

independent assessment of development application no. 46/2017

**Redevelopment of Rosenthal Car Park involving
Construction of a six (6) level mixed-use building
Comprising four (4) level basement car park, two (2) supermarkets and
Ground level public open space and retail tenancies**

Property:

**Various Lots
Nos. 2-20 Rosenthal Avenue,
Lane Cove**

Applicant:

ADCO Constructions Pty Ltd

Date:

November 2017

Prepared by:

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REPORT TO JRPP – DA 46/2017

2 – 20 ROSENTHAL AVENUE, LANE COVE

APPLICATION DETAILS

Proposed Development: Redevelopment of Rosenthal Car Park involving construction of a six (6) storey mixed use building comprising basement car park, two (2) supermarkets and ground level public open space and retail tenancies

Properties: Nos. 2 – 20 Rosenthal Avenue, Lane Cove

DA No: 46/2017

Date Lodged: 24th April, 2017

Cost of Work: \$62,326,121

Cadastral and Ownership Details:

ADDRESS	LOT DESCRIPTION	OWNER
2-20 Rosenthal Avenue	Lot 28 DP 10155	Lane Cove Council
2-20 Rosenthal Avenue	Lot 29 DP 10155	Lane Cove Council
2-20 Rosenthal Avenue	Lot 30 DP 10155	Lane Cove Council
2-20 Rosenthal Avenue	Lot 31 DP 10155	Lane Cove Council
2-20 Rosenthal Avenue	Lot 32 DP 10155	Lane Cove Council
2-20 Rosenthal Avenue	Lot 33 DP 10155	Lane Cove Council
2-20 Rosenthal Avenue	Lot 34 DP 10155	Lane Cove Council
2-20 Rosenthal Avenue	Lot 37 DP 10155	Lane Cove Council
2-20 Rosenthal Avenue	Lot 35 DP 1109939	Lane Cove Council
2-20 Rosenthal Avenue	Lot 1 DP 182149	Lane Cove Council
2-20 Rosenthal Avenue	Lot 1 DP 80938	Lane Cove Council
2-20 Rosenthal Avenue	Lot 2 DP 870938	Lane Cove Council
TOTAL	12 LOTS	

Applicant: ADCO Constructions Pty Ltd

ZONE	B2 – Local Centre (part Rosenthal Avenue and part Birdwood Lane) B4 – Mixed Use (existing car park)
IS THE PROPOSAL PERMISSIBLE WITHIN THE ZONE?	Yes.
IS THE PROPERTY A HERITAGE ITEM?	No. The site is not listed as a heritage item in Lane Cove Local Environmental Plan 2009. The substation building was previously listed in Ausgrid's Section 170 heritage register as having local significance but has since been delisted from Ausgrid's heritage register.
IS THE PROPERTY WITHIN A CONSERVATION AREA?	No
IS THE PROPERTY ADJACENT TO BUSHLAND?	No
BCA CLASSIFICATION	Class 6 Retail and Class 7a Car Park
STOP THE CLOCK USED?	Yes
NOTIFICATION	The development proposal was notified in accordance with Council's Notification Policy between 2 nd May 2017 and 16 th May 2017.

REASON FOR REFERRAL TO JOINT REGIONAL PLANNING PANEL

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 being referred to the Sydney North Planning Panel ("SNPP") for determination due to it comprising "General development over \$20 million", as well as "Council related development over \$5 million". In this regard, the development has a value of \$62,326,121 and is to be undertaken on land owned by Lane Cove Council.

EXECUTIVE SUMMARY

- Sydney East JRPP (now Sydney North Planning Panel – "SNPP") approved Stage 1 Concept DA No. 198/2015 on 28th April 2016 for the following development on the subject site:

"Staged redevelopment of Rosenthal Car Park, Rosenthal Avenue, Lane Cove and to include 500 car spaces, retail and public open space."

The Stage 1 Consent was a concept approval for a staged development on the site under Section 83B of the Environmental Planning and Assessment Act 1979 and provided an approved building envelope and general arrangement plan for the proposed redevelopment of the existing car park within the site. In summary, the proposed redevelopment allowed for the following:

- The construction of a six (6) level building, comprising four (4) basement levels of parking, one (1) below ground level of retail floor space and one (1) level of public open space and retail floor space at ground level, all contained within a building envelope with a maximum height of RL91.00 and 13.7m above the existing ground and a proposed floor space ratio (FSR) of 0.88:1.
- Vehicular access to the site from Rosenthal Avenue, including the construction of a new roundabout at the intersection of Finlayson Street and Rosenthal Avenue and pedestrian bridge over Rosenthal Avenue (both subject to approval under the Roads Act 1993).
- A public car park comprising 500 car spaces over four (4) basement levels, allocated as follows:
 - 235 car spaces for the proposed retail space;
 - 176 car spaces for the replacement of the existing public car park; and
 - 89 car spaces for future developments and additional parking for the CBD.
- Retail space totalling 6,205m² over two levels above the four levels of parking, including 5,280m² of retail space on the retail level below ground and 925m² of retail space within the landscaped public open space zone on the top level (i.e. at ground level adjacent to Rosenthal and Birdwood Lanes).
- A public plaza and landscaped open space on the roof of the structure accessible from Birdwood Lane and Rosenthal Lane to create a continuous pedestrian link through to Lane Cove Plaza and the existing pedestrian arcades through to Longueville Road.

