

HYECORP

23 May 2022

The General Manager
Lane Cove Council
PO Box 20,
Lane Cove NSW, 2066

CC: Greg Samardzic

Attn: The General Manager

DA162/2021 Demolition of Existing Structures and Construction of a Residential Flat Building Development at 13-19 Canberra Avenue, St Leonards

Thank you for the opportunity to provide this response to Council's letter dated 21 March 2022 in relation to the abovementioned Development Application.

Hyecorp and our team, including award winning SJB Architects and Site Image Landscape Architects, in preparing the initial Development Application underwent an extensive design and consultative process since May 2021. This involved:

- Multiple Council meetings including PreDA, planning and design workshops/meetings with Council's different internal teams; and
- Multiple Design Review and Excellence Panel meetings.

This extensive consultative process carefully examined the many intricacies of the site and design to resolve and ensure the development achieves design excellence and balanced outcomes in complying with the objectives of the *Oculus St Leonards South Landscape Master Plan* and *Lane Cove Local Environmental Plan 2009*.

It is important to note that the redevelopment of Area 5 is required to deliver the most significant quantifiable public benefits across the entire St Leonards South Precinct. These are summarised below:

Requirements	Proposed
Construction and dedication to Council of a 15m wide east west pedestrian link to enable connection between Holdsworth Avenue and Canberra Avenue comprising a pedestrian lift for accessible persons.	Construction and dedication to Council of a 15m wide east west pedestrian link to enable connection between Holdsworth Avenue and Canberra Avenue comprising a pedestrian lift for accessible persons.

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Construction and dedication to Council a minimum 600m ² of community facility comprising: <ul style="list-style-type: none">• 450m² childcare centre for 60 children; and• 150m² community facility.	Construction and dedication to Council 843.5m ² (243.5m ² above minimum requirement) comprising: <ul style="list-style-type: none">• 692.5m² childcare centre for 60 children;• 151m² community facility.
Construction and dedication to Council of a minimum 450m ² recreation area to be used as the outdoor play area to the childcare centre.	Construction and dedication to Council 461m ² (11m ² above minimum requirement) recreation area to be used as the outdoor play area to the childcare centre and communal open space as part of the green spine after childcare hour use.
Expected local and state infrastructure contributions to a density equivalent to 3.7:1.	Local and state infrastructure contributions to a density of 3.32:1 .

The recently Council adopted *St Leonards South Contributions Plan* notes that these public benefits are to be delivered through bonus floor space and building height provisions under the *Lane Cove Local Environmental Plan 2009*. In this regard, Area 5 incentive provisions provide increased floor space ratio of 3.7:1 and maximum building height of 44m.

The proposal as originally proposed achieved a floor space ratio of 3.42 and as now amended is 3.32 (of which 3.10 is residential). These fall well below the incentive provisions, yet despite this, all required public benefits for Area 5 are being delivered and urban design excellence achieved. This is an important consideration when reviewing the merits of the proposal against the initial issues raised by Council, in particular the onerous perceived setback requirement to the east west pedestrian link which are discussed in more detail below.

The proposal delivers a high level of design excellence whilst balancing the overall design objectives of the communities expectations under the Landscape Master Plan and Local Environmental Plan.

We thank you for your time in both reading this letter and also the following responses to issues raised in the preliminary assessment. Naturally, we urge Council to support the Development Application and the Panel to **Approve** the proposal noting the merits and large number of public benefits.

Please do not hesitate to contact me if you have any further questions.

Kind Regards



Simon Truong
Assistant Development Manager
Hyecorp

Response to Council's letter dated 21 March 2022.

1. Height of Buildings

We note the original height non compliance was an error and limited to a small part of the eastern edge of the upper storey (refer to **Appendix B – Urban Design Report** and **Appendix D - Legal advice** for more details). This has been amended to achieve compliance within the updated architectural plans.

2. Floor Space Ratio

An updated gross floor area calculation has been prepared which now includes the swimming pool area previously missed in the upper ground communal facilities. It is important to note that remaining areas within the proposed upper ground floor do not constitute gross floor area which is defined as follows:

***gross floor area** means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes—*

- (a) the area of a mezzanine, and*
- (b) habitable rooms in a basement or an attic, and*
- (c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes—*
- (d) any area for common vertical circulation, such as lifts and stairs, and*
- (e) any basement—*
 - (i) storage, and*
 - (ii) vehicular access, loading areas, garbage and services, and*
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and*
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and*
- (h) any space used for the loading or unloading of goods (including access to it), and*
- (i) terraces and balconies with outer walls less than 1.4 metres high, and*
- (j) voids above a floor at the level of a storey or storey above.*

There is no definition of 'habitable room' in the LEP. In this context, we consider the term to be the application of the technical expression defined in the Building Code of Australia (the BCA). Under the BCA, a 'habitable room' is defined as follows:

***Habitable room** means a room used for normal **domestic** activities, and—*

- (a) includes a bedroom, living room, lounge room, music room, television room, kitchen, dining room, sewing room, study, playroom, family room, home theatre and sunroom; but*
- (b) excludes **a bathroom, laundry, water closet, pantry, walk-in wardrobe, corridor, hallway, lobby, photographic darkroom, clothes-drying room, and other spaces of a specialised nature occupied neither frequently nor for extended periods** (bold added).*

In this regard, the following upper ground areas do not constitute gross floor area:

- Child care storage – Storage purposes only within the subterranean basement area.
- Toilet and change rooms – Not habitable rooms within the subterranean basement area.

