Part C, the building complies with the setbacks to all streets. Whilst there is a 500mm encroachment by balconies into the 7.5 metre front setback to Burley Street and Taylors Lane, this is permitted along these two frontages under Clause 3.5.3 of the DCP.

With respect to Part R, the DCP requires provision of 152.3 car spaces, or rounded down to 152. In response, 153 spaces are to be provided, inclusive of the necessary number of resident and visitor spaces as well as disabled spaces for resident and visitors.

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**LANE COVE COUNCIL'S SECTION 94 CONTRIBUTION PLAN**

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

As there are no dwelling houses currently (or formerly) erected on the property, no credit is applicable under the S.94 plan. As such, the development as proposed generates the following Section 94 Contributions.

No. of bedrooms	S.94's per dwelling	Required Contribution
35 x 1 bedroom	\$10,000/person x 1.2 persons/dwelling = \$12,000	\$420,000 (35 x \$12,000)
44 x 2 bedroom	\$10,000/person x 1.9 persons/dwelling = \$19,000	\$836,000 (44 x \$19,000)
6 x 3 bedroom	\$10,000 x 2.4 persons/dwelling = \$24,000 = \$20,000.00 (cap)	\$280,000 (14 x \$20,000)
<b>Total</b>		<b>\$1,536,000</b>

Based on the above table, the required S.94 contribution for the proposed development is \$1,536,000.

Consistent with negotiations held with the applicant over recent months, it has been agreed that a credit to an amount of \$61,000 for the construction of a public footpath and the land dedication to Council will be applied to the calculation of the Section 94 Contribution, as per the recommendation of an independent valuation for the land and works obtained by Council.

As a result, the total Section 94 Contribution payable would be **\$1,475,000** (\$1,536,000-\$61,000).

**INTERNAL REFERRALS**

The original plans and supporting documents were referred internally to the relevant professional Council officers. The majority of referrals received at that time have raised no objections to the proposed development and in some cases recommended conditions of consent where appropriate.

However, the following concerns were raised regarding the proposal:

1. Building Surveyor – identified concerns with accessibility on the basement and some non-compliance with the BCA and asked for minor amendments to plans and a statement identifying the use of alternate solutions.
2. Waste Contract Co-ordinator – advised that the development required that the waste collection vehicle must be able to enter and exit the site in a forward direction and asked that amended plans be submitted showing the path of travel for the collection vehicle to reflect this requirement.
3. Manager Traffic and Transport – provided the following advice with respect to access:

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*We do not support the location of the driveway of the subject development via Taylors Lane due to the following reasons:*

- 1. The location of the driveway does not align with Council's long term strategic views in Taylors Lane which is to create a low speed, low volume traffic and improve pedestrian amenities in Taylors Lane.*
- 2. The subject development is our only opportunity to take vehicles off from Taylors Lane. The property is addressed to Burley Street and driveway at Taylors Lane will always create an issue for visitors and emergency vehicles.*
- 3. The location of the driveway will effectively create a four way intersection in Taylors Lane. Further, the driveway is located just off the bend in Taylors Lane. So visibility is not adequate.*
- 4. Probably the most important issue is the pedestrian-vehicular conflict. Pedestrians will have to negotiate exiting vehicles from the subject site and 11-13 Longueville Road and will feel unsafe/unprotected crossing two driveways in close proximity.*

*I have also spoken to RMS about the location of the driveway being 27m from the Pacific Highway. As the driveway is located at the north-eastern boundary of the site (as much as possible), it is unlikely that RMS will have any issues about the driveway at Burley Street. My advice was to refer the matter to the next Traffic Committee meeting which RMS has disagreed.*

*Based on the above considerations, we recommend that the driveway should be located at Burley Street, not in Taylors Lane as proposed.*

As such, Council advised the applicant of the above concerns and asked that the design be amended to relocate the access to Burley Street and additional information be submitted to address the BCA, waste and accessibility issues.

The amended plans relocating the access and reducing the number of units to 93 and supporting information were then referred back to the relevant officers, with the following comments received:

**1. Building Surveyor** – advised that the development is capable of complying with the BCA and has stated that the applicants will obtain a performance solution for the extended travel distances. Recommended conditions of consent, which are included in the draft conditions in Attachment 1.

**2. Waste Contract Co-ordinator** – provided advice on bin allocation and advised that the bulky waste storage room is adequate to meet the DCP requirement and the indicated waste collection point is suitable for the purpose of waste collection. Provided draft conditions in relation to the car park entry and ceiling clearance height. These are included in the draft conditions in Attachment 1.

**3. Environmental Health Officer** – advised that the submitted acoustic report and Construction Noise Management Plan are satisfactory. Also advised that the contamination report highlights that there is a fill on the site with contaminants including asbestos and PAH that exceeds the criteria for high density residential developments. As such, the applicant is to undertake a detailed investigation of the site and prepare a remediation action plan (RAP) in accordance with the provisions of SEPP 55. This information is to be submitted and assessed prior to determination of the application, or alternatively a deferred commencement may be considered. This issue is discussed later in the report, where it is agreed that deferred commencement consent is the appropriate mechanism.