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- A minor closure and realignment of part of Rosenthal Avenue to allow the development to extend over part of Rosenthal Avenue and Birdwood Lane.
- Under this approval, building envelopes were adopted for the future development, inclusive of the following development standards and design parameters:

Provisions	Proposed
GFA	6,205m ²
FSR	0.88:1
Building height (AHD)	RL 91.00 (maximum)
Car parking spaces	500 (minimum)
Setbacks	Nil

- A Section 96(2) application was lodged concurrently with Council on 24th April, 2017 and seeks to make changes to the Stage 1 Consent. These modifications relate to: changes to the envelope of the basement car park levels; changes to the level of the park surface to improve the relationship with the proposed retail tenancies; reconfiguration of the footprint of the retail tenancies on Levels 2 and 1; reconfiguration of the loading dock, storage area and car park at Basement Car Park Level 0; a minor increase in maximum gross floor area (GFA) to 6,500m² and the number of car spaces to be provided on-site (up to 519); and changes to pedestrian access through the park and around the site.
- This S.96(2) application is the subject of a separate, concurrent report to the SNPP, wherein the modifications proposed are recommended for approval as they are considered to provide an improved built form outcome, a more rational configuration, improved pedestrian access and connectivity and additional parking with no greater impact.
- DA No. 47/17 for an early works program consisting of the demolition of all existing structures, removal of trees and site preparation (including excavation and construction of retaining walls) to facilitate the undertaking of the Stage 2 development was approved by Council's Independent Hearing and Assessment Panel (IHAP) on 6th June 2017.
- A third application DA No. 46/17 – the application the subject of this report – was also lodged by the same applicant with Council on 24th April 2017 for Stage 2 of the development approved under the concept plan, seeking approval for a six (6) storey mixed-use building comprising four basement levels of parking, retail premises for two supermarkets (Coles and ALDI), and public open space and retail tenancies at Level 2 generally in accordance with the concept plan approval, but subject to the amendments proposed under the S.96(2) application discussed above.
- The proposed building is to be constructed over the site of the existing ground level car park behind the retail precinct fronting Longueville Road, which is bounded by Rosenthal Avenue to the west, Birdwood Avenue to the north, Birdwood Lane to the east and Rosenthal Lane to the south. The building comprises six (6) levels, including four (4) levels of basement parking for up to 519 vehicles as well as loading docks and plant rooms; two retail levels containing two supermarkets and associated foyers, pedestrian arcade and back of house areas; and two further retail tenancies, a landscaped public park and associated plaza and amphitheatre at ground level, accessed at grade from Birdwood Avenue in the north-eastern corner, Birdwood Lane to the west and Rosenthal Lane to the south. The park would also be accessed via a pedestrian bridge over Rosenthal Avenue to the west, which is required to be constructed by an amended condition of DA 198/2015.

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- As the application involves the development of Council-owned land, an independent assessment of both this application and the concurrent the S.96 application for DA 198/2015 has been undertaken by Tim Shelley Planning.
- The applicant and its team attended pre-lodgement meetings with Council on 2nd March 2017, wherein Council identified the information required to be submitted and a range of issues needing to be addressed as part of the development application. These issues included a range of mandatory issues such as compliance with the BCA, engineering and traffic requirements and geotechnical and construction considerations, as well as specific issues in relation to motorbike and bicycle parking, stormwater and flooding and pedestrian and vehicular access into the site. The applicant has indicated in Section 1.5 of the SOEE lodged with the DA the manner in which the matters raised in the meeting from 2nd March have been addressed.
- A letter was sent to the applicant (ADCO) dated 28th August, 2017, seeking responses to issues in relation to accessibility and facilities for the disabled, as well as issues raised by Council's Landscape Architect in relation to the design and treatment of the proposed public open space precinct and various individual components of same given it will ultimately be retained in Council ownership.
- On 27th September, 2017 the applicant submitted additional details and responses which satisfactorily addressed these items.
- A total of three (3) submissions were received in relation to the proposal during the notification period. Two of the submissions were in support of the proposed development and provided suggestions for landscaping and usage of the public area, as well as raising a number of issues in relation to BCA compliance, location of toilets and some pedestrian connections in and around the site. The third submission raised a specific issue in relation to traffic movement in and around the site and its impact on No. 71 Longueville Road.
- The issues raised are considered to have been satisfactorily addressed via the amendments proposed under the S.96(2) application or in the more detailed design for the development presented under the this application, or can be addressed by draft conditions of consent where necessary.
- The proposal as submitted complies with all relevant requirements of Lane Cove Local Environmental Plan 2009.
- The proposal also complies – or can comply – with the relevant requirements of Lane Cove Development Control Plan 2010, with the exception of bicycle parking, where a variation to the number of spaces required under Part R – *Traffic, Transport and Parking* is requested. Council's Traffic and Transport Manager is satisfied that this issue has been satisfactorily addressed and as such, this variation is supported.
- The application also demonstrates full compliance with each of the conditions of the Stage 1 consent (DA 198/2015), subject to modifications being made to that consent as recommended in the concurrent assessment report for that application and the imposition of conditions on the consent to that application where necessary.
- Accordingly, it is recommended that consent be granted to DA 47/17 subject to the draft conditions listed in Attachment 1.

THE SITE

The site comprises 12 allotments known as Nos. 2-20 Rosenthal Avenue and is located on the eastern side of Rosenthal Avenue at Lane Cove between Birdwood Avenue to the north and Burns Bay Road to the south. The site comprises an existing Council car park fronting Rosenthal Avenue to the west and north; Birdwood Lane to the east; and, Rosenthal Lane to the south, and has a total area of approximately 7,031m².

A map showing the location of the site is provided as Figure 1 below.

