

MEMO

Date: 30 August 2021

To: Sydney North Planning Panel

From: Robert Montgomery (Independent DA Assessor)

Subject: 2017SNH069 - Lane Cove – DA117/2017

Following the Panel briefing on 25 August 2021, I have reviewed the draft conditions as discussed. I have also considered the further submission received from the applicant dated 26 August 2021.

In summary, the changes reflected in the attached list include:

- Correct terminology for Principal Certifier and Certifier.
- Relevant conditions throughout the development process from the draft standard contamination conditions recently provided by DPI to ensure compliance with RAP.
- Revised condition 2 to require action by the applicant to comply with Seniors SEPP FSR.
- Changing references in Condition 9 from s94 to s7.11.
- Reviewing all conditions for accuracy, consistency and formatting.
- Amending condition 42 for clarity on tree protection fencing.
- Reviewing the applicant's latest submission dated 26 August 2021.

Please note that there are now only three conditions on which the applicant and I do not agree. These are conditions 9, 154 and 156, which are highlighted in the attached list.

Also attached is my review of the applicant's latest submission on the draft conditions.

Yours sincerely



Robert Montgomery MPlA
Principal

General Conditions

1. The development be strictly in accordance with the following drawings:

| Drawing Number | Title | Date and Revision | Prepared By |
|----------------|--|-------------------|----------------|
| DA.100 | Site plan | 26.3.2019 Rev E | Thomson Adsett |
| DA.101 | Demolition Plan | 26.3.2019 Rev E | Thomson Adsett |
| DA.200 | Level 1 Floor Plan | 26.3.2019 Rev E | Thomson Adsett |
| DA.210 | Level 2 Floor Plan | 26.3.2019 Rev E | Thomson Adsett |
| DA.220 | Level 3 Floor Plan | 26.3.2019 Rev E | Thomson Adsett |
| DA.230 | Level 4 Floor Plan | 26.3.2019 Rev E | Thomson Adsett |
| DA.240 | Level 5 Floor Plan | 26.3.2019 Rev E | Thomson Adsett |
| DA.250 | Level 6 Floor Plan | 26.3.2019 Rev E | Thomson Adsett |
| DA.260 | Level 7 Floor Plan | 24.8.2018 Rev D | Thomson Adsett |
| DA.270 | Roof Plan | 24.8.2018 Rev D | Thomson Adsett |
| DA.300 | Elevations | 26.3.2019 Rev E | Thomson Adsett |
| DA.301 | Elevations | 26.3.2019 Rev F | Thomson Adsett |
| DA.302 | Elevations | 26.3.2019 Rev E | Thomson Adsett |
| DA.304 | Street Elevation | 24.8.2018 Rev D | Thomson Adsett |
| DA.310 | Sections | 24.8.2018 Rev D | Thomson Adsett |
| DA.311 | Sections | 24.8.2018 Rev D | Thomson Adsett |
| DA.312 | Sections | 24.8.2018 Rev D | Thomson Adsett |
| DA.350 | Driveway Plan-stormwater | 26.3.2019 Rev E | Thomson Adsett |
| LA01 | Tree removal and retention plans | 23.8.2018 Rev H | Taylor Brammer |
| LA02 | Site Plan | 23.8.2018 Rev H | Taylor Brammer |
| LA03 | Site Plan | 23.8.2018 Rev H | Taylor Brammer |
| LA04 | Play ground and Longueville road streetscape | 23.8.2018 Rev H | Taylor Brammer |
| LA05 | Longueville Road Porte-cochere | 23.8.2018 Rev H | Taylor Brammer |
| LA06 | Level 3 Courtyard | 23.8.2018 Rev H | Taylor Brammer |
| LA07 | Level 3 Courtyard character | 23.8.2018 Rev H | Taylor Brammer |
| LA08 | Level 3 Courtyard indicative sections and elevations | 23.8.2018 Rev H | Taylor Brammer |
| LA09 | Level 1 Courtyard | 23.8.2018 Rev H | Taylor Brammer |
| LA010 | Level 1 Courtyard indicative sections | 23.8.2018 Rev H | Taylor Brammer |
| LA011 | Level 3 residents terraces | 23.8.2018 Rev H | Taylor Brammer |
| LA012 | Level 3 residents terraces-indicative sections | 7.6.2018 Rev H | Taylor Brammer |
| LA013 | Bio retention plan | 23.8.2018 Rev H | Taylor Brammer |
| LA014 | Roof top plan | 23.8.2018 Rev H | Taylor Brammer |
| LA015 | Tree replenishment plan | 23.8.2018 Rev H | Taylor Brammer |
| LA016 | Planting plan | 23.8.2018 Rev H | Taylor Brammer |
| LA017 | Planting schedule | 23.8.2018 Rev H | Taylor Brammer |

except as amended by the following conditions.