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In turn, a number of conditions of consent in relation to contamination, dust control, erosion and sedimentation controls, contamination, ventilation and noise and vibration were provided. These are included in the draft conditions of consent in Attachment 1.

**4. Community Development Officer, Ageing and Disability** – advised that the application in its current form can be supported and provided no specific conditions.

**5. Development Engineer** – provided the following comments:

### Stormwater Drainage

*Stormwater Concept Plan, prepared by Jones Nicholson Consulting Engineers, referenced 20160145, drawing numbered C002 to C004, revision 0, dated 03 Mar 2016 has been reviewed and accepted.*

### Vehicular crossing

*The proposed combined vehicular crossing is to be limited to 6.0m wide full width with two-way traffic flow and constructed to the specifications to Council requirements and standards*

### Parking and Access

*The following improvements are recommended by the Traffic Report:*

- *Provision of a raised coloured pavement threshold within Taylors Lane at the entry to 11-13 Longueville Road and the loading dock of 2-4 Burley Street.*
- *Installation of a “give Way” sign facing 11-13 Longueville Road and the proposed loading dock at 2-4 Burley Street.*
- *Construction of a 1.5m wide concrete footpath along the Taylors Lane frontage of the subject site to connect the existing footpath on Taylors Lane west of the site and the existing footpath along the western side of Burley Street.*
- *Dedication of 1.5m of footpath to Council.*
- *Access to the basement car parking is via ‘Burley Street and Waste collection driveway via Taylors Lane using Turn table;*
- *Waiting bay for 2 car space length needs to be provided within the site as per the queuing analysis.*

### Traffic comments

*Location of the driveway is to be as far 27m from the Pacific Hwy as possible.*

### Vehicle access and accommodation

*The car parking provision has been calculated in accordance with Lane Cove Council’s DCP 2010, Table 1 and RMS Guide to Traffic Generating Developments 2001. The calculation results in a requirement for 152 car parking spaces for the residential component as detailed in the table below:*

Component	Quantity	DCP Maximum Requirement per Apartment	DCP Maximum Required Parking
1 bedroom	35	1	35
2 bedroom	44	1.50	66
3 bedroom	14	2.0	28
Visitor	93	0.25	23.5
<b>Total required</b>			<b>152.3</b>

*The proposal makes provision for 153 car parking spaces with 23 visitor parking and 20 disabled parking which satisfies the DCP requirement. All parking, walkway and driveway ramps need to be assessed and approved by Council's Traffic Section (prior to issue of the construction certificate).*

*Flooding*

*A driveway crest or equivalent is required above 1 in 100 year flood level or 300mm above the top of the kerb (a crest up before descent on an access driveway) in order to prevent basement car park areas from flooding. Revised long sections of the driveway incorporating the driveway threshold levels needs to be submitted before issuing CC.*

*Geotechnical*

*The proposed excavation for basements involve up to depth 14.50 m through soils and low strength sandstone bedrock.*

*All recommendations contained in the submitted Preliminary Geotechnical Report, prepared by Geotechnical Report, prepared by Alliance, Ref No. E22928 GA, dated 10<sup>th</sup> March 2016 shall be implemented during construction.*

- *Vibration levels to be monitored to prevent/minimise ground vibration*
- *Depth of ground water*
- *Retaining structures and design parameters*
- *Rock excavation*
- *Foundation design.*
- *Further investigation.*

*Groundwater*

*No issues with groundwater however, seepage would be expected to occur through the soil rock interface after heavy rainfall. Therefore, a long term control of groundwater should be considered after construction by a properly design drainage system.*

A range of conditions were provided to address the issues raised above. These are included in the draft conditions of consent in Attachment 1.

**6. Traffic and Transport Engineer** – provided draft conditions of consent in relation parking and servicing, pedestrians/cycling, Construction Traffic Management Plan and works zones. These are included in the draft conditions in Attachment 1.

**7. Landscape Architect** – provided no further response to the amended proposal. The initial response indicated that the landscape concept provided adequate details and satisfactory deep soil requirements. In addition, the setbacks and tree retention proposed would provide an appropriate level of softening of the built form from the streetscape. Conditions of consent were provided and these have been included in the draft conditions in Attachment 1.

**8. Senior Tree Assessment Officer** – advised that the driveway location change requires the removal of an additional Brushbox street tree (Tree 41), to which no objections were raised provided the applicant bears the responsibility of its removal. Amended tree related draft conditions were provided to suit the amended plans. These are included in the draft conditions of consent in Attachment 1.

## EXTERNAL REFERRALS

1. NSW Roads and Maritime Services – the RMS raised no objections but requested a number of conditions be attached to any consent issued. Of particular note – and presumably to ensure the structural integrity of the Lane Cove Tunnel and Longueville Road are not compromised – conditions were identified in relation to the following:

- the need for all buildings and structures to be wholly located within the freehold property (unlimited in height or depth) along the Longueville Road and Pacific Highway frontages;
- the submission to the RMS of design drawings and documents relating to the excavation of the site and support structures; and
- the submission to the RMS of detailed design plans and hydraulic calculations relating to any changes to RMS stormwater drainage systems.