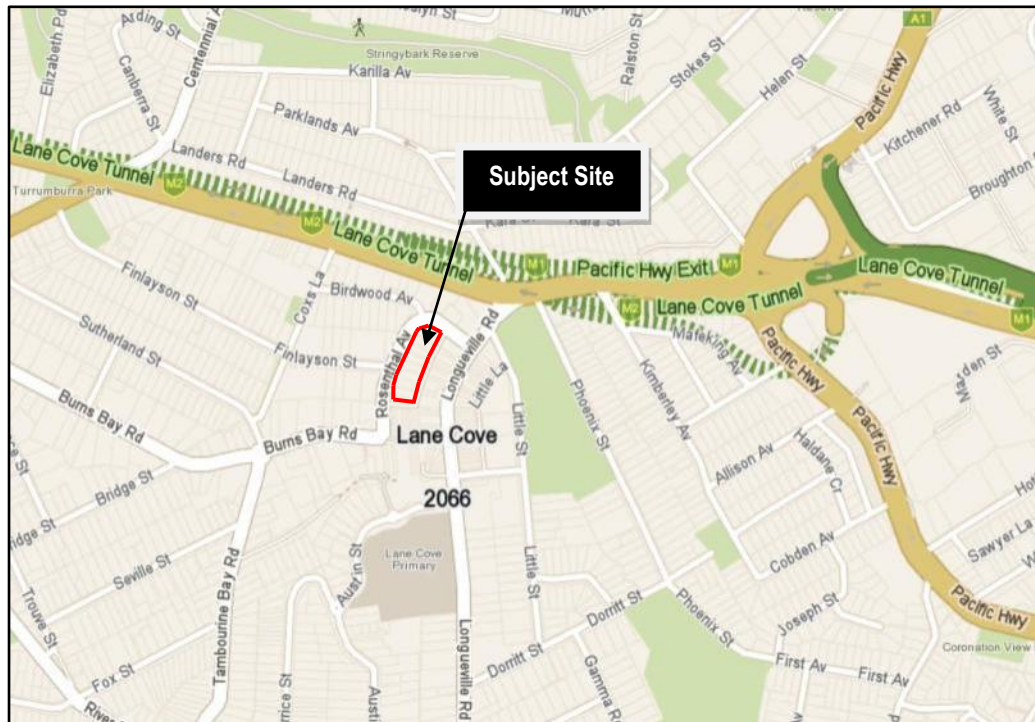


Figure 1 – Locality Plan

The site falls from Birdwood Lane at the east down to Rosenthal Avenue to the west by approximately 7m and from Rosenthal Lane at the south down to Rosenthal Avenue at the north by approximately 2m.

Existing development on the site comprises a Council-owned car park with 176 on-grade parking spaces accessed from Rosenthal Avenue and Birdwood Avenue, an Ausgrid substation and public toilet block located on the eastern side of the site adjacent to Birdwood Lane. The demolition of these structures was approved under the recently granted approval to DA 47/17 for the early works on the site as indicated above.

Mature trees and shrubs comprising predominantly endemic species are located around the perimeter and through the middle of the site. Approval for removal of this vegetation has also been granted under the recent consent issued to DA No. 47/17 for the early works on the site.

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Surrounding Uses

The subject site is located at the north-western end of the Lane Cove CBD. The development immediately surrounding the site is characterised as follows:

- North – a recently constructed seven storey residential flat building (“Atrium”) and a two storey commercial building (“Club Lane Cove”). Additional residential flat buildings ranging from five to seven storeys in height are under construction to the north-west of the site (“Quartet”).
- South – Rosenthal Lane and then the rear of one and two storey retail and commercial developments fronting the Burns Bay Road pedestrian mall.
- East – Birdwood Lane and then the rear of one and two storey retail, commercial and residential developments fronting Longueville Road.
- West – St Andrew’s Anglican Church to the south of Finlayson Street and a dental clinic to the north of Finlayson Street.

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



Figure 2 – Aerial Photograph
(Source: Lane Cove Council)

PROPOSED DEVELOPMENT

The proposed development comprises the following:

- Construction of a six (6) storey mixed-use building up to height of RL 91.0m AHD (or 13.7m above finished ground level) consisting of:
 - Four levels of basement car parking for up to 519 vehicles (including 13 accessible spaces), as well as parking for 34 motorcycles and 68 bicycles, plus a loading dock (accessed off Rosenthal Avenue), plant rooms, back-of-house areas and office and amenities for retail tenancies above, and rainwater tanks;
 - One (1) retail floor level containing two (2) supermarkets (Coles and ALDI) with a total GFA of 5,575m² and associated back-of-house and office areas, lifts, travelators and pedestrian arcade areas; and
 - One (1) level of public open space including a park, play areas, performance area, vacant retail tenancies of 925m² (taking total GFA to 6,500m²) and retail void to provide access to lower level retail space. *(Note: the design and use of these retail tenancies, as well as the stage and play areas, would be subject to separate DA approval);*
- Provision of a pedestrian bridge over Rosenthal Avenue and various roadworks, including a roundabout at the car park entry. *(Note: both these items will be the subject of separate Part 5 approval);*
- Landscaping of the site; and
- Connection to and/or extension of all necessary infrastructures to service the development.

This application does not seek development consent for demolition and site preparation works. Rather, the demolition of all existing structures, removal of trees and all necessary civil works and site preparation to facilitate the construction of the development has been approved under the consent issued to separate DA 47/2017 on 6th June 2017.

Building Design

The building would be largely constructed to the boundaries of the site generally as provided for by the Stage 1 approval and has been designed in response to the topography of the land. In this regard, the retail level at the Birdwood Lane boundary has been excavated into the site to allow at-grade street level access to the public open space and retail spaces within this area. The proposed development has a maximum height of RL91.00m AHD at the roof of the retail entry void. The development along the Rosenthal Avenue frontage would present a two storey streetscape.

Pedestrian access to the various levels of the development would be available via travelators and lifts. An additional service lift would also provide access to each level.

Retail Component

Retail floor space is proposed on Level 1 of the development, with pedestrian access provided via the large retail void from Birdwood Lane. Two retail tenancies are proposed, which would be occupied by a Coles supermarket and Liquorland (with GFA of 3,543m²) and an ALDI supermarket (with a GFA of 1,467m²). Both these supermarkets and Liquorland are proposed to operate from 6am to midnight, seven days a week. Deliveries are expected to occur between 6am to 10pm, seven days a week.

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In accordance with the Stage 1 Consent and the modifications proposed to same, allowance has also been made for up to 925m² of retail GFA as part of the public open space on Level 2 (top level). The applicant has indicated that final design and use of these retail tenancies would be subject to separate DA approvals following further design resolution and securing of tenants. A condition to this effect has been included in draft conditions in Attachment 1.

The layout and extent of the retail components proposed under this application has incorporated the following changes proposed via the concurrent S.96(2) application to DA 198/2015:

1. *The footprint of the retail tenancies at Level 2 have been reconfigured;*
2. *The layout of the retail tenancies and plant areas at Level 1 have been reconfigured to meet the specific requirements of the two supermarket tenants (Coles and ALDI);*
3. *The layout of the loading dock, storage area and car park at Basement Car Park Level 0 have been reconfigured; and*
4. *The maximum GFA has been increased from 6,210m² to 6,500m².*

As noted above, these modifications are recommended for approval and as such, allow consent to be granted to the development proposed under this application.

