

Sydney North Planning Panel Meeting 02 March 2022
21 TO 41 CANBERRA AVENUE AND 18 TO 32 HOLDSWORTH AVENUE, ST LEONARDS

Subject: 21 to 41 Canberra Avenue and 18 to 32 Holdsworth Avenue, St Leonards
Record No: DA21/99-01 - 1203/22
Division: Environmental Services Division
Author(s): Henry Burnett

Panel Reference	PPSSNH-243
DA Number	99/2021
LGA	Lane Cove Council
Proposed Development	Demolition of existing structures and construction of five (5) residential flat buildings (ranging from 6 to 10 storeys) comprising a total of 330 apartments and basement parking for 372 vehicles
Street Address	21 to 41 Canberra Avenue and 18 to 32 Holdsworth Avenue, St Leonards
Applicant/Owner	Applicant: Top Spring Property & Development Services Pty Ltd Owner: Silver Pond Investments Pty Ltd
Date of DA lodgement	29 July 2021
Total number of Submissions	• 65
Number of Unique Objections	• 65
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Development has a capital investment value of more than \$30 million.
List of all relevant s4.15(1)(a) matters	• relevant environmental planning instruments - SEPP 65 – Design quality of Residential Apartment Development and Apartment Design Guide (ADG); - SEPP 55 – Remediation of Land; - SEPP (Building Sustainability Index) 2004; - SEPP (Infrastructure) 2007; - SEPP (State and Regional Development) 2011; - SREP (Sydney Harbour Catchment) 2005; and - Lane Cove Local Environmental Plan 2009. • proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority - Environment SEPP (Consolidation of Sydney Harbour SREP); - Transport and Infrastructure SEPP; - Resilience and Hazards SEPP; and

	- Design and Place SEPP • relevant development control plan - Lane Cove Development Control Plan 2009 • relevant planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4 - Yes – draft planning agreement that a developer has offered to enter into under Section 7.4 (see Annexure 6 and 7) • relevant regulations e.g. Regs 92, 93, 94, 94A, 288 - Clause 92(1)(b) – Demolition of Structures • coastal zone management plan - Nil other relevant plans - St Leonards South Landscape Masterplan - St Leonards South Section 7.11 Contributions Plan - Special Infrastructure Contribution Levy Direction																																																
List all documents submitted with this report for the Panel’s consideration	<table><tr><th>Annex.</th><th>Document</th><th>Prepared By</th></tr><tr><td>1</td><td>Draft Conditions of Consent</td><td>Lane Cove Council</td></tr><tr><td>2</td><td>Development Control Plan Assessment</td><td>Lane Cove Council</td></tr><tr><td>3</td><td>Summary of Submissions</td><td>Lane Cove Council</td></tr><tr><td>4</td><td>NSROC DRP Minutes</td><td>NSROC Design Review Panel</td></tr><tr><td>5</td><td>NSROC DEP Minutes</td><td>NSROC Design Review Panel</td></tr><tr><td>6</td><td>Letter of Offer for Planning Agreement</td><td>Top Spring</td></tr><tr><td>7</td><td>Draft Voluntary Planning Agreement</td><td>Top Spring</td></tr><tr><td>8</td><td>Design Verification Statement</td><td>Bates Smart</td></tr><tr><td>9</td><td>Design Verification Statement Letter for Amended Plans</td><td>Bates Smart</td></tr><tr><td>10</td><td>SEPP 65 Assessment (ADG)</td><td>Bates Smart</td></tr><tr><td>11</td><td>Architectural Plans (Rev. 2)</td><td>Bates Smart</td></tr><tr><td>12</td><td>Landscape Plans (Rev. 2)</td><td>Arcadia</td></tr><tr><td>13</td><td>Statement of Environmental Effects</td><td>Mecone</td></tr><tr><td>14</td><td>Response to Request for Further Information</td><td>Mecone</td></tr><tr><td>15</td><td>Legal Advice – Storey Control</td><td>Mills Oakley</td></tr></table>	Annex.	Document	Prepared By	1	Draft Conditions of Consent	Lane Cove Council	2	Development Control Plan Assessment	Lane Cove Council	3	Summary of Submissions	Lane Cove Council	4	NSROC DRP Minutes	NSROC Design Review Panel	5	NSROC DEP Minutes	NSROC Design Review Panel	6	Letter of Offer for Planning Agreement	Top Spring	7	Draft Voluntary Planning Agreement	Top Spring	8	Design Verification Statement	Bates Smart	9	Design Verification Statement Letter for Amended Plans	Bates Smart	10	SEPP 65 Assessment (ADG)	Bates Smart	11	Architectural Plans (Rev. 2)	Bates Smart	12	Landscape Plans (Rev. 2)	Arcadia	13	Statement of Environmental Effects	Mecone	14	Response to Request for Further Information	Mecone	15	Legal Advice – Storey Control	Mills Oakley
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	16	Legal Advice – FSR Control	Mills Oakley
	17	Traffic Impact Assessment (Rev. 2)	JMT Consulting
	18	Arboricultural Impact Assessment (Rev. 2)	Australis Tree Management
	19	Noise Impact Assessment (Rev. 2)	Integrated Group Services
	20	Construction Noise and Vibration Management Plan	Integrated Group Services
	21	Preliminary Site Investigation (Contamination)	Golder Associates
	22	Clarification of Preliminary Site Investigation	Golder Associates
	23	Quantity Surveyors Report	WT Australia
	24	Survey Plan	Summit Geomatic
	25	Operational Waste Management Plan	Elephants Foot
	26	BASIX Certificates	Integrated Group Services
	27	Sustainable Travel and Access Plan	JMT Consulting
	28	Geotechnical Report	Golder Associates
	29	Demolition and Construction Waste Management Plan	Elephants Foot
	30	Ecologically Sustainable Design Report	Integrated Group Services
	31	Stormwater Engineering Drawings	Meinhardt Bonacci
	32	Preliminary Public Art Strategy	Barbara Flynn
	33	CPTED Report	Mecone
	34	BCA Report	Blackett Maguire and Goldsmith
	35	Access Report	Blackett Maguire and Goldsmith
	36	Notification Extent Map	Lane Cove Council
	37	NSW Police Response	North Shore PAC
	38	Office of Water General Terms of Approval	Office of Water
Clause 4.6 requests	Not applicable.		
Summary of key submissions	• Building Height • Density • Traffic and Parking • Impacts on Newlands Park		
Report prepared by	Henry Burnett		
Report date	16 February 2022		

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes

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 summarized, in the Executive Summary of the assessment report? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	Yes
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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?	Not applicable
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Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	Yes
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Conditions

Have draft conditions been provided to the applicant for comment? <i>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</i>	Yes
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1. EXECUTIVE SUMMARY

The Development Application is for the demolition of existing structures and construction of five (5) residential flat buildings (ranging from 6 to 10 storeys) comprising a total of 330 apartments and basement parking for 372 vehicles on land known as 21 to 41 Canberra Avenue and 18 to 32 Holdsworth Avenue, St Leonards.

The Development Application is referred to the Sydney North Planning Panel for determination under SEPP (State and Regional Development) 2011 as the Capital Investment Value exceeds \$30 million.

The Development Application follows from extensive design refinement through the Northern Sydney Region of Council's Design Review Panel and Design Excellence Panel prior to the lodgement of the Development Application. The resulting and subject Development Application provides a design which exhibits *design excellence* as required for all development within the St Leonards South Precinct.

The proposal has been assessed against the relevant parts of Section 4.15 of the Environmental Planning and Assessment Act, 1979. A detailed assessment of the relevant environmental planning instruments is provided in Section 6 of this report. A summary of the matters requiring consent authority satisfaction is provided in **Table A** below.

Table A – EPI Matters to be Satisfied		
EPI	Clause	Recommendation Summary
SEPP 55 Remediation of Land	7 – Contamination and remediation to be considered in determining an application.	Satisfied - PSI provided demonstrating site is suitable for continued residential use.
LCLEP 2009 – Design Excellence	7.1(4) – Provide required unit mix, green spine setbacks, site area and pedestrian link.	Satisfied – Refer to Table 7 of this report.

The Development Application was notified and 65 submissions were received. The submissions relate to height, density, traffic and impacts on Newlands Park. The submissions are summarised and addressed in the report and do not warrant refusal of the Development Application.