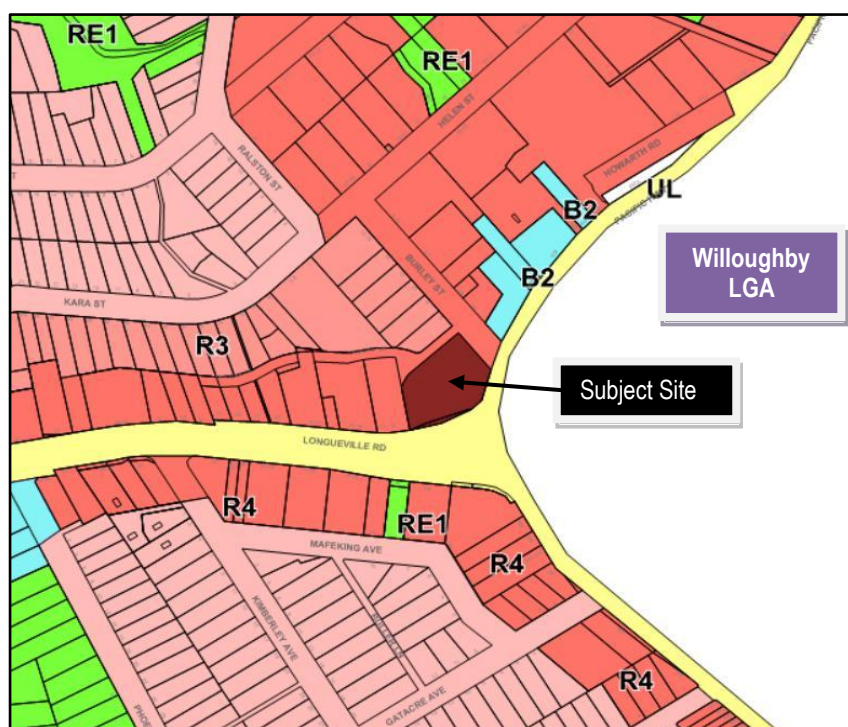
2. NSW Police (Safer by Design) – no comments were received. It is therefore understood NSW Police raise no objection to the proposed development. In any event, it is apparent that the development has been designed in accordance with the principles of CPTED, as detailed in Section 4.12 of the SOEE submitted with the application.

## PLANNING CONTROLS

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

#### Zoning and Permissibility

As shown on Figure 3 below, the subject site is zoned R4 High Density Residential under Lane Local Environmental Plan 2009 (the LEP).



**Figure 3** – Extract from Lane Cove LEP 2009 Zoning Map

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

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

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

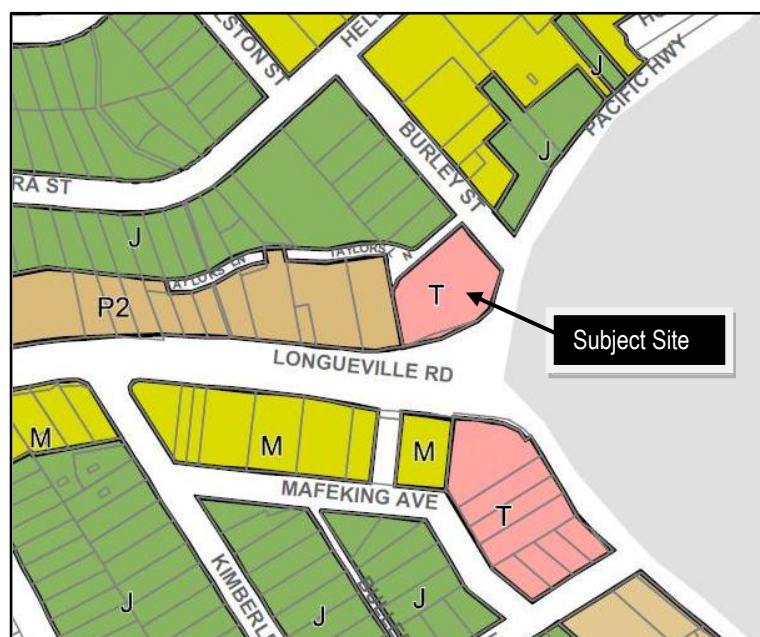
### Clause 2.3(2) – Zone Objectives

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

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

### Clause 4.3 – Height of Buildings

Under Clause 4.3 of the LEP, a maximum height has been adopted for a range of zones and specific sites within the Lane Cove LGA. As shown on Figure 4 below, the subject site has been identified as Category T, which equates to a maximum height limit of 25.0 metres.