Open Space Component

The top level of the development would be landscaped and embellished to provide a public open space that is directly accessible from Birdwood Lane. The landscape concept plan submitted with the application proposes a variety of recreational and leisure spaces for the community to utilise including:

- A large grassed area measuring 1,300m². This area would include an outdoor theatre and amphitheatre seating to accommodate outdoor music recitals and cinema nights;
- A public square with outdoor seating;
- Public amenities;
- An adventure playground, water feature, nature walk and BBQ/picnic area; and
- Facilities/areas to display public art.

An extensive number of mature trees would be planted and large areas of landscaping and garden beds would be provide shade and softening around main seating areas and walkways, and to provide structure to the form of the public square. Pedestrian pathways are proposed throughout the public open space to provide a continuous link for pedestrians to Lane Cove Town Centre. These pathways would also connect with the proposed pedestrian bridge over Rosenthal Avenue to enable access to the surrounding residential neighbourhood. Selected pathways would also connect with existing arcades and provide access to the Longueville Road commercial precinct.

The applicant and Council have agreed that the stage and children's play area would be subject to separate DA approval following further design resolution. Conditions to this effect have been included in draft conditions in Attachment 1.

PRE-LODGEMENT LIAISON

The applicant and team attended pre-lodgement meetings with Council on 2nd March 2017 in relation to both the S.96(2) application and Stage 2 DA. The applicant advised that the plans and documentation submitted with the S.96(2) has considered and addressed Council's comments on the proposed modification where appropriate.

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PREVIOUS APPROVALS

In addition to the Stage 1 consent, DA No. 47/17 for early works consisting of the demolition of all existing structures, removal of trees and site preparation (including excavation and construction of retaining walls) to facilitate the undertaking of the Stage 2 development now proposed was approved by Council's Independent Hearing and Assessment Panel (IHAP) on 6th June 2017.

PROPOSAL DATA/POLICY COMPLIANCE

LANE COVE LOCAL ENVIRONMENTAL PLAN 2009

LEP 2009	Provision	Proposed	Complies/ Comment
ZONING	B2 – Local Centre (part Rosenthal Avenue and part Birdwood Lane) B4 – Mixed Use (existing car park)	Car park, Community Facility and Retail Premises	YES. Permissible with consent.
MAXIMUM PERMITTED BUILDING HEIGHT UNDER BUILDING HEIGHT MAP	15.0 metres	13.7m above ground level and RL91.0	YES. Complies with both LEP and Stage 1 consent.
MAXIMUM PERMITTED FSR UNDER FSR MAP	2:1	0.90:1	YES. Complies with both LEP and Stage 1 consent (subject to increase to maximum GFA under S.96(2) application currently being considered by Panel).

From the above, it is apparent that the proposed development is consistent with all appropriate requirements and development standards of the LEP.

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 D – Commercial and Mixed Use Development
 Part F – Access and Mobility
 Part J – Landscaping
 Part O – Stormwater Management
 Part Q – Waste Management and Minimisation
 Part R – Traffic, Transport and Parking

The extent to which the proposed development complies with the relevant provisions of the above sections of the DCP is identified in the compliance table provided as Attachment 3. From the table, it is apparent that the proposed development complies (or can comply) with all relevant parts and requirements of the DCP, with the exception of bicycle parking, where a variation to the number of spaces required under Part R – *Traffic, Transport and Parking* is requested. In this regard, a requirement for 130 bicycle spaces for potential employees and 34 racks for customers and visitors is generated under Part R of the DCP. To justify the variation, the applicant has advised as follows:

“While the bicycle provision does not comply with the DCP requirement, the bicycle parking rate for employees is considered excessive for a development of this size. In TTW’s experience, a more appropriate rate for a shopping centre of this size is one space per 200sqm GFA for employees, which is consistent with the shopping centre rate for employees applied by the City of Sydney and North Sydney Council. This rate would equate to a requirement of 33 bicycle parking spaces for employees, which is accommodated within the proposal. The proposal includes a total of 68 bicycle spaces, comprising 34 double ‘U rail’ racks located in Basement Level 1.”

This issue has been assessed by Council’s Traffic and Transport Engineer who has raised no objection to the number of spaces provided subject to the imposition of the following conditions with respect to bicycle parking:

- *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.*
- *The bicycle facilities are to be clearly labelled, and advisory/directional signage is to be provided at appropriate locations.*

These conditions have been included in the draft conditions provided in Appendix 1.

CONSISTENCY WITH THE STAGE 1 CONSENT

A table has been provided by the applicant which identifies the manner in which each of the conditions of the Stage 1 consent – including the information required to be submitted – has been addressed under this application. A copy of this table is provided in Attachment 2.

The only areas of non-compliance to this consent are those conditions and aspects of the original development that the applicant has sought to modify under the concurrent S.96(2) application for DA 198/2015. The conditions and recommendations of the separate assessment report for the Section 96(2) application with respect to each are summarised below:

1. Condition 2 – Approved Drawings

Condition 2 references drawings DA-01 to DA-15 prepared by Saunders Global Architects dated 23/11/2015, except for any changes modified by subsequent conditions of consent. The S.96(2) application seeks to modify Condition 2 by making reference to new plans prepared by Scott Carver that propose the following changes:

- The building envelope of the basement car park levels have been lowered following a rationalisation and optimisation of the extent of excavation (refer to Drawing Nos. AR-DA951, AR-DA952 and AR-DA953 all Rev 1 for comparison of approved and proposed schemes);
- The park surface has been lowered to improve the relationship with the proposed retail tenancies and pedestrian access, which has required a variation to all floor levels across the development and an increased depth of excavation RL64.00 to RL62.54.
- The footprint of the retail tenancies at Level 2 have been reconfigured;
- The layout of the retail tenancies and plant areas at Level 1 have been reconfigured to meet the specific requirements of the two supermarket tenants (Coles and ALDI); and
- The layout of the loading dock, storage area and car park at Basement Car Park Level 0 has been reconfigured.

Comment:

This modification has been supported.