The Development Application is considered to set a high-standard for development within the St Leonards South Precinct in relation to the quality of design and the level of compliance with the newly made planning provisions. The Development Application is reported to the Sydney North Planning Panel with a recommendation for approval.

2. STRATEGIC CONTEXT

2.1 St Leonards South Precinct

The subject site is located within the St Leonards South Precinct. The St Leonards South Precinct was brought into effect on **1 November 2020** through amendments to *Lane Cove Local Environmental Plan 2009* and *Lane Cove Development Control Plan 2009*. The precinct planning was finalised concurrently with the *St Leonards Crows Nest 2036 Plan*.

2.2 Location

The St Leonards South Precinct is bounded by Marshall Avenue (north), Canberra Avenue (east), Park Road (west) and River Road (south) as shown in **Figure 1** below (dotted red). Key features of the locality within which the precinct is situated include the Pacific Highway, rail/metro to the east, a commercial centre and Newlands Park and Gore Hill Oval.



Figure 1: Location of the St Leonards South Precinct (Source: Bates Smart)

2.3 Vision

The vision of the St Leonards South Precinct is described within *Lane Cove Development Control Plan 2009 Part C – Residential Localities – Locality 8* as follows:

The desired future character of the St Leonards South Precinct is for a liveable, walkable, connected, safe, Precinct which builds upon the transit and land use opportunities of St Leonards and Metro Stations and commercial centre.

A concept photomontage of the St Leonards South Precinct is shown in **Figure 2** below.



Figure 2: Concept Photomontage of the St Leonards South Precinct
(Source: LCDCP 2009)

2.4 Planning Controls

The planning controls and mechanisms to achieve the vision of the Precinct are detailed and addressed in **Sections 6 and 7** of this report. The planning controls are principally contained within Part 7 of *Lane Cove Local Environmental Plan 2009* and supported by a precinct-specific part of *Lane Cove Development Control Plan 2009*, a Landscape Master Plan, a Draft Section 7.11 Contributions Plan and designation as a Special Infrastructure Contribution area.

2.5 Site in Future Envisaged Context

The subject site is located in the south-east corner of the St Leonards South Precinct and is comprised of five areas known as **Area 7 to 11**. The site in the future envisaged context would include Newlands Park and a shared user path to the east (and potential closure of Canberra Avenue to extend the park), the accessible east/west pedestrian and bicycle link to the north (provided in **Area 5 to 6**), a pocket park and Holdsworth Avenue to the west and River Road and potential signalised pedestrian/bicycle crossing to the south.



Figure 4: Subject Site in Future Envisaged Context (Source: Landscape Master Plan)

3. SITE

3.1 Subject Site

The subject site is known as 21 to 41 Canberra Avenue and 18 to 32 Holdsworth Avenue, St Leonards with a total site area of 12,653m² (**Figure 5**). The site is known as Area 7, 8, 9, 10 and 11 within the St Leonards South Precinct (**Figure 6**). The site is located in the south-eastern part of the Precinct.



Figure 5: Aerial Photograph - Subject Site Shaded Red (Source: Nearmap)



Figure 6: Area 7 to 11 within the St Leonards South Precinct (Source: LCDCP 2009)

The key site characteristics are summarised in **Table 1** below.

Table 1 – Site Characteristics of 21 to 41 Canberra Avenue and 18 to 32 Holdsworth Avenue, St Leonards	
Site Characteristic	Subject Site
Title Particulars	<u>Canberra Avenue</u> - Lot 15 Sect. 3 DP 7259 (21 Canberra Avenue) - Lot 2 DP 105732 (23 Canberra Avenue) - Lot 1 DP 105732 and Lot 17 Sect. 13 DP 7259 (25 Canberra Avenue) - Lot B DP 345135 (27 Canberra Avenue) - Lot A DP 345135 (27A Canberra Avenue) - Lot 20 Sect. 3 DP7259 (29 Canberra Avenue) - Lot 21 Sect. 3 DP7259 (31 Canberra Avenue) - Lot 22 Sect. 3 DP7259 (33 Canberra Avenue) - Lot 23 Sect. 3 DP7259 (35 Canberra Avenue) - Lot 24 Sect. 3 DP7259 (37 Canberra Avenue) - Lot B DP 411375 (39 Canberra Avenue) - Lot A DP 411375 (41 Canberra Avenue) <u>Holdsworth Avenue</u> - Lot 34 Sect. 3 DP 7259 (18 Holdsworth Avenue) - Lot 33 Sect. 3 DP 7259 (20 Holdsworth Avenue) - Lot 32 Sect. 3 DP 7259 (22 Holdsworth Avenue) - Lot 31 Sect. 3 DP 7259 (24 Holdsworth Avenue) - Lot 30 Sect. 3 DP 7259 (26 Holdsworth Avenue) - Lot 29 Sect. 3 DP 7259 (28 Holdsworth Avenue) - Lot 28 Sect. 3 DP 7259 (30 Holdsworth Avenue) - Lot 27 Sect. 3 DP 7259 (32 Holdsworth Avenue)
Total Site Area	12,653m ²
Site Frontage	Approx. 137m to Holdsworth Avenue Approx. 225m to Canberra Avenue (non-linear).
Site Depth	Irregular up to 84m between Holdsworth and Canberra Avenue.
Topography	See Section 3.1.1 below.
Zoning	R4 High Density Residential
Existing Structures	The site contains single detached or semi-detached dwelling houses on separate allotments with an assortment of ancillary structures.
Existing Use	The site is being used for residential purposes (single dwellings).
Vehicular Access	Vehicular access (existing) is provided through individual vehicle crossovers for each allotment.

3.1.1 Topography

The subject site includes a significant cross-fall of up to 21m from north to south (towards River Road) and 10.4m from west to east (from Holdsworth to Canberra Avenue) as shown in **Figure 7** below.

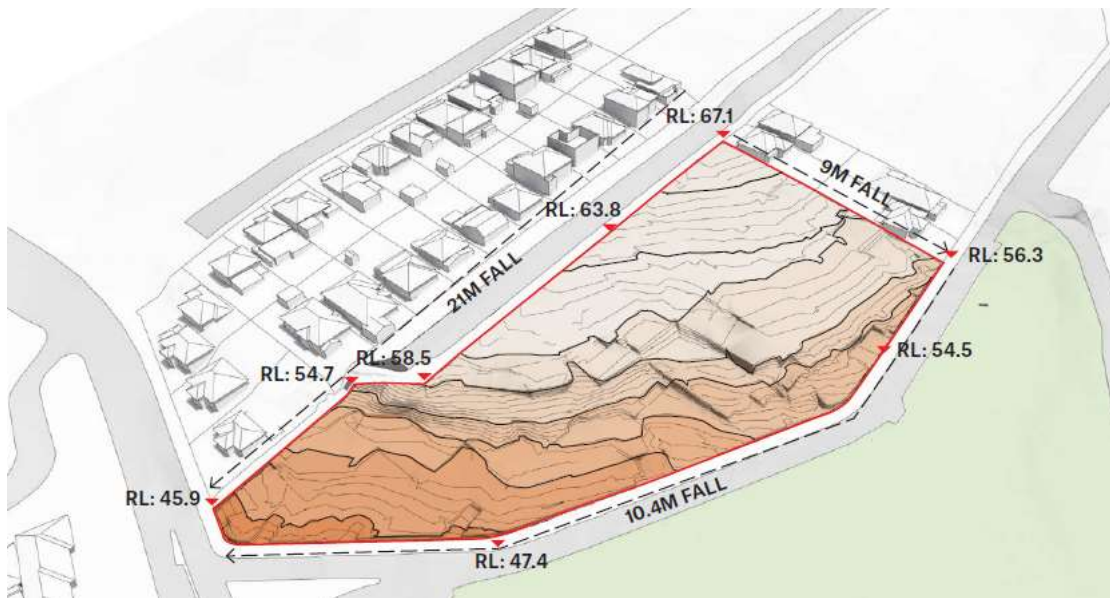


Figure 7: Topography of the Site (Source: Bates Smart)

3.1.2 Site Photographs



Figure 8: Subject Site - Canberra Avenue (Looking South)



Figure 9: Subject Site – Canberra Avenue (Looking North)



Figure 10: Subject Site – Intersection of Canberra Avenue and River Road (Looking West)



Figure 11: Subject Site – Holdsworth Avenue (Looking North)



Figure 12: Subject Site – Holdsworth Avenue (Looking South)

3.2 Adjoining Sites

The adjoining sites are summarised in **Table 2** below with photographs provided subsequently in **Section 3.2.1**.