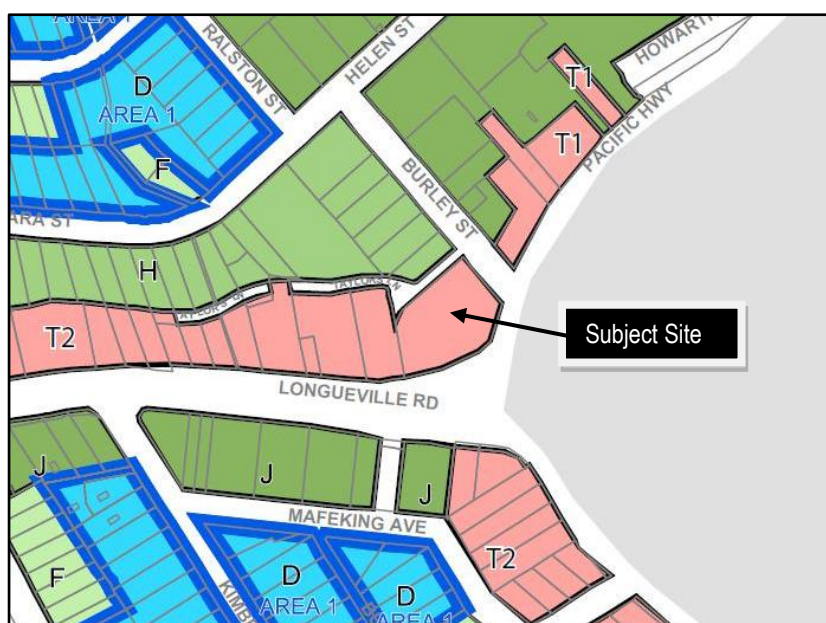


**Figure 4** – Extract from Lane Cove Building Height Map

The majority of the development falls within the 25.0 metre height plane, with the exception of a minor portion of the roof form and lift overruns in the north-western corner of the building, which has a maximum height of 26 metres, thereby exceeding the height limit by 1.0m. These encroachments are shown by dashed lines on the elevations of the building submitted with the application as well as in 3D form in Figure 19 of the applicant's Clause 4.6 Variation Submission. The impact of these encroachments and the merits of the applicant's request to vary the height restriction to allow these encroachments are discussed under Section 4.6 below.

#### **Clause 4.4 – Floor Space Ratio**

As shown on Figure 5 below, the subject site has been identified as Category T2 on the relevant floor space ratio (FSR) map adopted under Clause 4.4 of the LEP, which equates to a maximum FSR of 2.4:1.



**Figure 5** – Extract from Lane Cove Floor Space Ratio Map

The submitted plans show that the proposed development comprises a total floor space of 7,241m<sup>2</sup> which equates to a FSR of 2.39:1 when compared to a total site area of 3,029m<sup>2</sup>.

#### **OTHER MAPPING LAYERS**

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

- Lot Size Map – the development does not include subdivision;
- Land Reclassification Map – the site is not identified for reclassification;
- Land Reservation Acquisition Map – no part of the site is not identified for acquisition for any purpose (however, as agreed with the applicant, the land required for the construction of the footpath is to be dedicated to Council subject to a S.94 credit);
- Acid Sulphate Soils – the site is not identified as containing any potential acid sulphate soils;
- Heritage Map – the site does not contain any known heritage sites; and
- Environmental Protection Land Map/Foreshore Building Line Map/Riparian Land Map – the site does not contain any items of environmental protection; is not affected by the foreshore building line; and does not contain any riparian land.

#### **OTHER RELEVANT CLAUSES OF LANE COVE LEP 2009**

##### **Clause 5.9 – Preservation of Trees or Vegetation**

Under Clause 5.9, consent must be granted for the removal, destruction or injury to any tree or other vegetation. As such, approval for the removal of trees on the subject site required as part of the civil works is sought under this application. Further discussion on the extent and significance of the vegetation has been provided in earlier sections of this report.

##### **Clause 6.1A – Earthworks**

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

#### **CLAUSE 4.6 – EXCEPTIONS TO DEVELOPMENT STANDARDS**

As indicated above and as demonstrated by Figure 19 of the applicant's Clause 4.6 Variation Submission and Plan DA 701 – Height Plane of the submitted architectural drawings, the height of the proposed development would exceed the maximum building height of 25m by up to 1m for a minor portion of the roof form and lift overruns, to a maximum height of 26 metres at the tallest point (being the north-west corner).

Accordingly, the applicant's planning consultant has submitted a Clause 4.6 request under the Lane Cove Local Environmental Plan 2009 seeking a variation to the height standard. a variation to the height limit under the height map and providing a justification for same. A full copy of the submission is provided as Attachment 3. The submission has referenced Land and Environment Court decisions in regard to proposed variation being *Wehbe v Pittwater Council* and the principles outlined in *Four2Five Pty Ltd v Ashfield Council*.

The variation requested is based essentially on the fact that the topography of the site (i.e. fall towards the west/north-west) necessitates a variation to the height in this location. In this regard, the applicant has stated as follows:

*"In our opinion, there are sufficient environmental planning grounds to justify contravening the maximum height development standard in Clause 4.3 of the Lane Cove LEP 2009. Those grounds and the basis for them are set out below.*

##### **Site Topographical Constraints**

*The principal reason for the variation to the maximum building height breach is to facilitate lift overruns and respond to the site's steep topographical constraint in the north-western corner of the development. This portion of the site has been built up to facilitate the most appropriate location for vehicle access to the basement and therefore results in a minor exceedance of the height limit. This topographical constraint is specific to the site, and in order to facilitate a basement entrance with an appropriate clearance height, the proposal has been built up, resulting in the minor height variation in the north western corner of the building.*

***Lift Overrun Components Not Visible***

*“... the proposed lift overruns, which result in a minor height breach, are not visible from adjacent development or the public domain at ground level. The breach does not create any additional overshadowing or view impacts and therefore, the breach associated with these components does not result in any adverse environmental impacts.”*

The applicant also indicated that a variation was also justified to provide the necessary clearance for the basement vehicular entry location. However, this is no longer relevant given the vehicular access has been relocated to Burley Street.