- 2.1 The development shall comply with the maximum permissible floor space ratio for the site of 1.6:1, calculated in accordance with the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. The area of any car parking provided in addition to the 102 spaces required must be included in the calculation of gross floor area.

- 2.2 To achieve compliance, the applicant shall provide amended plans to the satisfaction of Council which demonstrate how the floorspace has been reduced, which may include:
- Reducing the actual floorspace within the building;
 - Removing 22 spaces from the car park from either or both basement levels and enclosing those areas to be used for service activities; or
 - Converting some of the floorspace within the building to non-GFA as per the SEPP.

Reason: *to comply with the correct Floor Space Ratio development standard.*

- 3.1 The design architect of the project shall be Thomson Adsett (NSW) Pty Ltd or such other architect appointed with prior agreement by the Council. Council shall not unreasonably withhold or delay such agreement.
- 3.2 A design architect contemplated by paragraph 3.1 is to have direct involvement in the design documentation, contract documentation and construction stages of the project during the course of their appointment.
- 3.3 A design architect contemplated by paragraph 3.1 shall have full access to the site during the course of their appointment.
- 3.4 Evidence of the commission of a design architect contemplated by paragraph 3.1 shall be provided to Council prior to the release of a Construction Certificate.

Reason: *To ensure the design quality of the development is retained.*

Prior to Issue of a Construction Certificate

The following conditions numbered 4-8 and 10-35 must be satisfied prior to the issue of a construction certificate:

4. The development shall provide 6 studio apartments and 2 one bedroom apartments as affordable places in perpetuity.
- Reason:** *To achieve compliance with Part 6 Clause 45(6)(a)(ii) of the State Environmental Planning Policy (Housing for seniors or People with a Disability)2004.*
5. Design of the Pocket Park and publicly accessible playground, including details of all playground equipment and surface treatments selected must be submitted to Council for approval. The design shall be in accordance with the intent of the concept drawings included in Landscape Plans revision E dated 23 August 2018. The playground equipment, surfaces and design shall comply with the relevant Australian Standards. with the Australian Standards.
6. Design of the Public Pathway between the buildings and the northern boundary must be submitted to Council for approval.
7. A Construction Traffic Management Plan shall be submitted to Lane Cove Council for further approval before issuing a construction certificate. Consultation with NSW Police, RMS and Transport for NSW / Sydney Buses will be required as part of preparation of the Construction Traffic Management Plan.
8. A 'Construction of a Multi Unit Footpath Crossing' application shall be submitted to Council prior to the issue of a Construction Certificate.
- 9.1 The payment of a contribution pursuant to section 7.11 of the *Environmental Planning and Assessment Act, 1979* for additional persons in accordance with Lane Cove section 7.11 Development Contributions Plan. The amount is

\$1,560,474.40 at the present rate of \$10,642 per person on the 2019/2020 fees and charges and will be adjusted to the current rate at the time of payment.

9.2 This contribution is for community facilities, open space/ recreation and road under the Lane Cove section 7.11 Development Contributions Plan which is available for inspection at the customer service counter, Lane Cove Council, 48 Longueville Road, Lane Cove.

9.3 The Section 7.11 Contribution is calculated in the following manner:

Residential Contributions

| Dwelling Type | Contribution per dwelling type | Total Number of persons per dwelling | Contribution payable @\$10,642/person 2019/2020 fees and charges |
|-----------------------------------|---|---|---|
| 10 x 1 bedroom apartments | 1.2 x 10, 642 = \$12,770.4 | 10 x 12,770.4 | \$127,704 |
| 1 x 1 bedroom + study apartment | 1.2 x 10, 642 = \$12,770.4 | 1 x 12,770.4 | \$12,770.40 |
| 32 x 2 bedroom apartments | 1.9 x 10, 642 = 20219.8 20,000 (Cap) | 32 x 20,000 | \$640,000 |
| 39 x 2 bedroom + study apartments | 1.9 x 10, 642 = 20219.8 20,000 (Cap) | 39 x 20,000 | \$780,000 |
| Total 82 apartments | | | \$1,560,474.40 |

The total Section 7.11 contribution for the proposal is **\$1,560,474.40**.