Table 2 – Adjoining Sites	
Direction	Description
North	To the north, the site is adjoined by existing dwelling houses within the St Leonards South Precinct (within Area 5 and 6) that are to be redeveloped for an accessible pedestrian link (directly adjoining) and residential flat building development (beyond) as part of any future redevelopment of the sites (Figure 13). Further to the north on the eastern side of Canberra Avenue are located existing residential flat building developments including at 2 Canberra Avenue (Figure 14). Further to the north-east is located the St Leonards commercial core.
East	To the east, the site is adjoined by Canberra Avenue. To the eastern side of Canberra Avenue (Figure 8). To the east of Canberra Avenue is Newlands Park (Figure 15, 16 and 17). Newlands Park is triangular in shape and extends across the whole Canberra Avenue frontage of the proposed development To the east of Newlands Park is located Duntroon Avenue. On the eastern side of Duntroon Avenue are located a number of existing residential flat building developments. An example is provided in Figure 18. A train line is at the rear (east) of these residential flat buildings.
South	To the south, the site is adjoined by River Road (Figure 19). To the south of River Road is Russell Street including multi dwelling house and The Wollstonecraft Club, and Eastview Street including single detached dwelling houses.
West	To the west, the site is adjoined by Holdsworth Avenue (Figure 11). The southern end of Holdsworth Avenue connects to River Road via an existing pedestrian stair which adjoins the western boundary of the site (Figure 20).

3.2.1 Adjoining Site Photographs

3.2.1.1 North



Figure 13: 13-19 Canberra Avenue (Area 5)



Figure 14: 2 Canberra Avenue (Foreground) and St Leonards Towers (Background)

3.2.1.2 East



Figure 15: Newlands Park Entrance (North)



Figure 16: Newlands Park (Central)



Figure 17: Newlands Park (South)



Figure 18: Duntroon Avenue Apartments

3.2.1.3 South



Figure 19: River Road

3.2.1.4 West



Figure 20: Pedestrian Access from Holdsworth Avenue to River Road

4. PROPOSAL

4.1 Overview

The Development Application is for the construction of five (5) residential flat buildings (ranging from 6 to 10 storeys) comprising a total of 330 apartments and basement parking for 372 vehicles at 21 to 41 Canberra Avenue and 18 to 32 Holdsworth Avenue, St Leonards (known as Area 7 to 11). The architectural plans are provided as **Annexure 11** to this report and a summary of the key development statistics are provided in **Table 3** as follows:

4.1.1 Key Development Statistics

Table 3 – Development Statistics	
Component	Description
Number of Buildings	5 w/ common basement
Number of Storeys	6-10 Storeys
Part Storeys	1-3 Part Storeys
Building Height	24.5m - 36.8m
Gross Floor Area	32,898m ²
Floor Space Ratio	2.6:1
Total Apartments	330
Unit Mix	72 x 1 bedroom (22%) 183 x 2 bedroom (56%) 75 x 3 bedroom (23%)
Vehicular Access	Singular vehicular access point from Canberra Avenue.
Parking	372 vehicles
Pedestrian Link	The provision of a 6m wide pedestrian link in Area 11.
Deep Soil within Green Spine	50% of Green Spine



Figure 21: Proposed Site and Roof Plan



Figure 22: Proposed Overall Perspective



Figure 23: River Road Perspective – Area 11 (from the South)



Figure 24: Canberra Avenue Perspective – Area 9 (from the East)



Figure 25: East/West Pedestrian Link Perspective – Area 7 and 8 (From the North)



Figure 26: Holdsworth Avenue Perspective – Area 8 (from the West)

4.2 Staging

The Development Application is not staged development within the meaning of Section of the Environmental Planning and Assessment Act, 1979. However, the applicant proposes to construct the development in two stages. The construction stages are detailed in **Figure 27** below.

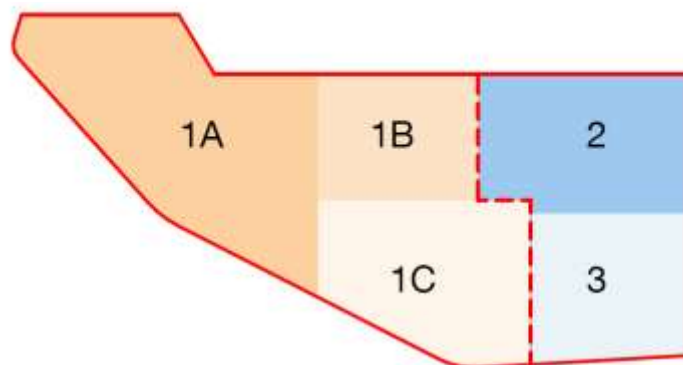


Figure 27: Staging Plan (Source: Bates Smart)

4.3 Subdivision

No subdivision is proposed as part of this Development Application. Lot consolidation is required as a draft condition of consent (refer **Annexure 1**). Any subsequent subdivision would require separate approval.

4.3 Landscaping

4.3.1 Landscape Plans

The proposal was accompanied by landscape plans provided as **Annexure 12** to this report with the landscape Site Plan provided in **Figure 28** below.



Figure 28: Landscape Plan (Source: Arcadia)

4.3.2 Tree Preservation, Removal and Replacement

A detailed list of trees proposed for retention and removal is provided in draft condition **A.7.L** (see **Annexure 1**) and the submitted arborist report (**Annexure 18**). Tree replacement is detailed in the submitted landscape document package (**Annexure 12**) and draft conditions.

4.3.2.1 Tree Preservation

The proposal includes the retention of 2 on-site trees and 12 street trees.

4.3.2.2 Tree Removal

The proposal includes the removal of 83 on-site trees and 1 street tree*

* Public domain works may require additional street tree replacement due to undergrounding of services and road design adjustments.

4.3.2.3 Tree Replacement

The submitted landscape plan details 151 proposed on-site replacement trees (ground level), 26 on-site replacement trees (rooftop). Additional tree planting is also proposed (and agreed by the applicant) through draft conditions of consent.

4.3.3 Green Spine and Rooftop Communal Open Space

The proposal provides shared communal open space in a 'green spine' (ground level communal open space) with facilities detailed in **Figure 29A** and for individual buildings on the rooftop as

shown in the overview plan in **Figure 30**. For clarity the 'green spine' is proposed to be accessible by all buildings within the subject development (**Figure 29B**), and the rooftop communal open space is accessible only to the building on which it is located.



Figure 29A: Green Spine Communal Open Space Facilities



Figure 29B: Green Spine 'Shared Zones'



Figure 30: Rooftop Communal Open Space Overview

4.4 Public Domain Works

The proposal includes the following required public domain works:

- **Pedestrian Link:** Provision of a 6m wide pedestrian and bicycle link through Area 11 connecting Holdsworth Avenue and Canberra Avenue to be dedicated to Council (by way of easement). See **Figure 31** below.
- **Undergrounding of Utility Services:** The undergrounding of utility services in the public domain adjacent to the site (e.g. Canberra Avenue electricity poles and wires).
- **Pathways:** A shared user path to Canberra Avenue and pathway to Holdsworth Avenue.
- **Road Adjustments:** Provision of tree planting blisters and kerb/gutter location to Council specifications in line with the amended road design.
- **Street Tree Planting and Structural Root Cell:** The provision of supplementary street tree planting and structural root cell to all street frontages.

A list of required public domain works is specified in draft condition of consent **A.8.P** (see **Annexure 1**).