The applicant has also indicated that *“the proposed development has been designed to respect the existing amenity of residences in the neighbourhood by ensuring the development:*

- Does not result in significant adverse overshadowing impacts;*
- Does not result in significant adverse traffic impacts;*
- Does not result in significant adverse acoustic impacts;*
- Does not result in significant adverse privacy impacts; and*
- Does not result in significant adverse visual impacts.*

*“...There is no public benefit in maintaining the development standard in terms of State and regional planning objectives. As noted in the preceding sections, the additional height ensures the consistent presentation of the built form, is the result of steeply sloping topography in one corner of the allotment, and the proposed variation will not give rise to any adverse environmental impacts.*

In the summary of the variation submission, the applicant has stated that:

*“The site is unique in that it is constrained by four road frontages, and is an irregularly shaped parcel of land, with steep sloping topography in one section. It is not considered that there would be any public benefit for the height of the existing building to be reduced, particularly where key planning issues deriving from height, such as privacy and overshadowing, have been resolved through architectural design.”*

**Comment:**

The applicant's submission is detailed and is considered to provide suitable evidence that the majority of encroachments in height are essentially in response to the topography of the land and result in no tangible or unreasonable adverse impact to surrounding properties in terms of privacy, view loss and overshadowing. In this regard, the development provides for the required setbacks and building separation as required under the ADG, which in turn provides for suitable privacy to the apartments in the residential flat building to the west has been maintained in conjunction with the orientation of balconies. In addition, the shadow diagrams submitted with the application demonstrate that the apartments in the residential flat building to the west receive at least 3 hours of sunlight between 12 and 3pm on June 22.

Conversely, the submission is deemed to satisfactorily demonstrate that the encroachments are minor, result in a better built form outcome and do not diminish the external appearance or design quality of the development, as confirmed by the comments of the external SEPP 65 design consultant.

## REPORT TO JRPP – DA 33/16 2 – 4 BURLEY ST, LANE COVE NORTH

To this end, it would appear that the only mechanism to make the development entirely compliant would be to remove or lower the encroaching section of the roof in the north-western corner of the building. However, this is considered excessive and unnecessary given the extent, location and lack of impact of the encroachment. Such a measure would instead result in an unacceptable, or significantly diminished, built form that would be inconsistent with the remainder of the building and actually appear more prominent than the encroachment itself.

It is agreed that the site exhibits a number of constraints, those being the topography (and in particular, the fall away in the level of the land), multiple road frontages, an awkward shape, a range of planning controls and the Lane Cove Tunnel, all of which conspire to make designing a fully complying development somewhat difficult. Given this, it is considered that the design has, on balance, adequately addressed these various constraints such that the encroachments are only minor, of no impact and largely unavoidable. Furthermore, the encroachments do not result in any further yield and are compensated by a number of areas where the building is less than the height plane.

It is also noted that the applicant has made further adjustments to the design since lodgement to address the concerns of objectors and Council to relocate the access, which has significantly reduced the impact of the development in terms of traffic congestion; removed potential pedestrian/vehicle conflict on Taylors Lane; and provided for pedestrian passage along Taylors Lane to Burley Street where currently there is no provision for same. As this adjustment resulted in the loss of two (2) units, a minor variation to the height limit to permit the development in its current form (i.e. with no further yield to compensate for the loss of these units) is considered justified.

Given the above, it is considered that sub-clause (4) of Clause 4.6 of Lane Cove LEP 2009 has been met as follows:

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by sub-clause (3), and*
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*

### INTEGRATED DEVELOPMENT

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

### OTHER PLANNING INSTRUMENTS

#### State Environmental Planning Policy (State and Regional Development) 2011

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

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

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

*3 General development over \$20 million*

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

As indicated on the DA form and as confirmed by a quantity surveyors report accompanying the application, the proposed development has a capital investment value of \$28.5 million. As such, the consent authority for the application will be the Joint Regional Planning Panel.

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

The proposed development is affected by the provisions of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65). - In accordance with Section 50(1A) of SEPP 65, a Design Verification Statement has been prepared by Mr Frank Stanistic of Frank Stanistic Architects Pty Ltd (Registered Architect No. 4480). This Statement provides detailed discussion as to how the proposed development satisfies each of the nine (9) design principles of SEPP 65 and the requirements of the Apartment Design Guide (ADG).

In this instance, the application and SEPP 65 report was referred to Council's SEPP 65 Officer (Manager Development Assessment) for assessment, who has advised the proposed development is consistent with each of the nine (9) design principles of SEPP 65 and the requirements of the ADG. A copy of this assessment is provided as Attachment 4.

State Environmental Planning Policy (Infrastructure) 2007

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

In accordance with clause 104 of the SEPP, the application was referred to the RMS under Schedule 3 of the SEPP, as the site is located on a road (Burley Street) that connects to classified road within 90 metres (Pacific Highway) and the development comprises more than 75 dwellings. The development also triggered the threshold of parking for "50 or more" motor vehicles in Schedule 3.

The response from the RMS is discussed previously in the report (page 12), wherein it was indicated that the RMS raised no objection but requested a number of conditions be attached to any consent issued.