- 9.4 This contribution is to paid before the issue of the first occupation certificate or interim occupation certificate in respect of any building to which this consent relates, except as provided by condition 9.3.
- 9.5 If no construction certificate in respect of the erection of any building to which this consent relates has been issued before or on 25 September 2022, the monetary contribution must be paid before the issue of the first construction certificate after that date for any such building.
10. The applicant shall lodge with Council a \$50,000 cash bond or bank guarantee. The bond is to cover the repair of damage or outstanding works to Council's roads, footpaths, kerb and gutter, drainage or other assets as a result of the development. If Council determines that damage has occurred as a result of the development, the applicant will be required to repair the damage. Repairs are to be carried out within 14 days from the notice. All repairs are to be carried in accordance with Council's requirements. The full bond will be retained if Council's requirements are not satisfied
- The Bond will be held for a period of six months after satisfactory completion of the works.
11. An Inspection fee of \$580.00 is to be paid to Council for inspection of works on public land.
12. The applicant shall lodge with Council a \$20,000 bond or bank guarantee to cover the satisfactory construction/ reinstatement of concrete footpath, kerb and gutter, nature strips and road surface adjustments for the entire frontage of Longueville Road.

The full bond will be retained if Council's requirements are not satisfied. The Bond will be held for a period of six months after satisfactory completion of the works.

13. The applicant shall lodge with Council a \$20,000 bond or bank guarantee to cover the satisfactory construction of the proposed pedestrian access along the northern boundary of the site.

The Bond will be held for a period of six months after satisfactory completion of the works.
14. Payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 (or, where such a levy is payable by instalments, the first instalment of the levy) shall be made prior to the issue of a construction certificate.
15. The approved plans shall be submitted to Sydney Water online approval portal "Sydney Water Tap In" - www.sydneywater.com.au. This is to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. An approval receipt with conditions issued by Sydney Water (if determined to be satisfactory) is to be submitted to the Principal Certifier.
16. A Waste management plan to address the provision of Part Q of the Lane Cove DCP including onsite collection and management of waste recycling and clinical waste, shall be submitted to the Principal Certifier.
17. A Construction Noise Management Plan which addresses the NSW EPA's Interim Construction Noise Guidelines shall be submitted to the Principal Certifier.
18. Plans and specifications for the construction of the designated garbage area, detailing a smooth impervious floor graded to a floor waste and connected to the sewer, ventilation, fire sprinklers. The garbage area/room shall be well ventilated and fitted with fire sprinklers and meet fire safety standards in accordance with the Building Code of Australia.
- 19. Submission of a remedial action plan**
- 19.1 A contaminated land consultant, certified by one of the industry certification schemes recognised by the NSW Environment Protection Authority, must prepare a remedial action plan (RAP) in accordance with the *Managing Land Contamination Planning Guidelines SEPP 55–Remediation of Land* and relevant guidelines made or approved by the NSW Environment Protection Authority under section 105 of the *Contaminated Land Management Act 1997*. The RAP must indicate how the site will be made suitable, after remediation, for the proposed development.
- 19.2 The applicant must provide the RAP to the Council.
- 19.3 The applicant must provide the RAP and written confirmation to the principal certifier (unless Council is the principal certifier) from Council that it is satisfied the site will be suitable for the proposed development after remediation is undertaken in accordance with the RAP.
21. An Environmental Management Plan (EMP) for the construction phase of the project. Which addresses measures and controls associated with dust, sediment and erosion controls and complaint management shall be submitted to the Principal Certifier.
22. An updated compliant BASIX calculation and certificate(s) shall be submitted to the Principal Certifier.
23. Structural Engineer's details shall be submitted to the Principal Certifier for the following:
 - a) underpinning;
 - b) retaining walls;