2. Condition 3 – Maximum Gross Floor Area (GFA)

Condition 3 currently specifies a maximum gross floor area (GFA) of 6,210m², which equates to a FSR of 0.88:1. The modification proposes increases an increase to the maximum GFA of 290m² to 6,500m², which equates to an increase in FSR to 0.9:1. As such, the application seeks to modify Condition 3 to read:

“The maximum gross floor area of the proposed development shall not exceed 6,500m² (round off) to reflect the amended plans referred to above”.

Comment:

This modification has been supported.

3. Condition 5 – Car Parking

The applicant seeks to modify Condition 5, which currently requires the provision of 500 spaces within the development, to read:

“The provision of 500-519 car spaces shall be provided within the development.”

Comment:

This change has been supported subject to the following change in the wording of Condition 5:

“The provision of a minimum of 500 car spaces within the development.”

Subject to the changes being made to Stage 1 consent no. 198/2015 as recommended in the assessment report for that application (and as summarised above), the current application demonstrates full compliance with each of the conditions of the Stage 1 consent.

4. Condition 12 – Pedestrian Access along Rosenthal Avenue

The applicant seeks to delete this condition which requires *“suitable pedestrian access shall be provided along the full length of the Rosenthal Avenue frontage”* as the location of the loading dock and entry into the car park, coupled with the drop in grades along Rosenthal Avenue, make the provision of pedestrian access along this frontage problematic.

Comment:

It is has been agreed that the requirement for access to be provided along Rosenthal Avenue can be deleted, but only via an amendment to the condition to require the construction of the pedestrian bridge across Rosenthal Avenue prior to the issue of the occupation certificate for the development.

LANE COVE COUNCIL'S SECTION 94 CONTRIBUTION PLAN

Lane Cove Section 94 Contribution Plan applies to the proposed development due to the increase in the gross retail floor area on the site. In this regard, the Lane Cove S.94 Plan indicates a contribution is applicable to new retail or commercial development within the Lane Cove Centre at a current rate of \$120 per m² of Gross Floor Area (GFA). As such, with a GFA of 6,500m², the proposed development generates a Section 94 Contribution of \$780,000. A condition requiring the payment of this contribution prior to the issue of the construction certificate has been included in the draft conditions in Attachment 1.

LANE COVE COMMUNITY STRATEGIC PLAN, LANE COVE 2025

The proposed development forms a key component of Council's Community Strategic Plan 2015, the goals and objectives of which include the provision of enhanced open space, public assets and civic spaces; the provision of additional parking for the community; and the facilitation of development that would encourage residents to support local businesses by shopping locally.

INTERNAL REFERRALS

The plans and supporting documents were referred internally to the relevant Council officers. The following comments were received regarding the proposal, with a response identifying any necessary action as a result:

1. **Senior Building Surveyor** – advised that a review of the development plans has been undertaken against the Deemed-to-Satisfy provisions of the BCA 2016. The review indicated a number of BCA technical non-compliances, however the proposed commercial, retail and public use building is capable of achieving compliance with the Performance Requirements. BCA non-compliance matters will be addressed by either providing further detailed design documentation or subject to a fire engineering "Performance Solution" at the construction certificate stage of the project. Accordingly, building-related conditions were provided which have been included in the draft conditions provided as Attachment 1, as well as a requirement for the applicant to provide a list of the proposed essential fire safety measures to be installed into the proposed new building.

The Senior Building Surveyor also advised that disabled access must be provided from the allotment boundaries leading to and within all areas normally used by occupants including accessible toilet facilities, basement parking spaces, access ramps including roof top play space in accordance with part D3 of the BCA and complying with the requirements of Australian Standard AS1428.1-2009 and Access to Building-Premise Standard 2010. A condition to cover this issue has also been included in the draft conditions of consent provided as Attachment 1.

2. **Manager Environmental Health** – raised no objection to the proposed development and provided a range of draft conditions to be attached to the consent in relation to construction noise, acoustic measures, dust control, erosion and sedimentation controls, car park ventilation and a range of site preparation, waste management, bird control and health issues. These conditions are included in the draft conditions provided as Attachment 1.
3. **Community Development, Ageing and Disability Officer** – sought clarification and further details in relation to lift access, open space and landscaping, disabled parking and toilets and accessibility.

The applicant provided a response and additional details which are considered to have satisfactorily addressed the issues raised, subject to a number of draft conditions which have been included in Attachment 1.

- 4. Development Engineer** – raised no objection to the proposed development from an engineering point of view and provided a comprehensive set of draft engineering conditions which have been included in the draft conditions in Attachment 1, including a requirement for the existing Council stormwater pipeline through the site to be decommissioned, relocated and replaced.
- 5. Traffic and Transport Engineer** – advised that the Traffic Impact Assessment and the plans submitted with the application had been reviewed and raised no objection to the proposed development from a traffic and parking point of view, subject to a number of conditions which have been included in the draft conditions in Attachment 1. Of particular note, the following conditions were identified to address works beyond the site, the adjusted roadworks and the amended pedestrian links proposed under the Section 96(2):

- *A separate application must be lodged to Councils 'Traffic and Transport team for any proposed road work outside the subject property including sign and line marking plans. The works require approval of the Local Traffic Committee.*
- *The submitted plans are to be amended to show the existing pedestrian refuge at the proposed roundabout on the Finlayson Street approach.*
- *Pedestrian access on Birdwood Avenue, including for people with disabilities and pram access, is to be maintained throughout the course of the construction as per AS-1742.3, 'Part 3 - Traffic control devices for works on roads'. Following construction, Rosenthal Lane is to be constructed to be accessible and safe for pedestrians.*
- *The Lane Cove Pedestrian Access and Mobility Program (PAMP) and Lane Cove Bicycle plan encourages developments to improve pedestrian and cycling amenity within the area to encourage walking and cycling within the Council area. All footpaths adjacent to the site and within 25m, will need to be installed or upgraded ensuring a consistent width and surface treatment. The minimum footpath width for all footpaths in the area is 1.8m and this should be clear of any obstructions including tree branches.*