State Environmental Planning Policy No 55 – Contaminated Lands

Clause 7 (1) of SEPP 55 prevents Council from consenting to a development unless:

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

## REPORT TO JRPP – DA 33/16 2 – 4 BURLEY ST, LANE COVE NORTH

- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

In accordance with Clause 7, the application was accompanied by a Preliminary Site Investigation. This Assessment found that identified Polycyclic Aromatic Hydrocarbon (PAH) concentrations in one sample of fill exceeding the adopted criteria for residential (high density) use and a fragment of Asbestos Containing Material (ACM) in fill material collected from another test pit location. As such, GHD recommends that the source of the PAH contamination be verified and the extent of ACM fragment in fill is delineated. In turn, they have indicated that remediation (via either excavation and offsite disposal or capping) may be required to make the site suitable for high-density residential land use.

This report has been reviewed by Council's Manager Environmental Health Officer who has advised that the applicant is to undertake a detailed investigation of the site and prepare a remediation action plan (RAP) in accordance with the provisions of SEPP 55. This information is to be submitted to and approved by Council prior to determination of the application or alternatively, a deferred commencement may be considered. In this instance, it is considered appropriate that these items be addressed via the granting of a deferred commencement consent to give the applicant certainty that the development can proceed upon the submission of the necessary investigation and validation that remediation works have been satisfactorily completed.

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

A BASIX report has been submitted with the application which certifies that the proposed development is able to meet each of the required water, thermal comfort and energy efficiency targets. Compliance with the certification and the commitments therein would be conditioned on the consent. The proposal therefore satisfies the policy and raises no further issues.

### Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The proposal raises no issues regarding the provisions of policy.

## APPLICABLE REGULATIONS

### Environmental Planning and Assessment Regulation 2000

There are no specific requirements under the Environmental Planning and Assessment Regulation 2000 of relevance to the proposed development.

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

The application was originally advertised for a period of 14 days between the dates of 18<sup>th</sup> March 2016 and 1<sup>st</sup> April 2016. Nine (9) submissions were received during the notification period. The main issues raised in the submissions include the following:

- Height
- R4 zoning of site inconsistent with R3 zoning of surrounding sites.
- Access – proposed access from Taylors Lane inappropriate due to narrow nature of lane, amount and impact of traffic and conflict with pedestrians and visitor parking and request access be relocated to Burley Street.

- Traffic congestion from the proposal
- Inadequate parking despite compliance with DCP
- Impact on on-street parking in Burley Street
- Loss of privacy and potential overlooking into adjoining units
- Potential impact on solar access of adjoining properties in Taylors Lane and units on Longueville Road and query shadow diagram indicating impact satisfactory
- Loss of existing vegetation (46 trees) and request for retention of additional and specific trees on the site
- Impacts from construction
- Potential impact on drainage to adjoining property.
- Noise and fumes from waste vehicles and visitor parking
- Potential impact from tunnel ventilation stack and request to apply standards from draft Willoughby DCP
- Geotechnical issues – want to make sure no issue with excavation for basement in proximity to Lane Cove tunnel to avoid issue with collapse of foundations of adjoining development in 2006.
- Insufficient public transport and request for more bus services as a result of the development
- Request for construction of cycleway as part of development
- Request for road widening works and other measures (lighting, footpath etc) in Taylors Lane as part of development
- Inadequate utility services
- Loss of property value
- Insufficient notification of DA over Easter period

Many – or most – of the issues identified above are either not relevant or outside the scope of this application (i.e. zoning issues and bus services); or have been addressed in the existing design; or can be addressed by the submission of additional information from the applicant where necessary by conditions of consent (e.g. privacy screens, additional landscaping, construction of footpaths etc).

However, the issues raised in relation to the location of the access into the development off Taylors Lane was considered to be of significant relevance and likely have the greatest potential adverse impact on surrounding residences. This view was also shared by Council's Manager Traffic and Transport, who advised that the location of the access off Taylors Lane was not supported.

To address this issue, Council advised the applicant on 7<sup>th</sup> June 2016 to submit amended plans that relocated the vehicle access to the proposed development to Burley Street.

As such, the amended plans and updated supporting information where necessary, was re-notified for a period of 14 days between 24<sup>th</sup> August and 7<sup>th</sup> September 2016, during which five (5) submissions were received. These submissions predominantly re-iterated concerns identified during the first period of notification, with the exception of access, which was deemed to be have been satisfactorily addressed.

The issues raised during both notification periods have been summarised in the table below, with comments provided in response to each.