- c) footings;
 - d) reinforced concrete work;
 - e) structural steelwork;
 - f) framing;
24. Plans and supporting calculations of the internal driveway, turning areas, ramps, garage opening widths, parking space dimensions and any associated vehicular maneuvering facilities shall be prepared and certified by a suitably qualified engineer as fully compliant with AS 2890 Series and Council's standards and specifications. The design and certification shall be submitted to the Principal Certifier.
 25. Shade / sun protection must be provided to 50% of the Level 7 rooftop communal open space in the form of a fixed lightweight shade structure, pergola or similar. Details to be shown on Construction Certificate plans.
 26. Communal barbeque facilities including sink and tap connection are to be provided at the Level 7 rooftop communal open space. Details to be shown on Construction Certificate plans.
 27. A detailed Tree Protection Plan & Specification is to be prepared by a minimum AQF Level 5 consulting Arborist which provides details, plans and guidance as to how existing trees to be retained are to be protected prior to and during construction. This is to take into consideration all trees on site and trees within the neighbouring allotments and street verge which may be affected by the proposed works. This document is to be prepared and submitted to the Principal Certifier prior to the issue of a Construction Certificate and implemented prior to the commencement of any demolition, site preparation or construction works.
 28. The stormwater drainage on the site is to be constructed generally in accordance with the plan numbered 16-002046 Rev D prepared by Calibre Consulting NSW dated 20-08-18. Certification by a suitably qualified engineer of the above plans is to be submitted to the Principal Certifier stating that the design fully complies with, AS-3500 and Part O, Council's DCP-Stormwater Management.
 29. All retaining structures greater than 1m in height are to be designed and certified for construction by a suitably qualified engineer. The structural design is to comply with, all relevant design codes and Australian Standards. The design and certification shall be submitted to the Principal Certifier.
 30. A geotechnical report is to be completed for the excavation and ground water impacts associated with this development. The Geotechnical Report and supporting information are to be prepared by a suitably qualified geotechnical engineer and be submitted to Principal Certifier.
 31. The levels of the street alignment shall be obtained from Council. These levels are to be incorporated into the design of the internal pavements, car parking, landscaping and stormwater drainage plans and shall be obtained prior to the issue of a Construction Certificate.
 32. Excavation works associated with the proposed development must be overseen and monitored by a suitably qualified engineer. A Geotechnical Monitoring Program shall be submitted to the Principal Certifier prior to issue of a Construction Certificate. The Geotechnical Monitoring Program must be prepared by suitably qualified engineer ensuring that all geotechnical matters are regularly assessed during construction.

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

- Recommended hold points to allow for inspection by a suitably qualified engineer during the following construction procedures;
 - Excavation of the site (face of excavation, base, etc)
 - Installation and construction of temporary and permanent shoring/ retaining walls.
 - Foundation bearing conditions and footing construction.
 - Installation of sub-soil drainage.
 - Location, type and regularity of further geotechnical investigations and testing.
33. The applicant shall provide a construction methodology report to the Principal Certifier. The report shall be prepared by a suitably qualified engineer which demonstrates that the proposed excavation will have no adverse impact on structures on adjoining land within the zone of influence. The report must include a geotechnical report to determine the design parameters appropriate to the specific development and site and include recommendations on appropriate construction techniques to ameliorate any potential adverse impacts.
34. The applicant shall provide a dilapidation report to the Principal Certifier prepared by a suitably qualified engineer for all adjoining properties located within the zone of influence of the proposed excavation. The report shall consider the impacts of excavation works, dewatering and construction induced vibration and make appropriate recommendations to protect adjoining properties during construction.
35. The applicant shall prepare a dilapidation survey and report detailing the existing state of repair/condition of the road surfaces along Longueville Road, adjacent the site. The survey and report shall be submitted to the Council prior to the issue of a Construction Certificate.

Prior to Commencement of Works

The following conditions numbered 36 to 58 must be satisfied prior to commencement of works

36. No demolition or construction works shall commence until a Construction Certificate is issued by Council or private certifier.
37. **Site Remediation**
- 37.1 Before remediation work commences, the applicant must ensure a contaminated land consultant, certified by one of the industry certification schemes recognised by the NSW Environment Protection Authority, finalises the draft remedial action plan (RAP) approved with this development consent in accordance with the Managing Land Contamination Planning Guidelines SEPP 55–Remediation of Land and relevant guidelines made or approved by the NSW Environment Protection Authority under section 105 of the Contaminated Land Management Act 1997.
- 37.2 Before remediation work commences, the applicant must:
- appoint a suitably qualified and experienced contaminated land consultant, where available certified by one of the industry certification schemes recognised by the NSW Environment Protection Authority, to supervise the site remediation and validation work to ensure it is undertaken in accordance with the remedial action plan approved under this consent, and
 - submit the contact details of the contaminated land consultant, including their accreditation under a recognised certification scheme, to Council.