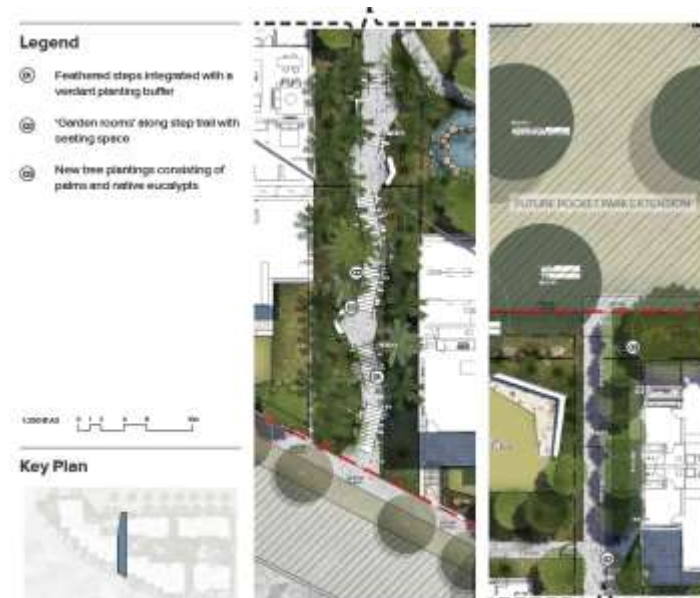


Figure 31: Pedestrian and Bicycle Link

4.5 Site Access (Vehicular and Pedestrian)

4.5.1 Vehicular Access

Vehicular access is proposed from **Canberra Avenue**. The proposal does include the closure of Canberra Avenue which would be subject to a separate Council-led process. The proposed driveway location maximises the amount of Canberra Avenue available to be integrated into Newlands Park should Canberra Avenue be closed as detailed in **Figure 32**.

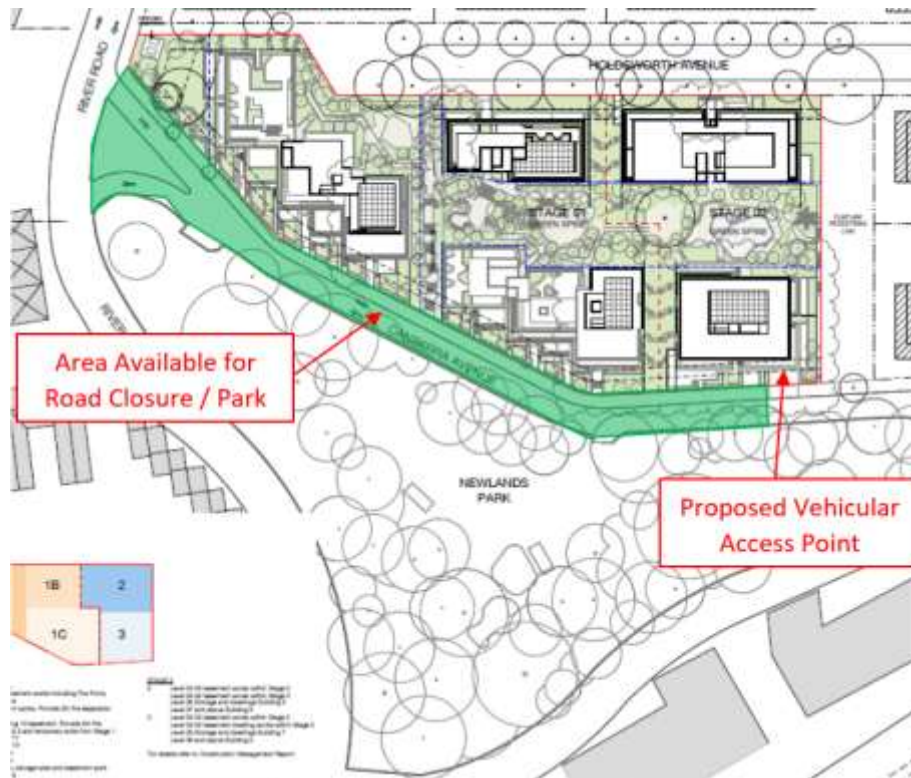


Figure 32: Vehicular Access Point and Road Closure Area

4.5.2 Pedestrian Access

Pedestrian access is provided through lobbies to each building accessible from the basement, street frontage and green spine.

4.6 Materiality

The proposed external colours and finishes are detailed in **Figure 33** and include sandstone podium materials to Canberra Avenue and

Sitting equally comfortably with the urban environment of Pacific Highway and the bushland quality of Berry's Creek, our material palette proposes a natural, robust, earthy selection of materials & finishes.

Pictured

1. Clear vision glass for windows, doors and balustrades.
2. Fluted glass for visual privacy but maintaining excellent daylight
3. Charcoal aluminium framing to door, window and balustrade frames
4. Anodised aluminium in pale bronze finish to sunshades & privacy screens
5. Balcony soffits in white painted finish
6. Facade slab edges and column edges: light gray rendered masonry
7. Facade upstand and column infill: charcoal rendered masonry
8. Sandstone Wall Cladding
9. Sandstone toned masonry
10. Decking to balconies
11. Sandstone/masonry block garden walls



Figure 33: Proposed Materiality

4.7 Private Open Space

The proposal provides private open space to each apartment in the form of balconies or ground level terraces.

4.8 Waste Management

Waste management is detailed in the submitted operational waste management plan (**Annexure 25**). Waste management is proposed to occur on-site through a central waste collection area in the basement. Waste is transported to the waste collection area through waste chutes and recyclable bin store on each residential level.

4.9 Stormwater Management

Stormwater management is detailed in the submitted stormwater management plan (**Annexure 31**). Stormwater measures include water quality treatment on-site, Onsite Detention (Building 11 basement) and a Gross Pollutant Trap. The stormwater management system is proposed to be connected to the pipe in Canberra Avenue.

4.10 Sustainability

The proposal was accompanied by the following key documents in relation to sustainability:

- BASIX Certificate (**Annexure 26**)
- Sustainable Travel and Access Plan (**Annexure 27**)
- Ecologically Sustainable Design Report (**Annexure 30**)

The reports outline various measures to achieve sustainability including a NatHERS 6-star rating, EV-charging infrastructure and electricity and water usage reduction.

4.11 Public Art

The proposal was accompanied by a preliminary public art strategy (**Annexure 32**) which selects an artist and outlines the process for the design and installation of public art to the value of \$1,000,000.00 on the site.

5. ASSESSMENT HISTORY

5.1 Assessment Timeline

The assessment timeline is provided in **Table 4** below.

Table 4 – Proposal Timeline	
Date	Description
9 February 2021	NSROC Design Review Panel Meeting and Council Pre-DA Meeting.
27 April 2021	NSROC Design Excellence Panel Meeting.
29 July 2021	Subject Development Application lodged.
2 August 2021	Public notification of Development Application and Draft VPA commenced.
14 September 2021	Public notification of Development Application and Draft VPA concluded.
30 September 2021	Letter sent to the applicant requesting additional information.
27 October 2021	Applicant provided preliminary response to additional information request.
7 December 2021	Briefing of the Sydney North Planning Panel.
7 December 2021	Applicant provided response to additional information request.

5.2 Design Amendments

A summary of the architectural plan amendments made is provided in **Table 5** below.

Table 5 – Plan Amendments	
Revision	Description
Revision 1	Submitted with Development Application.
Revision 2	Submitted on 7 December 2022 as part of the response to request for additional information. The principal amendments are as follows: • Driveway Relocation: Relocation of the driveway entrance further north on Canberra Avenue to maximise potential extension of Newlands Park. • East/West Link: Amendments to the east/west pedestrian link in Area 11 to provide a 6m unencumbered width. • Building 11: Reducing the extent of the upper storey on the upper most level to align with the DCP storey control.

NOTE: The design amendments are not reflected in the 3D Perspectives (**Figure 22 to 26**) but are reflected in the architectural plans (**Annexure 11**).

5.3 Additional Information

A summary of the additional information provided is provided in **Table 6** below.

Table 6 – Additional Information	
Report	Description
Response to Request for Further Information	Cover letter from Mecone (Annexure 14) addressing the request for further information.
Traffic Impact Assessment	Amended to reflect the revised driveway location (Annexure 17).
Arboricultural Impact Assessment	Amended to be consistent with proposed plans in relation to tree retention/removal (Annexure 18).
Noise Impact Assessment	Amended to address rail noise in Section 4.1 of the Noise Impact Assessment (Annexure 19).
Landscape Plans	Amended to reflect the amended architectural design (Annexure 12).
Clarification of Preliminary Site Investigation	Letter confirming satisfactory findings of Preliminary Site Investigation (Annexure 22).
Design Verification Statement Letter for Amended Plans	Supplementary design verification letter for amended architectural plans (Annexure 9).
Legal Advice (FSR)	Interpretation of LCLEP 2009 relating to utilising a single site area for the calculation of FSR (Annexure 16).
Legal Advice (Storey Control)	Interpretation of LCLEP 2009 and LCDCP 2009 relating to height of buildings and the part storey control (Annexure 16).