**REPORT TO JRPP – DA 33/16**  
**2 – 4 BURLEY ST, LANE COVE NORTH**

SUMMARY OF ISSUES	RESPONSE
<b>Height</b> <ul style="list-style-type: none"> <li>• Impact of 1m encroachment of 25m height restriction</li> <li>• 8 storeys out of character with surrounding medium density developments of 3 – 4 storeys and single storey dwellings to west</li> <li>• believe height limit is only 12m</li> </ul>	<p>This issue has been discussed at length earlier in the report. In this regard, a 4.6 variation submission has been provided by the applicant which is considered to adequately justify the minor encroachment and demonstrate that its impact is minor with no adverse implications on the amenity of surrounding residences.</p> <p>8 storeys is consistent with the height level of this particular R4 zone surrounding the site and hence with the emerging/future character of this area.</p>
<b>Zoning</b> <ul style="list-style-type: none"> <li>• R4 zoning of site inconsistent with R3 zoning of surrounding sites</li> </ul>	<p>As shown on Figure 4 earlier in the report, a large area to the north, west and south of the site, as well as the land on the opposite side of the Pacific Highway in the Willoughby LGA, is zoned R4 High Density.</p>
<b>Access</b> <ul style="list-style-type: none"> <li>• proposed access from Taylors Lane inappropriate due to narrow nature of lane, amount and impact of traffic and conflict with pedestrians and visitor parking and request access be relocated to Burley Street</li> </ul>	<p>This issue has been addressed via the relocation of the access to Burley Street, including construction of a footpath along Taylors Lane for the full frontage of the development and the dedication of the land required for same (as discussed earlier in the report).</p>
<b>Traffic congestion from the proposal</b> <ul style="list-style-type: none"> <li>• existing traffic congestion issues</li> <li>• query traffic study finding re access off Pacific Highway and assumptions made as a result</li> <li>• cumulative impact of increased traffic from this and other developments</li> <li>• question turning circles on plans</li> </ul>	<p>It is agreed that the proposed development would increase local traffic movement. Accordingly, the applicant submitted a comprehensive traffic report to assess this impact.</p> <p>Both the application and this report were referred to the RMS for comments in relation to the likely impact on any classified roads and the wider road network. Upon review, the RMS raised no objection to the proposal on traffic grounds.</p> <p>In addition, Council's Traffic Engineer is satisfied that the traffic generated by the development can be adequately accommodated by the surrounding road network, which has been supported by Council subject to the relocation of the access to Burley Street, which has now been incorporated into the amended proposal. These studies have taken into account the cumulative impact of other developments in the vicinity in their modelling. Council's Traffic Engineer has deemed that tuning circles and other details of the report are satisfactory.</p>
<b>Inadequate parking despite compliance with DCP</b>	<p>This is incorrect. As indicated earlier in the report, on-site car parking has been provided in accordance with the DCP.</p>
<b>Impact on on-street parking in Burley Street</b>	<p>Adequate parking is provided on site. On street parking would continue to be controlled via existing signage and parking restrictions and regulated and enforced by Council as necessary.</p>
<b>Loss of privacy and potential overlooking into adjoining units</b>	<p>The development provides the required building separation and setbacks as per the ADG and DCP, whilst balconies are orientated away from the adjoining RFB to the south west. Potential overlooking of rear yards of dwellings in Burley Street unavoidable to some degree as these properties still occupied by traditional detached dwellings as opposed to higher density developments as provided for by R3 zoning.</p>

**REPORT TO JRPP – DA 33/16  
2 – 4 BURLEY ST, LANE COVE NORTH**

SUMMARY OF ISSUES	RESPONSE
<b>Potential impact on solar access of adjoining properties in Taylors Lane and units on Longueville Road and query shadow diagram indicating impact satisfactory</b>	The shadow diagrams submitted with the application indicate that the impact on overshadowing would be limited, with at least 3 hours of sunlight remaining available to adjoining properties on the winter solstice as required by the DCP and ADG.
<b>Loss of existing vegetation (46 trees) and request for retention of additional and specific trees on the site</b>	Council's Tree officer has reviewed the tree report submitted with the application and has deemed the removal of the trees proposed as necessary and raises no objection to same, subject to the retention of a number of trees around the site and the undertaking of extensive landscaping to compensate and re-create/retain landscape character.
<b>Impacts from construction</b> <ul style="list-style-type: none"> <li>• noise and request for restricted hours</li> <li>• traffic and parking issues due to construction and worker vehicles</li> <li>• cumulative impact of multiple developments under construction at one time</li> <li>• dust from demolition</li> <li>• possible contamination from demolition of dwellings</li> </ul>	<p>Council's Traffic and Transport Engineer has recommended the consent be conditioned to provide a detailed Construction Management Plan (CMP) to address issues related to the movement and parking of construction vehicles, safe access of construction vehicles, and any conflict with other road users in the street, including vehicles involved with the construction of any other developments.</p> <p>In addition, Council's Environmental Health Officer has recommended the consent be conditioned to require compliance with the <i>Construction Noise Management Plan</i> submitted with the application to address noise during the construction phase, in addition to further conditions to mitigate the impact of construction activities such as vibration and dust generation.</p> <p>Further draft conditions have been recommended to address the safe removal of any asbestos from the site in accordance with the recommendations of the Preliminary Site Investigation submitted with the application.</p>
<b>Potential impact on drainage to adjoining property.</b>	As indicated earlier in the report, the Stormwater Concept Plan submitted with the application has been reviewed and deemed acceptable by Council's Engineer. The report details a range of measures to be implemented to ensure that there will be no adverse impact on any adjoining properties.
<b>Noise and fumes from waste vehicles and visitor parking</b>	This issue has been addressed by the relocation of the access to Burley Street and the imposition of conditions in relation to the ventilation of the car park.
<b>Potential impact from tunnel ventilation stack and request to apply standards from draft Willoughby DCP</b>	The subject site is outside of the immediate area affected by the tunnel ventilation and hence this issue is not relevant to this application. In any event, emissions from the tunnel are under the control of the RMS and monitored by the EPA to ensure compliance with the required standards.
<b>Geotechnical issues – want to make sure no issue with excavation for basement in proximity to Lane Cove tunnel to avoid issue with collapse of foundations of adjoining development in 2006.</b>	The application was referred to the RMS who has provided specific conditions to address this issue, including the need for final design plans for works within the vicinity of the tunnel to be submitted to and approved by the RMS prior to any works commencing.
<b>Insufficient public transport and request for more bus services as a result of the development</b>	N/A – the provision of public transport services is outside of scope of the DA and the control of the applicant. Council has zoned the land R4 to permit a development of this scale on the basis that satisfactory public transport services in the