38. Prior to any excavation works, the location and depth of all services must be ascertained. All costs associated with adjustment of the public utility will be borne by the applicant.
39. The applicant shall install appropriate sediment control devices prior to the start of any works on the site. The devices are to be installed in accordance with the approved erosion and sediment control plan. The devices shall be maintained during the construction period and replaced when necessary.
40. A vegetation management plan describing the methodology and plant species for the bushland buffer zone revegetation shall be submitted to Council for approval. The landscape documentation shall reflect the findings and recommendations of the project ecologist and a separate plan at a scale of 1:200 showing the plants selected, their mature heights & spreads, container size at time of planting, spacing and water requirements.
41. A 1.8 m high fence of chain mesh fence shall be erected along the common property boundary and the adjacent E2 zone. The fenced area shall not be used for the storage of building materials, machinery, site sheds, or for advertising and the soil levels within the fenced area shall remain undisturbed. A waterproof sign must be placed on every second panel stating: "NO ENTRY BUSHLAND AREA". The fence and sign are not to be removed or relocated for the duration of the work. The sign is to be A3 portrait in size with the wording in capital Arial Font size 100. Any additional text shall be in Arial font size 65.
42. A 1.8-metre-high chain mesh fence shall be erected at a radial distance of 6 metres measured from the edge of the trunk of trees #92 and #93 to enclose the trees. The fenced area shall not be used for the storage of building materials, machinery, site sheds, or for advertising and the soil levels within the fenced area shall remain undisturbed. A waterproof sign must be placed on every second panel stating: "NO ENTRY TREE PROTECTION AREA". The fence and sign are not to be removed or relocated for the duration of the work. The sign is to be A3 portrait in size with the wording in capital Arial Font size 100. Any additional text shall be in Arial font size 65.
43. Within the tree protection area of Trees 92 and 93, a layer of mulch, 100mm thick is to be in place prior to the commencement of any works on site and topped up at intervals to maintain a depth of 100mm throughout the construction period. The mulch shall be eucalyptus leaf mulch or approved equal. The mulch shall not be in direct contact with the tree trunk.
44. An inspection of all trees to be retained shall be conducted jointly by Council's Senior Tree Preservation Officer and the project Arborist following site establishment and the installation of tree protection measures to determine the current health of the trees. The findings shall be published in a dilapidation report and submitted to Council. The report shall include site photographs of all trees documenting any defects that exist at the time the joint report was conducted.
45. All tree assessment reports required by this development consent shall be prepared by a minimum AQF5 Level Arborist.
46. The area north of the building envelope in the 25 metre setback zone must be inspected by an AQF5 level Arborist and any dead, dying, diseased or dangerous wood removed and the replenishment trees installed prior to construction works commencing. This area is to be fenced off and shall remain inaccessible for the duration of the construction period with the exception of maintaining the undergrowth and the tree protection measures.
47. The developer is to establish a community liaison committee, consisting of Developer representatives as necessary, three community representatives, and an appointed Council staff representative, to facilitate information flow to the

community regarding the development progress, issues and complaints that arise and solutions and remedies initiated. A newsletter should be produced and circulated to adjoining residents and occupants on a monthly or as agreed basis. Meetings are to be chaired by Developer representatives. The Committee shall operate during the construction phase of the development.