To ensure consistency with the Section 96(2) and the modified draft conditions recommended to be adopted for that application (specifically condition 12), it is proposed to add the following condition to address the amended pedestrian linkages to the site:

- *A pedestrian bridge shall be constructed across Rosenthal Avenue generally in the location indicated on the approved plans. Approval of an application under the Roads Act is to be obtained for the bridge prior to its construction. The bridge is to be completed to the satisfaction of Council and the Roads Authority prior to the issue of the occupation certificate for the development."*

In addition, it is recommended the following requirements also be imposed to ensure access into and out of the site is appropriately managed and the additional traffic generated by the proposed development and the potential impact of same on the surrounding road network is minimised, consistent with the commitments made by the applicant:

- *construction of a roundabout at the intersection of Rosenthal Avenue and Finlayson Avenue as generally indicated on the plans submitted with the application (this item will be subject to a separate approval from Council under the Roads Act, which is to be obtained prior to the issue of the construction certificate, with construction required prior to the issue of the first occupation certificate); and*
 - *finalisation of the Road Closure application to the satisfaction of Council prior to the issue of the first occupation certificate.*
6. **Landscape Architect** – initially raised a range of issues in relation to the treatment and embellishment of the open space area including materials, species selection, tree planting and landscaping requirements, street furniture, retaining walls and the design of various individual components of this area, such as the play area and stage. It has since been agreed that further documentation in relation to the design, treatment and embellishment of the open space precinct can be submitted to and approved by Council prior to the issue of a CC, whilst a separate approval would be required for the play areas and stage area.

EXTERNAL REFERRALS

NSW Roads and Maritime Services (RMS) – in a letter dated 6th June, 2017, the RMS advised:

“Roads and Maritime has reviewed the submitted information and provides the following comment to Council for consideration in the determination of the development application:

A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for approval prior to the issue of a Construction Certificate.”

This requirement has been included in the draft conditions provided as Attachment 1 to this report.

PLANNING CONTROLS

LANE COVE LOCAL ENVIRONMENTAL PLAN 2009 (SECTION 79C(1)(A))

Zoning and Permissibility

The subject site comprises twelve (12) allotments, all of which are zoned B4 – Mixed Use As shown on Figure 3 on the following page. In addition, the site also comprises parts of Birdwood Lane and Rosenthal Lane which are zoned B2 – Local Centre, as also shown on Figure 3.

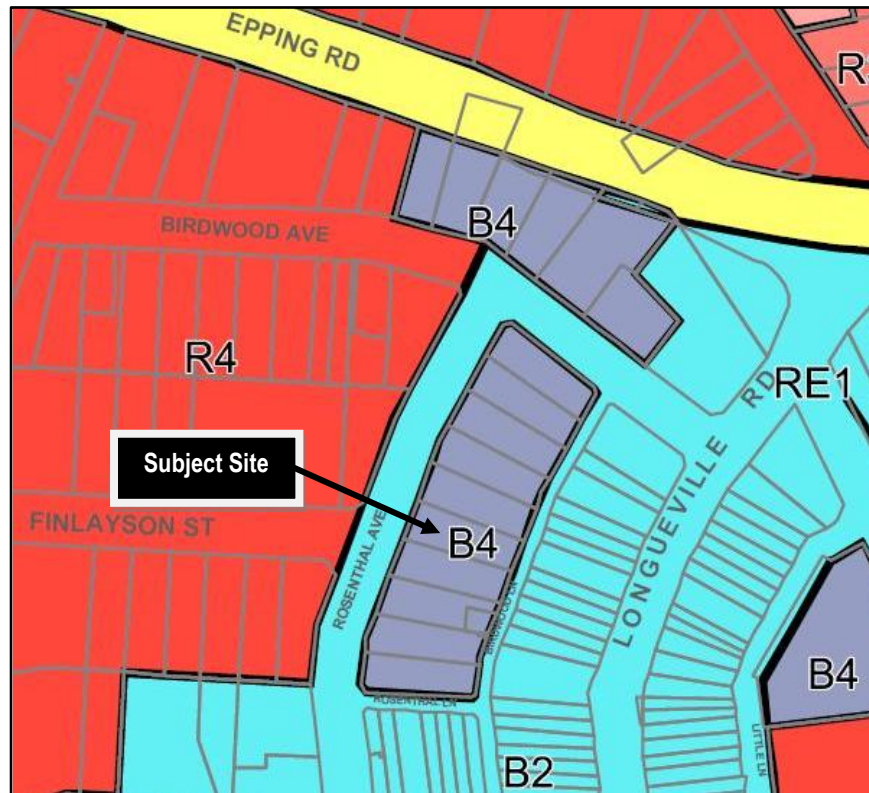


Figure 3 – Extract from Lane Cove LEP 2009 Zoning Map

The proposed development is defined as a “carpark”, “retail premises” and “community facility” under the dictionary to the LEP. Each of these land uses are permissible with consent in both the B2 and B4 zones (retail premises are permitted in both zones as a subset of the larger definition for “commercial premises”, which also includes “business premises” and “office premises”).

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 objectives of the B2 and B4 zones as follows:

B2 Zone:

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To ensure that this centre functions as a Town Centre in the hierarchy of Inner North Sub-region retailing.
- To permit development for the purposes of offices, community and other facilities.
- To encourage urban design maximising attractive public domain and adequate circulation space throughout the Lane Cove town centre for current and future users.
- To ensure that landscaping is a significant element in public and private development viewed from the public domain.

B4 Zone:

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

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. Under the relevant map shown as Figure 4 below, the subject site has been identified as Category O, which equates to a maximum height limit of 15.0 metres.