6. SECTION 4.15 ASSESSMENT

The following assessment is provided against the relevant provisions of Section 4.15 of the NSW Environmental Planning and Assessment Act, 1979:

6.1 Any environmental planning instrument:

6.1.1 Lane Cove Local Environmental Plan 2009

6.1.1.1 Permissibility

The site is zoned R4 High Density Residential under LCLEP 2009. Residential flat buildings are permissible with consent in the R4 High Density Residential zone. The proposed development is therefore permissible with consent.



Figure 34: Zoning (Source: Eplanning Spatial Viewer)

6.1.1.2 Incentive Building Height and Floor Space Ratio

An incentive building height and floor space ratio control apply to the site under LCLEP 2009.

6.1.1.2.1 Accessing Incentive Provisions

The incentive building height and floor space ratio are available only if the incentive provisions of Part 7.1(4) of LCLEP 2009 are met. The incentive provisions in Part 7.1(4) are as follows:

- **Unit Mix:** Minimum 20% of each 1, 2 and 3 bedroom dwellings (Part 7.1(4)(a)-(c);
- **Green Spine:** Setbacks to establish communal open space between buildings (Part 7.1(4)(d));
- **Minimum Site Area:** Site amalgamations as per **Figure 3** (Part 7.1(4)(e) and Part 7.2);
- **Affordable Housing:** The provision of affordable housing (Part 7.1(4)(f) and Part 7.3);
- **Recreation Areas and Community Facilities:** The provision of recreation areas and community facilities (Part 7.1(4)(g) and Part 7.4); and
- **Pedestrian Links and Roads:** The provision of pedestrian links and roads (Part 7.1(4)(h) and Part 7.5).

Note: Unit mix, green spine and site area provisions apply to all sites. Affordable housing, recreation areas and community facilities, and pedestrian links and roads are allocated on a per site/area basis.

6.1.1.2.2 Compliance with Incentive Provisions

An assessment against the relevant incentive activating provisions is provided in **Table 7** as follows:

Table 7 – Applicable Incentive Provisions			
Category	Requirement	Proposed	Compliance
Unit Mix	Minimum 20% of 1/2/3 bedroom units	72 x 1 bed (22%) 183 x 2 bed (56%) 75 x 3 bed (23%)	Yes
Green Spine Setbacks	The provision of setbacks to establish communal open space and green spines between buildings.	Setbacks provide for the required and planned green spine widths.	Yes
Pedestrian Link	The provision of a 6m wide pedestrian and bicycle link in Area 11.	Provided.	Yes
Minimum Site Area	The amalgamation of all sites within each development area.	Provided through draft condition of consent (refer to condition F.15.P).	Yes

The proposal complies with the provisions of 7.1(4) of LCLEP 2009 and accordingly

6.1.1.2.3 Incentive Building Height and Floor Space Ratio Controls

The incentive building height (**Figure 33**) and incentive floor space ratio (**Figure 34**) apply to the development.

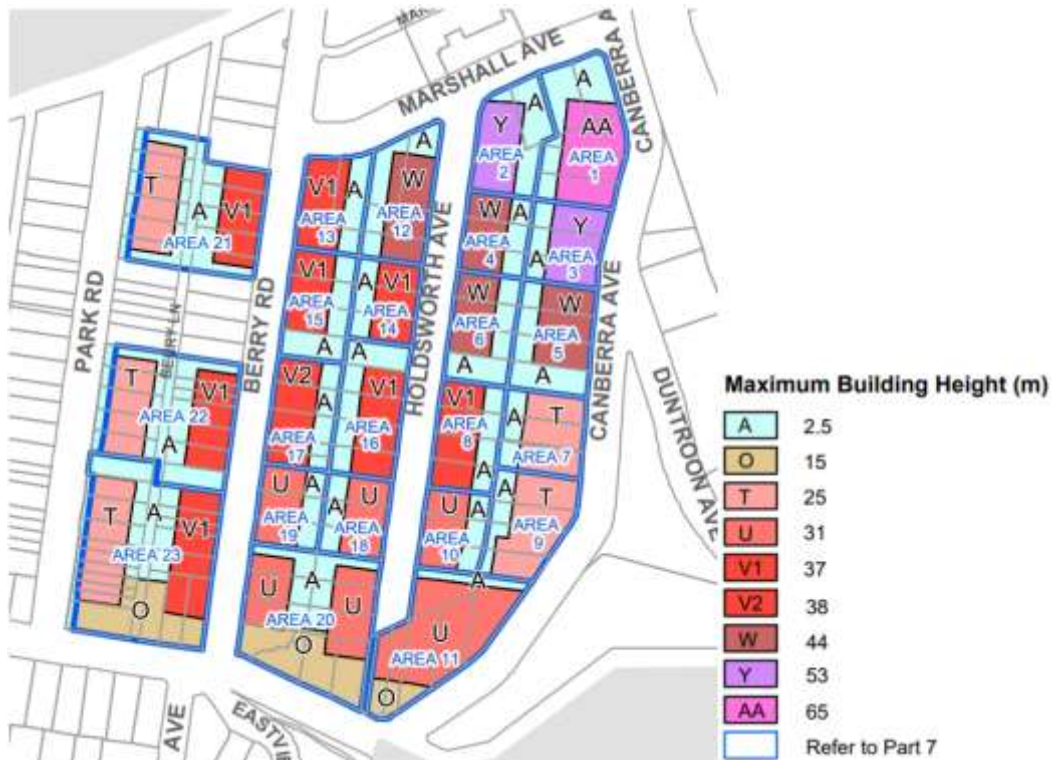


Figure 33: Maximum Building Height Map



Figure 34: Maximum Floor Space Ratio Map

6.1.1.2.4 Compliance with Incentive Building Height and Floor Space Ratio Controls

i. Building Height

An assessment of the proposal against the incentive building height provisions is provided in **Table 8** below.

Table 8 – Compliance with Incentive Building Height			
Category	Incentive Building Height (Max.)	Proposed	Compliance
Area 7	25m	24.9m	Yes
Area 8	37m	36.8m	Yes
Area 9	25m	24.5m	Yes
Area 10	31m	30.9m	Yes
Area 11	31m	30.96m	Yes

Note: The incentive building height map includes a 2.5m zone through the pedestrian link and green spine. The proposal complies with this provision in addition to the above building height provisions.

ii. Floor Space Ratio

An assessment of the proposal against the incentive floor space ratio provisions is provided in **Table 9** below.

Table 9 – Compliance with Incentive Floor Space Ratio			
Category	Incentive FSR (Max.)	Total Proposed	Compliance
Area 7	2.6:1	2.6:1	Yes
Area 8	2.6:1		
Area 9	2.6:1		
Area 10	2.6:1		
Area 11	2.6:1		

The applicant submitted a legal opinion in relation to totalling the FSR across the entire site area (**Annexure 16**). The conclusions of the advice are considered satisfactory namely:

- i. The FSR is the same (2.6:1) across the development site; and
- ii. 'Site Area' is defined under LCLEP 2009 by the development site boundaries not individual areas.

If either (i) or (ii) were not satisfied above, the proposed approach to FSR would not be supportable. The proposal is considered satisfactory with respect to the maximum floor space ratio.

iii. **Clause 4.6 Prohibition**

The incentive provisions are excluded from the operation of Clause 4.6 of LCLEP 2009. The proposed development does not seek to vary the incentive floor space ratio or building height control and as such does not seek to rely on Clause 4.6 of LCLEP 2009.