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

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

49. A temporary connection to be made to the sewers of Sydney Water (where available) with an approved toilet structure and toilet fixtures being provided on the site before work is commenced. Where the Sydney Water sewer is not available a "Chemical Closet" type toilet shall be permitted.
50. The site shall be securely fenced to prevent access of unauthorised persons outside of working hours.
51. An approved type of hoarding shall be erected along the street frontage.
52. Separate application shall be made to Council's Urban Services Division for approval to complete any associated works on public property controlled by Council. This shall include hoarding applications, vehicular crossings, footpaths, drainage works, kerb and guttering, brick paving, restorations and any miscellaneous works.
53. Where the applicant requires the use of construction plant on the public road reservation, an "Application for Standing Plant Permit" shall be made to Council. Applications shall be submitted and approved prior to the start of any related works. Note: allow 2 working days for approval.
54. Due to requirements for safe traffic and pedestrian movement, loading or unloading of any vehicle or trailer carrying material associated with the development must not take place on the public road unless within a works zone. The works zone application is to be submitted to and approved by Council prior to the earlier of the following two situations occurring; either (a) issue of a Construction Certificate or (b) any work commencing, in the case where work is to occur on a Public Road during demolition. The developer must give the Council written notice of at least 14 days prior to the date upon which use of the work zone will commence and the duration of the works zone approval shall be taken to commence from that date. All vehicle unloading/loading activities on a public roadway/footway are to be undertaken within an approved work zone.
55. A site water management plan is to be submitted to Council for approval. The plan is required to be site specific and be in accordance with "Managing Urban Stormwater – Soils and Construction" (the blue book) produced by the NSW Department of Housing.
56. Prior to the commencement of any vegetation clearing, the adjoining bushland area should be assessed for potential fauna by a suitably qualified and experienced fauna spotter and/or ecologist and a protocol established for the capture and relocation of any fauna to avoid harm or injury to wildlife.
57. The location of the stormwater outlet from the temporary sediment basin must be approved by Council's Coordinator Bushland.

58. A set of construction drawings shall be prepared by the landscape architect which outlines the construction methodology, materials to be used, location of the substructure and all other relevant construction details. The plan set shall be submitted to Council for approval prior to construction works taking place on the northern and eastern access pathways.

During Construction

The following conditions numbered 59 to 133 must be satisfied during construction:

59. Where Lane Cove Council is appointed as the Principal Certifier, it will be necessary to book an inspection for each of the following stages during the construction process with 48 hours notice.
- a) All reinforcement prior to filling with concrete.
 - b) Framework including roof and floor members when completed and prior to covering.
 - c) Installation of steel beams and columns prior to covering
 - d) Waterproofing of wet areas
 - e) Stormwater drainage lines prior to backfilling
 - f) Completion.

60. Construction Hours

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

| | |
|--------------------------|------------------|
| Monday to Friday | 7:00am to 6:00pm |
| Saturday | 8:00am to 1:00pm |
| Sunday & Public Holidays | No work to occur |

- 60.2 Where practical, immediately adjoining residents should be advised of any proposed blasting or rock breaking activities by close of business the previous day.

- 60.3 The applicant may apply to undertake critical concrete pours outside of approved working hours with approval from Council and provided all of the following requirements are satisfied:

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

pour, what measures were actually undertaken by the applicant to minimise any potential adverse impacts as a result of the pour, including but not limited to impacts with respect to noise, light spillage, and the positioning of the required vehicle(s), so that all related matters can be reviewed and any potential adverse events and/or impacts addressed in future critical concrete pours.

61. The electricity kiosk shall be positioned in “substation location 2” marked on the diagram attached to the letter prepared by GSA Planning dated 8 June 2018, ie inside the Longueville Road boundary approximately half-way between the porte cochere entry and the public park, subject to the approval of the electrical utility provider.
62. A check survey certificate is to be submitted at:
 - a Initial layout (peg out survey)
 - b The establishment of each floor level;
 - c The completion of works.

Note: All levels are to relate to the reduced levels as noted on the approved architectural plans and should be cross-referenced to Australian Height Datum.
63. All building works are required to be carried out in accordance with the provisions of the Building Code of Australia.
64. Any cladding shall be of noncombustible material and shall not include any Poly Ethylene core.
65. All metal deck roofs being of a ribbed metal profile, in a mid to dark colour range with an anti-glare finish. The intent of the condition is to reduce sun reflection and glare to protect the amenity of surrounding residents.
66. All food preparation areas shall be designed and implemented in accordance with the requirements of:
 - a) Food Act 2003 & Food Regulations 2004
 - b) Food Safety Standards 3.1.1, 3.2.2, 3.2.3
 - c) Sydney Water Corporation – Trade Waste Section
 - d) The Protection of the Environmental Operations Act 1997
 - e) Australian Standard AS 1668 Part 1 & 2
 - f) The Building Code of Australia.
67. To ensure that adequate provision is made for ventilation of the premises, mechanical and/or natural ventilation systems shall be designed, constructed and installed in accordance with the provision of:
 - a) The Building Code of Australia
 - b) AS 1668 Part 1 and 2 – 1991
 - c) Protection of the Environment Operations Act 1997
68. The covered car park must be provided with an adequate system of permanent natural ventilation or an approved system of mechanical ventilation.
69. All fresh air intake vents must be located in a position that is free from contamination and at least 6 metres from any exhaust air discharge vent or cooling tower discharge.
70. All exhaust discharge vents must be located in a position where no nuisance or danger to health will be created and at least 6 metres from any fresh air intake vent or natural ventilation opening