- Corridors and lobbies – Not a habitable room within the subterranean basement area.

The proposal has been amended to fully comply with Council's car parking rates under Part R of Lane Cove Development Control Plan 2009. The revised car parking comprises:

- 77 resident spaces (including 17 disabled spaces)
- 17 visitor spaces (including 4 disabled spaces)
- 2 car wash spaces
- 2 car share spaces
- 7 CCC staff spaces
- 10 short-term drop off spaces for the CCC use (including 1 disabled space)
- 1 disabled retail space (for staff only)

The resultant floor space ratio is 3.32 which remains well below the prescribed maximum floor space ratio of 3.7 for the site.

3. Storeys

Appendix D – Legal Advice confirms that the storey height control in the DCP provision has no effect under Section 3.43(5) of the *Environmental Planning and Assessment Act 1979*. Refer to legal advice for more detail.

Notwithstanding, noting the community expectations to comply with the storey height control, despite being more onerous than the Local Environmental Plan height standard, the proposal has been amended to comply with the DCP storey height control. The upper storey has been converted to large 3 bedroom penthouses with higher floor to ceiling levels which sit well within the prescribed maximum height limit of 44m.

4. Building Setbacks - A. Pedestrian Link Setbacks

The attached legal advice confirms that the aforementioned building setback control within *Lane Cove Development Control Plan 2009* **do not** apply to Area 5.

Further as discussed earlier, the proposed building design and setbacks to the east west link were developed in response to Council and the Design Review and Excellence Panel's exhaustive feedback. Specifically, it is noted that Council prescribed in PreDA minutes that the proposal be amended to increase the northern setback and a minimum 3m setback be provided to the east west pedestrian link.

'Building separation to the northern boundary is to be addressed where relocating the building a minimum of 3m to the pedestrian link could assist.'

This same advice was provided by pane.

This informed the design going forward and it was agreed that this resulted in a significant better outcome when balancing the required building separation to Area 3 to the north, Area 7 to the south, and the East West pedestrian link. The lower ground floor levels had been designed to activate and open onto the east west link.

The Council and the panel at the time recognised that the design needed to achieve a balanced approach with regards to building separation, objectives of the St Leonards South Landscape Masterplan and envisaged housing target density for the site being a FSR of 3.7:1. It is important to also acknowledge that the increased FSR was allocated for the site noting the significant public benefits to be delivered with the development as summarised earlier, which include a new 600m² Council owned community facility and childcare centre for 60 children, with 450m² of outdoor play area, and new east west pedestrian link.

Despite these requirements, the proposal sits well below the achievable floor space ratio. These are all significant key considerations when weighing up the benefits of the project and are further discussed in the attached Urban Design report.

Given the legal advice confirms the setback control does not apply to Area 5, the substantial public benefits of the proposal and balanced design approach to both the Landscape Masterplan and Local Environmental Plan, the proposed building setback to the east west link is acceptable on its merits.

4. Building Setbacks - B. i. Basement Setback

The provision for the minimum 4m deep soil zone to Canberra Avenue is to ensure an adequate separation between the streets and the building, and sufficient tree canopy achieved throughout the development. The proposal comprises a significant landscaped east west pedestrian link, which provides ample landscape opportunity for the site.

Canberra Avenue is the sole street frontage to the building and various access and building utilities need to be placed along it to ensure the functionality of the building including the activated retail plaza, car park entrance, building lobby entrance, fire booster cupboard, access to rainwater and OSD tank underneath, entrances and terrace spaces for the ground floor residences, and hardscape surfaces to the substation. Provision of deep soil zone in these areas is inefficient and redundant. Refer to the **Appendix B – Urban Design Report** highlighting paved areas within the frontage.

The proposal provides landscaped areas along Canberra Avenue wherever possible, including in front of the residences to provide separation and privacy protection from the street. Further raised landscaped areas are provided between areas including the driveway to the retail plaza and lobby area. **Appendix C – Updated Landscape Report** comprises a detailed section plan demonstrating the envisaged greening effect at the Canberra Avenue street level is achieved through proposed landscaping and street trees.

In consideration of the above, it is considered that the proposed basement setback is supportable on its merits.