6.1.1.3 Design Excellence

Part 7.1.6 of LCLEP 2009 states that consent authority must not grant consent unless it considers the development exhibits design excellence. The criteria and associated assessment is provided in **Table 10** as follows:

Table 10 – Compliance with Design Excellence Provisions			
Clause	Provision	Comment	Compliance
7.1.6(4)(a)	<i>whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved</i>	The DEP noted high standards of architectural design, materiality and detailing. The submitted DA retains and enhances these elements.	Yes
7.1.6(4)(b)	<i>whether the form and external appearance of the development will improve the quality and amenity of the public domain,</i>	The form and external appearance integrates well with the public domain with further refinement provided through draft conditions of consent in relation to front fencing treatment and landscaping to public domain.	Yes
7.1.6(4)(c)	<i>whether the development protects and enhances the natural topography and vegetation including trees or other significant natural features,</i>	The site has a significant slope. The proposal seeks to respond to the topography through the provision of activated part storeys, retention of significant public domain trees (to River Road) and undulating and cascading landscape design.	Yes
7.1.6(4)(d)	<i>whether the development detrimentally impacts on view corridors,</i>	The proposal would not detrimentally impact on view corridors.	Yes
7.1.6(4)(e)	<i>whether the development achieves transit-oriented design principles, including the need to ensure direct, efficient and safe pedestrian and cycle access to nearby transit nodes,</i>	The proposal would provide for a high-level of integration into pedestrian and cycle infrastructure including the provision of a shared user path on Canberra Avenue, a pedestrian and bicycle link through Area 11 and the provision of highly accessible bicycle storage facilities from these connection points.	Yes

7.1.6(4)(f)	the requirements of the <i>Lane Cove Development Control Plan</i> ,	The proposal has been assessed against the Lane Cove Development Control Plan and is considered satisfactory (see Section 6.3).	Yes
7.1.6(4)(g)	<i>how the development addresses the following matters—</i> <i>(i) the suitability of the land for development,</i> <i>(ii) existing and proposed uses and use mix,</i> <i>(iii) heritage issues and streetscape constraints,</i> <i>(iv) the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,</i> <i>(v) bulk, massing and modulation of buildings,</i> <i>(vi) street frontage heights,</i>	(i) The land is suitable for the development; (ii) The proposed use mix (residential) is appropriate given the zoning. The development is not required to provide alternate uses (affordable housing, child care etc.) and the location of the site within the Precinct means the exclusion of other permissible uses is reasonable (café etc.); (iii) The proposal does not include heritage items or a specific heritage interface, and the streetscape presentation is of a high quality subject to conditions of consent. (iv) The separation, setbacks, amenity and urban is satisfactory as the site is developed as a whole (Area 7 to 11) and the interrelationships have been carefully managed. (v) The proposal provides for modulation in line with the DCP in relation to street wall heights, horizontal articulation and the number of storeys. (vi) Street frontage heights comply with the DCP factoring in the allowance of part storeys on a significantly sloping site.	Yes

	<i>(vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,</i> <i>(viii) the achievement of the principles of ecologically sustainable development,</i> <i>(ix) pedestrian, cycle, vehicular and service access, circulation and requirements,</i> <i>(x) the impact on, and any proposed improvements to, the public domain,</i> <i>(xi) the configuration and design of publicly accessible spaces and private spaces on the site.</i>	(vii) The environmental impacts have been reduced through significant landscaping, sustainability initiatives (Nathers 6-star, EV charging) and minimising overshadowing. A wind report is not required for the scale of the proposed development. (viii) ESD is achieved as outlined in the submitted ESD Report and in achieving compliance with the DCP. (ix) The development provides for a high level of pedestrian connectivity within and in the adjacent public domain to the site. Vehicular and service access is of a high quality with a single driveway entry enhancing public park opportunities and reducing the number of vehicle crossings in the public domain. (x) The proposal would provide for substantial improvements to the public domain as outlined in the proposed plans and draft conditions of consent. (xi) The draft concept pedestrian link plans are of a high quality and would be subject to further Council approval prior to construction. The private spaces on site provided through the green spine (ground level) and rooftop communal open space provide the anticipated level of amenity, facilities and depth and quality of landscaping.	
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6.1.1.4 Other Provisions

The proposal has been assessed against the following additional provisions of LCLEP 2009 as detailed in **Table 11** below.

Table 11 – Additional LCLEP 2009 Provisions			
Clause	Provision	Comment	Compliance
6.1A - Earthworks	<i>(3) Before granting development consent for earthworks, the consent authority must consider the following matters—</i> <i>(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,</i> <i>(b) the effect of the proposed development on the likely future use or redevelopment of the land,</i> <i>(c) the quality of the fill or the soil to be excavated, or both,</i> <i>(d) the effect of the proposed development on the existing and likely amenity of adjoining properties,</i> <i>(e) the source of any fill material and the destination of any excavated material,</i> <i>(f) the likelihood of disturbing relics,</i> <i>(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.</i>	The proposal would result in up to 17m of excavation. The proposal was accompanied by geotechnical and construction and demolition waste management plans that ensure proper fill disposal, detail soil stability conditions and considerations, and a referral has been sent to Water NSW in relation to groundwater impacts and their concurrence received. All matters required to be addressed under Clause 6.1A are addressed by the applicant and inform draft conditions of consent.	Yes

The Development Application complies with Lane Cove Local Environmental Plan 2009.

6.1.2 SEPP 65 – Design Quality of Residential Development

The proposal was accompanied by a Design Verification Statement satisfying Clause 50 of the Environmental Planning and Assessment Regulation 2000 (**Annexure 8 and 9**).

Clause 28(2) of SEPP 65 states that in determining a development application for consent to carry out development to which this Policy applies, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration) –

- (a) the advice (if any) obtained from the design review panel (see **Section 6.1.2.1**), and
- (b) the design quality of the development when evaluated in accordance with the design quality principles (see **Section 6.1.2.2**), and
- (c) the Apartment Design Guide (see **Section 6.1.2.3**).

6.1.2.1 Design Review Panel

The Development Application was referred to the Northern Sydney Regional of Council's Design Review Panel on 9 February 2021 and Design Excellence Panel on 27 April 2021. The minutes of the meeting are provided as **Annexure 4 and 5** to this report. Key Panel comments are incorporated into design quality principle assessment below. Note: A reference to the Design Review Panel hereinafter refers to both the Design Review Panel and Design Excellence Panel.

6.1.2.2 Design Quality Principles

The design quality of the development has been assessed in relation to the design quality principles contained within SEPP 65. The principles are quoted and then addressed in turn.

PRINCIPLE 1: CONTEXT AND NEIGHBOURHOOD CHARACTER

Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.

Comment: The proposal responds to its context and neighbourhood character. The Design Review Panel noted a design that responds well to the significant topography, the provision of significant deep soil within the green spine, the additional setbacks to Building 11 to allow tree retention to River Road and the townhouse form to Canberra Avenue as all being site responsive design elements that will contribute to the existing future character while being sensitive to the interface with the established character. The proposed design satisfies Principle 1: Context and Neighbourhood Character.

PRINCIPLE 2: BUILT FORM AND SCALE

Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

Comment: The Design Review Panel supports the proposed built form and scale in particular the Canberra Avenue / Newlands Park interface and the 9m building separation between buildings within the development site. The departure from the reference scheme for Building 11 is a significant improvement that allows for an integration of open space with the future Holdsworth Avenue Pocket Park. The development complies with the maximum building height control and the number of storeys control. The proposed design satisfies Principle 2: Built Form and Scale.

PRINCIPLE 3: DENSITY

Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.

Comment: The proposed density of the development is consistent with the maximum incentive floor space ratio. It is noted that the envisaged dwelling yield for Area 7 to 11 was 354 dwellings where 330 dwellings are proposed. While these numbers are indicative only, the proposed development is not exceeding the anticipated density on two measures (FSR and anticipated dwelling yield). The proposed design satisfies Principle 3: Density.

PRINCIPLE 4: SUSTAINABILITY

Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.

Comment: The proposal provides for substantial deep soil zones in accordance with the Landscape Master Plan, high-quality ground level and rooftop communal open space, compliant natural ventilation, and compliant solar access (on a development wide basis). Other sustainability measures are provided for as required by BASIX and the recommended draft conditions of consent (EV charging and NatHERS 6-star rating). The proposed design satisfies Principle 4: Sustainability.

PRINCIPLE 5: LANDSCAPE

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood. Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks. Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.

Comment: The proposal provides for a high-quality landscape scheme to the street frontages, within the site and green spine, to the rooftops, and in-between buildings, response to the specific micro-climate conditions created across the site through building placement, topography and site orientation. The Design Review Panel supports the landscape scheme including deep soil, well-defined circulation, the amenity facilities provided, and the retention of two significant trees. The proposed design satisfies Principle 5: Landscape.

PRINCIPLE 6: AMENITY

Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being. Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.

Comment: The design provides for high levels of external amenity within the green spine (Accessible to Building 7 to 11) and to rooftop areas. The southern buildings are all provided with high-quality rooftop communal open space areas (Buildings 9, 10 and 11) to provide greater access to sunlight. The Design Review Panel is satisfied with the proposed internal amenity in relation to room layouts, solar access and natural ventilation. The proposed design satisfies Principle 6: Amenity

PRINCIPLE 7: SAFETY

Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety. A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.