71. All engineering plans and work shall be carried out in accordance with Council's standards and relevant development control plans except as amended by other conditions.
72. A truck shaker ramp must be provided at the construction exit point. Fences are to be erected to ensure vehicles cannot bypass the truck shaker. Sediment tracked onto the public roadway by vehicles leaving the subject site is to be swept up immediately.
73. The applicant shall construct / reconstruct the following:
 - New 1.5m wide concrete footpath adjacent the entire frontage of Longueville Road to Council's satisfaction
 - New Kerb and Gutter along the entire frontage of Longueville Road to Council's satisfaction
 - Construct the proposed pedestrian access along the northern boundary to Council's satisfaction
 - Reinstate all adjustments to the road surfaces to Council's satisfaction.
 - Reinstate all existing nature-strips with turf and soil to Council's satisfaction.
- 74.1 The following items require Council inspections.
 - All new footpaths on Council Property
 - New kerb and gutter on Council Property
 - All asphalt adjustments to the roadway
 - All the approved stormwater drainage works on Council property
- 74.2 Each item is to be inspected prior to the pouring of any concrete (formwork) and on completion of the construction. An initial site meeting is to be conducted with Council and the contractor prior to the commencement of any of the above works to allow for discussion of Council construction / setout requirements
75. Construction shall not encroach onto any existing Council stormwater line or drainage easement unless approved by Council. If a Council stormwater line is located on the property during construction, Council is to be immediately notified. Where necessary the stormwater line is to be relocated to be clear of the proposed building works. The developer must lodge a Stormwater Inspection Application form to Council. All costs associated with the relocation of the stormwater line are to be borne by the applicant
76. Public areas must be maintained in a safe condition at all times.
77. All stockpiles of potentially contaminated soil must be assessed in accordance with relevant NSW Environment Protection Authority guidelines, such as the publication titled Environmental Guidelines: Assessment, Classification and Management of Liquid and Non – Liquid Wastes (EPA, 1999).
78. All stockpiles of potentially contaminated soil must be stored in an environmentally acceptable manner in a secure area on the site.
79. All contaminated soil removed from the site must be disposed at a waste facility that can lawfully receive that waste.

Copies of all test results and disposal dockets must be retained for at least 3 years and be made available to authorised Council officers on request.
80. Erosion and sediment control devices are to be provided. All devices are to be established prior to the commencement of engineering works and maintained for a

- minimum period of six months after the completion of all works. Periodic maintenance of the erosion and sedimentation control devices is to be undertaken to ensure their effectiveness.
81. A stabilised all weather access point is to be provided prior to commencement of site works, and maintained throughout construction activities until the site is stabilised. These requirements shall be in accordance with Managing Urban Stormwater – Soils and Construction produced by the NSW Department of Housing (blue Book)
82. The following measures must be taken to control the emission of dust:
- a) Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the work
 - b) Any existing accumulations of dust (e.g. in ceiling voids and wall cavities) must be removed using an industrial vacuum cleaner fitted with a high efficiency particulate air (HEPA) filter
 - c) All dusty surfaces must be wet down and any dust created must be suppressed by means of a fine water spray. Water used for dust suppression must not be allowed to enter the street or stormwater system
 - d) All stockpiles of materials that are likely to generate dust must be kept damp or covered
 - e) Demolition work must not be carried out during high winds, which may cause dust to spread beyond the boundaries of the site.
83. The applicant shall:
- Inform in writing all contractors of Council's requirements relating to truck cleanliness leaving the site.
 - Keep a register of all contractors that have been notified, the register is to be signed by each contractor. The register must be available for access by Council officers at all times.
 - Place an employee within close proximity of the site exit during site operation hours to ensure that all outgoing heavy vehicles comply with Council's requirements. This employee shall liaise with heavy vehicle drivers and provide regular written updates to drivers on the conditions of entry to the subject site.
- Those drivers who have been found to continually not comply with Council's requirements, either by the developer or authorised Council officers, shall not be permitted re-entry into the site for the duration of the project.
84. Trade wastewater shall be disposed of in accordance with the permit requirements of Sydney Water. The proprietor shall contact the Trade Waste Office of Sydney Water so as to ensure that the sewerage pre – treatment system installed is appropriate for the proposed use of the premises.
85. Any drainage pit within a road reserve, a Council easement, or that may be placed under Council's control in the future, shall be constructed of cast in situ concrete and in accordance with Part O Council's DCP- Stormwater Management.
86. All access grates to the on site stormwater detention tank are to be hinged and fitted with a locking bolt. Any tank greater than 1.2 m in depth must be fitted with step irons.
87. Pedestrian access along Longueville Road, including disabled and pram access, is to be maintained throughout the course of the construction as per AS-1742.3, 'Part 3 - Traffic control devices for works on roads'.