4. Building Setbacks - B. ii. Building Setback

Following discussions with Council, the proposal has been amended to increase the setback of the ground floor plant kiosk to be 4m. It is noted the boundary is at an angle that runs parallel to the street and strict compliance would result in an undesirable angled façade. Overall, the proposal generally achieves the required 4m street setback at the lower levels

5. Building Separation

As detailed in **Appendix B – Urban Design Report**, the proposal is compliant with the Apartment Design Guide building separation objectives. The design has been appropriately treated at the northern façade to be dual orientated with predominant outlook towards the green spine and Canberra Avenue. Any future redevelopment of Area 3 to the north will have south facing apartments at the corresponding interface. It is considered that future redevelopment would seek to provide similar dual facing apartments to maximise solar access and direct views out to the street and green spine. The apartments could similarly be treated to mitigate any potential privacy and noise impacts between apartments to satisfy the objectives of the Apartment Design Guide. This similar approach has been accepted by Council, Design Review and Excellence Panel and Sydney North Planning Panel for the adjoining Top Spring development.

6. Landscape Master Plan

The proposal has been amended through workshops with Council's landscape team to address the issues raised by Council and Oculus. Refer to the **Appendix C – Landscape report** and plans for details.

7. Electric Vehicle Infrastructure

Refer to **Appendix F – Traffic and Parking response** which confirms that EV charging will be provided for a minimum of one car space per apartment with allocated car parking.

9. Traffic and Parking - A. Sustainable Travel and Access Plan

Refer to **Appendix F – Traffic and Parking response** which includes the Sustainable Travel and Access Plan.

10. Landscaping - A. Levels Plans

Detailed level information are now included in landscape plans. Refer to **Appendix C – Updated Landscape Plans**.

10. Landscaping - B. Landscape Calculation Plan

Landscape area and deep soil calculation plans are now included as part of the landscape documentation package. Refer to **Appendix C – Updated Landscape Plans**.

10. Landscaping - C. East-West Pedestrian Link

Refer to updated architectural and landscape plans (**Appendix A and C**) which shows increased deep soil and tree planting across the east west link and green spine where possible.

10. Landscaping - D. Child Care Centre Playground Area

Refer to attached **Appendix A - Updated architectural plans, Appendix B – Urban Design Report, Appendix C – Landscape Report and Plans** which now removes the 'musical play equipment' previously proposed. Additional details on the playground design, awning, acoustic fencing and spot levels are now provided for the childcare centre playground area. Further details of the playground equipment and awning are developed as part of the detailed design and should be imposed as a condition of consent.

The updated childcare centre outdoor area is 462m².

10. Landscape - E. Inconsistencies between Architecture and Landscape Architecture Plans

Refer to attached **Appendix A - Updated architectural plans, Appendix B – Urban Design Report, Appendix C – Landscape Report and Plans** which now ensures consistency between the plans.

10. Landscaping - F. Tree Canopy Cover

Refer to **Appendix C - Updated Landscape report and plans** demonstrating provision of canopy for up to 25% of the site as agreed with Council's landscape team noting the constraints of the child care playground area, design and terrain of the east west link do now allow for provision of 50% canopy cover across the site.

11. Waste Management - A. Operational Waste Management Plan

The proposal has been amended to show 660 litre MGB for residential waste. Refer to attached **Appendix A - Updated architectural plans**

11. Waste Management - B. Waste Vehicle Servicing

Refer to **Appendix E – Traffic and Parking Response** for more detail. In summary, the proposal has been designed to accommodate Council's largest waste vehicle

11. Waste Management - C. Removalist Bay

Provision of a removalist bay in addition to the waste servicing area (refer DA99/2021 and Part R Table 2 of LCDCP 2009).

Refer to **Appendix F – Traffic and Parking response** which notes that a dedicated removalist bay is not required by *Lane Cove Development control Plan 2009*. Notwithstanding, it is proposed that the propose loading dock can be dually used as a removalist bay subject to appropriate management via a loading dock management plan. This same approach has been consented by Council and other similar larger scale developments within the locality.

12. Environmental Health - A. Environmental Management Plan

As agreed with Council, the construction environmental management plan can be submitted prior to commencement of works on site and imposed as a condition of consent.

12. Environmental Health - B. Construction Noise Management Plan

A construction noise and vibration management plan was included in the submitted noise impact assessment report submitted with the Development Application. This is resubmitted as **Appendix F – Noise Impact Assessment Report**.

12. Environmental Health - C. Café and Child Care

As agreed with Council, a condition of consent can be imposed for the future fitout details of the child care centre kitchen. Further, a separate condition requiring a separate Development Application be submitted for the future fitout of the retail shop/cafe.

13. SEPP 65

The solar access assessment incorporates overshadowing from future buildings. Refer to **Appendix B – Urban Design Report** for more details.

14. Water NSW

Water NSW has requested additional information as detailed in Attachment B.

The Water NSW additional information letter dated 9 March 2022 is no longer relevant noting Water NSW have issued General Terms of Approval on 7 April 2022.

15. Submissions

A response to issues raised in submissions is provided in **Appendix G - Response to submissions**.

Oculus Letter

The key issues identified in Oculus comments are addressed in the Landscape report. It is noted that the recommended tree for retention T4 fell over during recent storms. This has since been removed. Refer to **Appendix H – Arborist report and Photographic evidence of fallen Tree**.