Comment: The proposal would provide for appropriate safety through the provision of active street frontages, passive surveillance of public and communal areas, and the incorporation of crime prevention through environmental design principles. The proposed design satisfies Principle 7: Safety.

PRINCIPLE 8: HOUSING DIVERSITY AND SOCIAL INTERACTION

Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.

Comment: The proposal provides for an appropriate apartment mix (minimum 20% 1/2/3 bedroom units. The proposal provides for 20% adaptable apartments, 80% visitable apartments and well-connected communal open space areas including within the green spine. The proposal will provide for an east/west pedestrian and bicycle link within Area 11 (non-accessible) and an accessible connection to the east/west pedestrian and bicycle link. The proposed design satisfies Principle 8: Housing Diversity and Social Interaction.

PRINCIPLE 9: AESTHETICS

Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures. The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.

Comment: The Design Review Panel supports the proposed materials palette. The streetscape presentation to Canberra Avenue is particularly well-designed with the sandstone base materials. It is noted that the aesthetics would be further strengthened through front fence refinement in accordance with the draft recommended conditions of consent to provide additional setbacks for landscaping. The proposal provides for a highly integrated aesthetic (built-form, landscape, public/private domain interfaces). The proposed design satisfies Principle 9: Aesthetics.

6.1.2.3 Apartment Design Guide

A SEPP 65 assessment against the Apartment Design Guide is provided as **Annexure 10** to this report.

6.1.2.3.1 Clarification/Variation

The Apartment Design Guide variations are identified and matters of clarification discussed as follows:

i. Building Separation (Clarification)

Part 3F – Visual Privacy of the ADG provides minimum building separation distances between buildings. The ADG allows a 9m building separation for a **habitable/non-habitable interface** (1-4 storeys and for a **non-habitable/non-habitable interface** (5-8 storeys). The proposed design provides for these conditions through design treatments. The Design Review Panel reviewed in detail the building separation within the site and to adjoining development sites. The Panel was of the view that given the applicant is developing both buildings they can appropriately treat the interface, that providing additional separation has limited value as they are non-accessible landscaped areas due to topography, and that the proposal retains compliant separation to adjoining development sites. **Annexure 8 – Design Verification Statement** (page 45 of the document) provides further discussion in this regard.

ii. Solar Access (Variation)

Part 4A Solar and Daylight Access of the ADG requires 70% apartments achieve the required solar access (2 hours to living rooms and balconies on the winter solstice). The proposal provides a compliant 70.2% overall. If considered on a per building basis Building 9 and 11 receive 47% as detailed in **Figure 35** below. Both buildings that receive less than 70% individually (Building 9 and 11) are on south facing sloping sites. The ADG specifically states that on south facing sloping sites the design criteria may not be achievable. The applicant has sought to provide higher levels of solar access in Building 7, 8 and 10 to ensure that the overall figure of 70% is achieved. Further to this, the Design Review Panel commended the provision of high quality rooftop communal open space for the buildings receiving less than 70% (Building 9 and 11) which will help provide additional daylight access for residents of buildings/apartments that receive less than the 2 hours solar access. A variation to solar access for Building 9 and 11 is considered satisfactory in this instance.



Figure 35: Solar Access Diagram

iii. Balcony Size (Variation)

Part 4E of the ADG specifies minimum balcony sizes. 326 out of the 330 apartments provide compliant balcony sizes. **Annexure 10** identifies 4 one-bedroom apartments in Building 8 that have a balcony size of 7m² instead of the required 8m². The reduced area is resultant from a Council request to increased building articulation. The variation is minor in scale and scope and the increased building articulation will provide for higher amenity into the affected apartments.

iv. Living Room Width (Variation)

Part 4D of the ADG species minimum living room widths. 329 out of the 330 apartments provide compliant living room widths. **Annexure 10** identifies 1 unit which provides a 3.7m wide living room in lieu of 4m. The variation is minor in scale and scope and is considered satisfactory in this instance.

The Development Application complies with SEPP 65.

6.1.3 SEPP 55 – Remediation of Land

The proposal is assessed against the relevant provisions of SEPP 55 as detailed in **Table 12** below.

Table 12 – SEPP No. 55 Clause 7 Compliance Table	
Provision	Compliance
(1) A consent authority must not consent to the carrying out of any development on land unless -	Complies - The proposal was accompanied by a Preliminary Site Investigation Report (Annexure 20 and 21) to assist Council in determining compliance with Clause 7(1) of SEPP No. 55 which does not raise any issues of contamination.
(a) it has considered whether the land is contaminated	
(b) if the land is contaminated, it is satisfied the land is suitable in its contaminated state (or will	

Table 12 – SEPP No. 55 Clause 7 Compliance Table	
Provision	Compliance
<i>be suitable, after remediation) for the purpose for which the development is proposed, and</i> <i>(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.</i>	
<i>(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.</i>	Complies – Preliminary Site Investigation Report submitted and found to be satisfactory.
<i>(3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.</i>	Complies – The Preliminary Site Investigation Report does not give rise to the requirement for a Detailed Site Investigation Report.
<i>(4) The land concerned is—</i> <i>(a) land that is within an investigation area,</i> <i>(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,</i> <i>(c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land—</i> <i>(i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and</i> <i>(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).</i>	Complies - The site is not within an investigation area or listed in Table 1 to the guidelines. A preliminary site investigation was submitted to

The Development Application complies with SEPP 55.

6.1.4 SEPP (BASIX) 2004

A BASIX certificate accompanies the application and is provided as **Annexure 26** to this report. The BASIX Certificate demonstrates compliance with the provisions of the SEPP and is consistent with the architectural documentation submitted.

The Development Application complies with SEPP (BASIX) 2004

6.1.5 SEPP (Infrastructure) 2007

The proposal has been assessed against the relevant provisions of SEPP (Infrastructure) 2007 as detailed in **Table 13** below.

Table 13 – SEPP (Infrastructure) 2007 Assessment		
Clause	Assessment	Compliance
101 – Development with Frontage to Classified Road	No driveways are provided to River Road in compliance with the clause. Transport for NSW provided comment that no service access to the electricity kiosk is allowed from River Road. The applicant amended the plans to remove access from River Road.	Yes
102 – Impact of road noise or vibration on non-road development	The proposal was accompanied by a Noise Impact Assessment which appropriately addresses the impact of road noise on the development in accordance with the Guidelines.	Yes
104 – Traffic-generating development	The proposal was referred to Transport for NSW under Clause 104. Transport for NSW requested deletion of a driveway access as detailed above which was provided for. No other objections were raised by Transport for NSW.	Yes

The Development Application complies with SEPP (Infrastructure) 2007.

6.1.6 SEPP (State and Regional Development) 2011

The Development Application is referred to the Sydney North Planning Panel for determination as the Capital Investment Value is \$146,372,727.00 (exceeding \$30 million) satisfying the requirements of SEPP (State and Regional Development) 2011.

The Development Application complies with SEPP (State and Regional Development) 2011.

6.1.7 SREP (Sydney Harbour Catchment) 2005

The subject site is within the Sydney Harbour Catchment generally and not within the foreshore or waterways area. Therefore, the relevant part of SREP (Sydney Harbour Catchment) 2005 is the planning principles for the Sydney Harbour Catchment (Clause 13). The principles have been reviewed and the proposal satisfies the relevant matters. Specifically, the proposal provides for appropriate stormwater management to protect the catchment including pollutant control and additional landscaped areas to the southern part of the site through larger than existing building setbacks providing a better transition to the foreshore and waterways area south of River Road.

The Development Application complies with SREP (Sydney Harbour Catchment) 2005.

6.2 Any proposed instrument (Draft LEP, Planning Proposal)

6.2.1 Design and Place SEPP

A ministerial direction states that the Design and Place SEPP is not a mandatory consideration (refer DPE note) and in any event would include a savings provision relating to existing but not determined Development Applications.

6.2.2 Resilience and Hazards SEPP

The Resilience and Hazards SEPP is proposed to come into force on 1 March 2022. There are no savings provisions within this new SEPP; the provisions of SEPP 55 are to be directly imported into Chapter 4 of the new SEPP upon its commencement (per clause 2 of Schedule 3 to the new SEPP). Once published, this policy will apply to the Development Application. The proposal would be consistent with the Resilience and Hazards SEPP.