## REPORT TO JRPP – DA 33/16 2 – 4 BURLEY ST, LANE COVE NORTH

SUMMARY OF ISSUES	RESPONSE
	form of buses and trains are available in the vicinity of the subject site. The number and availability of actual services is under the control of the various transport providers, with any increase in services based on demand for same.
<b>Request for construction of cycleway as part of development</b>	There is no identified nexus for any additional cycleway to be provided to or as part of the proposed development nor any Council S.94 which indicates the need for any such cycleway.
<b>Request for road widening works and other measures (lighting, footpath etc) in Taylors Lane as part of development</b>	A footpath and appropriate lighting will be provided along Taylors Lane and will be subject to a detailed design to be approved by Council as the Roads Authority prior to the commencement of works.
<b>Inadequate utility services</b>	Council's Engineers have indicated that satisfactory utility services are available to the subject site with sufficient capacity to accommodate the increased loadings generated by the proposed development.
<b>Loss of property value</b>	This claim is hard to quantify and most likely varies from area to area and site. There is no evidence to suggest that this development would result in the loss in the value of any adjoining properties. In fact, anecdotal evidence from other areas indicates that the construction of high quality residential flat buildings such as this one in place of vacant sites would more than likely increase the value of surrounding sites.
<b>Insufficient notification of DA over Easter period</b>	The application was advertised for 14 days as per Council policy. The application and all supporting documentation was also made available on Council's website both during and subsequent to the notification period.

Overall, it is considered that the issues raised in the public submissions do not warrant refusal of the application or any further modification of the proposed development. Rather, the relevant issues raised have been addressed in either the original or the amended design of the development; the documentation submitted with the application or following lodgement; in comments provided by Council assessing officers; or via proposed conditions of consent where necessary.

### CONCLUSION

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

The proposed development is permissible on the land with consent under Lane Cove LEP 2009 and is consistent with all relevant provisions of Lane Cove Development Control Plan 2010 and the nine (9) design principles of SEPP 65. The development also complies with all other relevant provisions of the Lane Cove LEP 2009, with the exception of a minor encroachment to the maximum height limit relating to the site, for which a detailed Clause 4.6 variation submission has been provided by the applicant. Upon review and when weighed up against the impact of the encroachment and the level of compliance with other planning controls – particularly the extent to which the development meets the requirements of SEPP 65, the Apartment Design Guide and Lane Cove DCP 2010 – this submission is considered to be well founded such that the variation has been justified and can be supported.

**REPORT TO JRPP – DA 33/16  
2 – 4 BURLEY ST, LANE COVE NORTH**

Furthermore, the issues raised in submissions against the proposal are not considered to warrant refusal of the application or any further modification of the proposal. Rather, these issues have been addressed in the design of the original development and via the relocation of the access in the amended proposal, or can be addressed via conditions of consent.

As such, the proposal is not considered to result in any significant or undue adverse impacts for the locality and is not considered to be contrary to the public interest. Accordingly, it is recommended that a “Deferred Commencement” consent be granted requiring the submission to and approval by Council of a detailed site investigation and Remediation Action Plan in accordance with the provisions of SEPP 55 prior to the consent becoming operational. Upon the consent becoming operational, the consent is recommended to be subject to the draft conditions listed in Attachment 1.

**RECOMMENDATION**

1. That pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, a “Deferred Commencement” consent be granted to DA No. 33/16 for the construction of an eight (8) storey residential flat building comprising 93 apartments, 153 car parking spaces and associated works, subject to the following condition being met to the satisfaction of the consent authority within twelve (12) months from the date of this consent:
  - a. The submission to and approval by Council of a detailed site investigation and Remediation Action Plan in accordance with the provisions of SEPP 55.
2. That upon written confirmation by the consent authority of compliance with the deferred commencement condition, the consent shall become operational subject to the draft conditions listed in Attachment 1.
3. That the concurrence of the Director-General be assumed for the use of Clause 4.6 to permit the variations sought to the maximum height limit applying to the land.
4. That those that made a submission in response to the application be advised of the JRPP’s decision.

**Report Prepared by:**

Tim Shelley  
**Director – Tim Shelley Planning**

Bachelor Urban and Regional Planning, University of New England



**Attachments:**

1. Draft Conditions of Consent
2. Lane Cove DCP 2010 Compliance Table
3. Clause 4.6 Variation Submission
4. SEPP 65 Assessment
5. Notification Plan