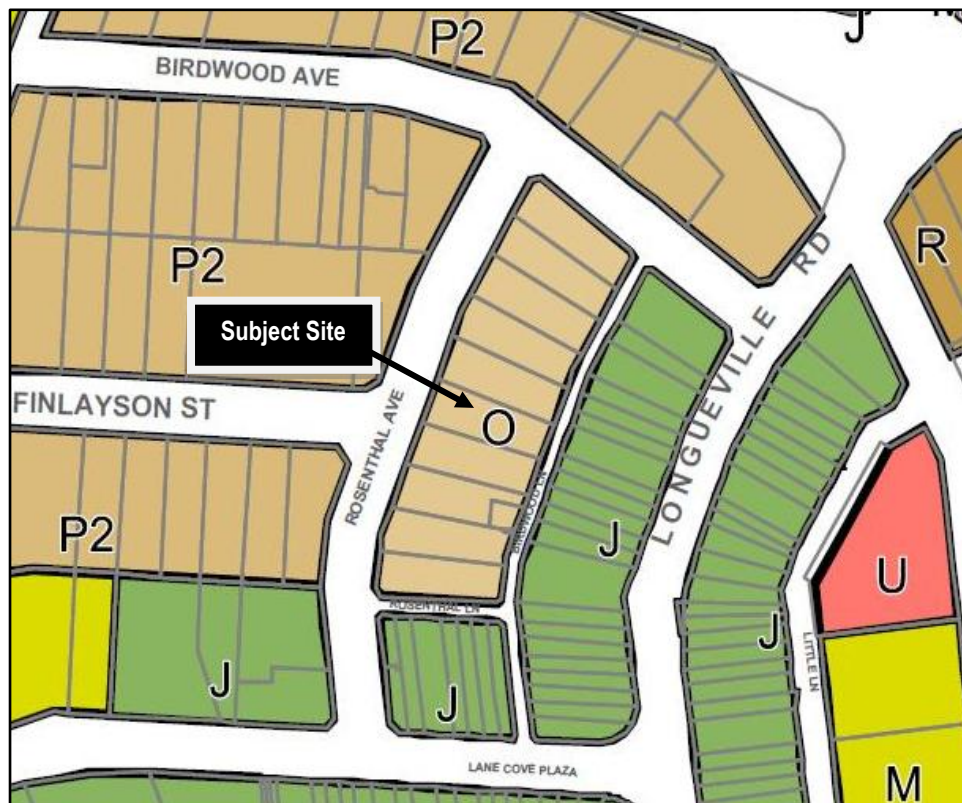


Figure 4 – Extract from Lane Cove LEP 2009 Height of Buildings Map

Clause 4.4 – Floor Space Ratio

Under the relevant floor space ratio (FSR) map adopted under Clause 4.4 of the LEP shown as Figure 5 on the following page, the subject site has been identified as Category T1, which equates to a maximum FSR of 2:1.

To this end, Condition 3 of the consent indicated that “the maximum gross floor area of the proposed development shall not exceed 6,210m² (round off)”. As indicated earlier in this report, the applicant has submitted a S.96(2) application which includes a request that this figure be increased to allow a maximum of GFA of 6,500m², a request which has been acceded to. The proposed increase in the GFA by 290m² GFA up to a total GFA of 6,500m² takes overall FSR of the development to 0.9:1, which is significantly below the maximum FSR allowable of 2:1.



Figure 5 – Extract from Lane Cove LEP 2009 Floor Space Ratio Map

Clause 5.10 – Heritage Conservation

The site is located adjacent to General Heritage Item I198 – St Andrew’s Anglican Church Hall and Landscape Heritage Item I168 (street trees) in the road reserve of Birdwood Lane, in the vicinity of 87-93 Longueville Road. The JRPP was satisfied that the original proposal did not unreasonably impact on the heritage significance of these items.

With respect to Item I168, the trees in question were erroneously added to the register and have since been approved for removal under the consent granted to DA 47/17 for the early works on the site. As such, there are no further implications of this clause with respect to the application.

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 (and the land is not affected by any minimum allotment size anyway);
- Land Reclassification Map – the site is not identified for reclassification;
- Land Reservation Acquisition Map – no part of the site is identified for acquisition for any purpose;

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- Acid Sulphate Soils – the site is not identified as containing any potential acid sulphate soils; and
- Environmental Protection Land Map/Foreshore Building Line Map/Riparian Land Map – the site does not contain any items of environmental protection; is not affected by the foreshore building line; and does not contain any riparian land.

Clause 59AA – Preservation of Trees or Vegetation

Under Clause 59AA, consent must be granted for the removal, destruction or injury to any tree or other vegetation. Approval for the removal of trees on the subject site required as part of the civil works was sought and granted under DA 47/17.

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 with tree removal, all excavation and earthworks required for the proposed development were approved as part of the civil works under the consent to DA 47/17.

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

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The proposed development raises no issues regarding the provisions of policy.

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) – now SNPP – become the consent authority. In this regard, Schedule 4A(3) and (4) identifies the following applications:

3 General development over \$20 million

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

4 Council related development over \$5 million respectively.

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

State Environmental Planning Policy (Infrastructure) 2007

Schedule 3 of SEPP Infrastructure (iSEPP) 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 iSEPP, the application was referred to the RMS as it triggered two items under Schedule 3 given it comprised shops and commercial premises of 4,000m² or more and parking for 200 or more vehicles.

In their response and as advised earlier in the report, RMS raised no objection to the application subject to a Construction Management Plan being submitted to Council for approval prior to the issue of the construction certificate. This item is already covered by a condition on the existing consent for Stage 1 but has also be added to the draft conditions for the current application.

State Environmental Planning Policy No 55 – Contaminated Lands

The original proposal considered SEPP 55 to ensure that the land is suitable for the proposed development. The Preliminary Contamination Report prepared by Ashwin Management Services (November 2015) concluded:

“As the proposed use is predominantly car park and retail involving removal of all material from the site to a depth of approx RL 63, it is also reasonable to conclude that the site is suitable for the proposed development.”

Contamination issues have subsequently been addressed as part of DA 47/17 for the Early Works for the proposed development, for which a Detailed Site Investigation was prepared. Based on the findings of this report, consent was granted to DA 47/17, inclusive of conditions requiring (amongst other things) removal of contaminated soil and remediation of the site in accordance with a remediation action plan also submitted with the application.

On this basis, all contamination issues have been dealt with under DA 47/17 such that there are no further implications of SEPP 55 on the development proposed under this application.

ANY DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

There are no draft environmental planning instruments relevant to the application.

APPLICABLE REGULATIONS

Environmental Planning and Assessment Regulation 2000

There are no matters under the Environmental Planning and Assessment Regulation 2000 relevant to the application.