6.2.3 Transport and Infrastructure SEPP

The Transport and Infrastructure SEPP is proposed to come into force on 1 March 2022. There are no savings provisions within this draft SEPP; Parts 1 to 3 of the Infrastructure SEPP are to be directly imported into Chapter 2 of the new SEPP upon its commencement (per clause 1 of Schedule 12 to the new SEPP). Once published, this policy will apply to the Development Application. The proposal would be consistent with the Transport and Infrastructure SEPP.

6.2.1 Environment SEPP

The Environment SEPP is proposed to consolidate a number of environmental planning instruments including SREP (Sydney Harbour Catchment) 2005. The intended aims and objectives of the SEPP review as it relates to SREP (SHC) 2005 have been reviewed and the assessment for this site in particular (being in the catchment area more broadly) is unlikely to change. The proposal would be consistent with the Environment SEPP.

6.3 Any development control plan

6.3.1 Lane Cove Development Control Plan 2009

The Development Application has been assessed against the relevant provisions of Lane Cove Development Control Plan 2009 as detailed in **Annexure 2**.

6.3.1.1 Variations/Clarification

i. Front Setbacks (Building 9 and 11) (Variation)

The DCP requires a 5 storey street wall with a minimum 4m setback, and an additional 3m setback (7m total) for any additional storey. The building front setbacks fully comply with LCDCP 2009 for Building 7, 8 and 10 where the frontage is linear and parallel to the road. An alternate approach is proposed for Building 9 and 11 where there is non-linear frontage. The applicant has provided a detailed justification for this alternate approach for Building 9 and 11 in **Annexure 8** (page 39). An excerpt from this justification to explain the proposed variation is provided in **Figure 36** below. The variation is considered to achieve the intent of the DCP by providing on average equal to or greater than the DCP provision with the exception of storey 6 and 7 (when measured from the street) which is on average 6.5m instead of 7m. However this is considerably offset by a greater upper level setback, and visual impact minimised through the stepping of the built form both horizontally and vertically. In addition, the Design Review Panel was supportive of the proposed building setback approach for Building 9 and 11.

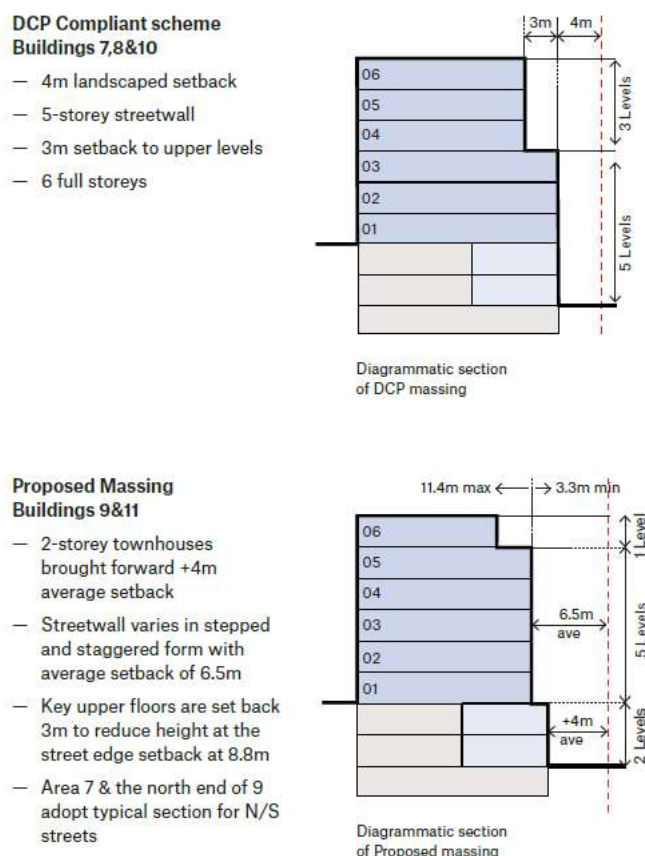


Figure 36: Proposed Front Setback Treatment

ii. Part Storeys (Clarification)

The DCP includes a maximum number of storeys control. Importantly, the DCP includes the following in relation to calculating the number of storeys:

Part storeys resulting from excavation of steep slopes or semi basement parking will not count as a storey.

Where there is any part of a storey beneath the ground level (existing) resulting from (1) excavation of a steep slope **or** (2) including basement parking, the entire storey will not be counted as a storey.

Council has received extensive advice in relation to the application of the part storey control and are of the view that the applicant's interpretation of the control (1-3 part storeys) is satisfactory. It is noted that the topography of the subject site is the steepest in the Precinct and it is unlikely that the degree of part storeys would be experienced elsewhere within the Precinct.

iii. Building Depth (Variation)

The DCP specifies a maximum building depth of 18m-22m. The proposal provides a compliant depth for Building 8, 10 and 11. Building 7 and 9 would vary the maximum building depth for a portion of the building however the increased depth does not impact compliance with relation to SEPP 65 (Glass-line to glass-line) which is considered the prevailing control.

6.4 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The impacts of the development have been considered and addressed by the applicant revisions and now demonstrates no adverse impact either to the natural and built environments, social and economic or amenity of the locality as detailed within this report.

6.5 The suitability of the site for the development

The site suitability has been established at the strategic planning stage and is further confirmed in the submitted documentation and this planning report.

6.6 Any submissions made in accordance with this Act or the regulations

The proposal was notified in accordance with Lane Cove Council's Notification Policy.

i. Notification Extent

The Development Application was notified to the extent shown in the Public Notification Map included as **Annexure 36** to this report.

ii. Notification Periods

The notification periods for each of the plan revisions, and the number of submissions received, are summarised in the following table:

Table 14 – Public Notification			
Plan Revision	Lodgement Date	Notification Period	Submissions Received
Revision 1	29 July 2021	03/08/2021 – 14/09/2021	65
Revision 2	7 December 2021	Nil*	Nil*
		Total	65

The Revision 2 plans were not renotified as allowed for under Council's notification policy:

4.7 Renotification

*Amended plans that address those concerns raised by objectors and **that are considered not to be significantly different from the original proposal**, or amended plans that are considered to have a reduced impact, no significant impact on the enjoyment of the adjoining land may not be renotified to neighbouring property owners or occupiers.*

Revision 2 plans are not significantly different from the previously notified design. Accordingly, renotification was not required under Council's Notification Policy.

iii. Summary of Submissions

The 65 submissions received are summarised and addressed in **Annexure 3** to this report.

6.7 Public Interest

The proposal is in the public interest as the development would meet the objectives of the R4 High Density Residential zone, is highly consistent with the supporting planning scheme and future desire character of the area and provides for dwellings within a high-density residential environment.

7. CONTRIBUTIONS

7.1 Voluntary Planning Agreement

The provision of infrastructure is proposed to be facilitated in part through the Draft St Leonards South Section 7.11 Contributions Plan. The Plan is under review by IPART with their draft report having undergone public consultation and a final report due December 2021.

Given the Section 7.11 Plan is not yet in force, Voluntary Planning Agreements with Council are being proposed by applicants as a mechanism to provide for infrastructure delivery and funding to support the development.

A Draft VPA was notified concurrently with the Development Application and includes both the requirement to provide monetary contributions to Council for infrastructure works equivalent to the Section 7.11 Plan and works-in-kind offers in addition to deliver Canberra Avenue and Holdsworth Avenue works (should they proceed).

7.2 Special Infrastructure Contribution

The site is within the St Leonards and Crows Nest Special Contributions Area which requires the payment of a contribution to support the St Leonards and Crows Nest 2036 Plan.

7.3 Conditions of Consent

Refer to **Annexure 1** and draft condition of consent **A.5**.

8. CONCLUSION

The Development Application has been assessed in accordance with the Environmental Planning and Assessment Act, 1979 and is considered satisfactory. The proposed residential flat building development responds to the site constraints, is consistent with the planning controls, would provide for the planned density and achieve design excellence on one of the more constrained sites within the St Leonards South Precinct. The Development Application is reported to the Sydney North Planning Panel with a recommendation for approval.

(LAST PAGE)

RECOMMENDATION

Mark Brisby
Executive Manager
Environmental Services Division

ATTACHMENTS:

There are no supporting documents for this report.