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

The application was advertised for a period of 14 days between the dates of 2nd and 15th April 2017 concurrent with DA 47/17 for the civil works and the S.96(2) application for modifications to DA 198/2015 for the Stage 1 Concept Approval. During this period, three (3) submissions were received to these applications.

Two of the submissions were received from the Lane Cove Bushland and Conservation Society (LCBCS) and Mr Stuart (Residents and Shopkeepers for Appropriate Development, or “RASAD”) and were generally in support of the proposed development. The LCBCS also requested that the final design of the public stage area involve consultation with user groups, a suggestion which would be addressed by a further application, at which point an opportunity for a more detailed review and comment would be provided.

The submission from Mr Stuart also raised a number of other issues as follows:

- *Potential BCA non-compliance issues*

Comment:

These issues have been assessed by Council’s Senior Building Surveyor and addressed by draft conditions of consent requiring the development to comply with the BCA either by Deemed-to-Satisfy provisions or Alternate Solutions.

- *Location of the trolley storage area is remote and conflicts with the exit ramp*

Comment:

From a review of the plans, it is apparent that trolley storage areas are dispersed throughout each parking level.

- *No area allocated for lift rooms*

Comment:

The applicant has advised that the lift motor rooms will be adequately accommodated within the development. This level of detail is not provided on the submitted DA plans but would be indicated on the construction certificate plans.

- *No disabled car parking at Basement Level BO (the top basement), which appears to be the most obvious level for provision of such spaces*

Comment:

Disabled car parking has been made available on each parking level, close to the lifts.

- *No indication of timing for construction of the required roundabout or completion of the road closures*

Comment:

The consent would be conditioned to ensure these items are completed prior to issue of the construction certificate (road closure) and occupation certificate for the development (bridge) as they form critical components of the construction and functioning of the development.

- *No indication of air intake for car park ventilation or HVAC systems for the supermarkets*

Comment:

The car park air intake is shown on the plans in the north-eastern corner at the Birdwood Avenue entry, whilst sufficient allowances have been made for the HVAC systems within service voids and plants rooms within the development. As with other specific items that would require further rationalisation as part of the detailed design process, this level of detail is not provided on the submitted DA plans but would be indicated on the construction certificate plans.

- *Would like details of the retail footprint, play areas, picnic areas, stage, theatre on the top floor and the bridge*

Comment:

The stage, open space areas and use and fit-out of the top level retail premises would be subject to further approval processes, whilst the bridge would be subject to a Part 5 application. Each of these applications would be publicly notified as per the relevant requirements, thereby providing the opportunity for further review and comment.

The treatment of the picnic area is being dealt with by Council's Landscape Architect, with draft conditions provided in Attachment 1 requiring the submission and approval of further details of the embellishment and treatment of the entire open space precinct prior to issue of the construction certificate to address shortcomings in the landscape design identified during initial assessment of the application.

The third submission was lodged on behalf of the owners of the large commercial development located at 71 Longueville Road and raised a specific issue in relation to traffic movement in and around the site and its impact on No. 71 Longueville Road (which is accessed off Birdwood Avenue opposite Birdwood Lane). In this regard, concern was raised that vehicles entering Birdwood Avenue from Longueville Road and then attempting to turn into No. 71 were forced to queue, thereby creating traffic problems as vehicles banked up further back into Longueville Road, a problem which would be further exacerbated by the new development. To address the issue, the submission suggested the provision of "Keep Clear" line marking across the affected area to ensure the entry into the site was not blocked by vehicles queuing across it.

Comment:

This issue was discussed at the 17th May Local Traffic Committee where the RMS objected to the proposed 'keep clear' line marking along the driveway of 71 Longueville Road (located in Birdwood Avenue) due to traffic safety grounds. Council has subsequently advised that they concur with the view of the RMS that 'Keep Clear' pavement markings are not appropriate at this location. Rather, 'Keep Clear' pavement markings are generally installed at intersections and emergency driveways to assist emergency vehicles but not at private residential or commercial driveways.

Council has acknowledged that vehicles turning right into the driveway of 71 Longueville Road would restrict traffic flow along Birdwood Avenue creating congestion along Longueville Road. As such, following the construction of this development as well as the residential flat building at Nos. 2-22 Birdwood Avenue, Council will assess the traffic conditions and take appropriate action if and as 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 and complies with all relevant provisions of Lane Cove LEP 2009, and is consistent with the goals, objectives and a number of specific strategies of the Lane Cove Community Strategic Plan 2025. The proposed development also complies with the relevant requirements of Lane Cove Development Control Plan 2010 with the exception of the amount of bicycle racks provided, where a variation to the number required has been supported by Council's Traffic and Transport Manager.

The application also demonstrates full compliance with each of the conditions of the Stage 1 consent (DA 198/2015), subject to modifications being made to that consent as recommended in the concurrent assessment report for that application and the imposition of draft conditions on the consent to this application where necessary. In this regard, the modifications sought to the Stage 1 consent would result in a development that results in no additional adverse impact on the environment or any adjoining or nearby properties over and above those addressed as part of the original approval.

Furthermore, the issues raised in submissions against the proposal are not considered to warrant refusal or modification of the proposal, but rather have been addressed in the design of the development or can be addressed via conditions of consent or via post-consent monitoring of the development by Council. 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.

The proposed development provides the opportunity for not only expanded commercial and car parking opportunities, but also open space, community facilities and amenity consistent with Lane Cove Council's Community Strategic Plan 2025.

Accordingly, it is recommended that consent be granted to DA 46/17 subject to the draft conditions listed in Attachment 1.

RECOMMENDATION

1. That consent be granted to DA No. 46/17 for the construction of construction of a six (6) level mixed use building comprising basement car park, two (2) supermarkets and ground level public open space and retail tenancies subject to the draft conditions listed in Attachment 1.
2. That those that made a submission in response to the application be advised of SNPP's decision.

Report Prepared by:

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Attachments:

1. Draft Conditions of Consent
2. Table Showing Compliance with Stage 1 Consent
3. Lane Cove DCP 2010 Compliance Table