88. Where the applicant requires the use of public land controlled by Council land for placement of building waste, skips or storing materials a "Building waste containers or materials in a public place" application form is to be lodged with and approved by Council.
89. Any works required on the adjoining land to the south required to make good the transition across the boundary including, but not limited to, accessways, retaining walls, landscaping and drainage shall be carried out at the applicant's cost.
- 90. Remediation Works**
- 90.1 All remediation works shall be carried out in accordance with the requirements of the approved remedial action plan (RAP).
- 90.2 The removal, handling and disposal of asbestos from building sites shall be carried out in accordance with the requirements of the Occupational Health and Safety Act and the Regulations.
91. Stockpiles of topsoil, sand, aggregate, spoil or other material capable of being moved by water to be stored clear of any drainage line, easement, natural watercourse, footpath, kerb or roadside.
92. Compliance with Australian Standard 2601 - The Demolition of Structures.
93. Compliance with the Waste Management Plan submitted in accordance with this consent.
94. Planting of street trees shall be in accordance with the approved landscape plan.
95. All vehicular access to the subject development shall be restricted to left in/left out (LILO) movements on road safety and network efficiency grounds. In this regard, a triangular raised median should be constructed at the driveway (within the property boundary) and the driveway splayed/angled to physically prevent vehicles turning right to/from the development.
96. An "All Traffic Left" sign is to be installed within the property boundary at the driveway (facing motorists exiting the site) as part of the development to enforce vehicles to exit the site in left turn only.
97. In accordance with AS 2890.1- 2004 (Parking Facilities, Part 1: Off-street car parking), the driveway shall be a minimum of 5.5 metres in width for a minimum distance of 6 metres from the property boundary.
98. All vehicles shall enter and exit the site in a forward direction. A swept path plan, demonstrating vehicles entering and exiting the site in a forward direction, shall be submitted to Council.
99. The proposed Car Park design shall comply with AS 2890.1-2004. This includes all parking spaces, ramps, aisles, disabled parking and loading areas. All other aspects of the Car Parking areas, including the dimensions of the ambulance bay are required to comply with AS 2890.2-2002 for Loading Facilities and Services Vehicles
100. The access to the car park shall comply with Australian Standards. AS 2890.1-2004.
101. Visibility requirements of the proposed access must comply with AS 2890.1-2004.
102. All accessible car spaces in the car park are to be adequately signposted and linemarked, and provided in accordance with AS2890.6: 2009 including the adjacent shared space and the height clearance.
103. The on-site garbage collection area shall have sufficient headroom in accordance with AS2890.2: 2002 and have sufficient area to allow the vehicle to enter and exit in a forward direction. The waste collection and holding area is to be clearly signposted and linemarked.

104. A qualified acoustic consultant shall be engaged to certify that the design and construction of the traffic noise affected portions of the building complies with the EPA's – Environmental criteria for road traffic noise. An acoustic report shall be submitted to Council with a Construction Certificate
105. 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.
106. The bicycle facilities are to be clearly labelled, and advisory/directional signage is to be provided at appropriate locations.
107. The existing bus shelter shall be relocated to another position at the front of the site. The relocation will require prior approval of State Transit Authority and the Lane Cove Local Traffic Committee.
108. Garbage room floors shall be graded to a floor waste, which shall be connected to the sewer. No drainage from garbage rooms shall be connected directly or indirectly to the stormwater drainage system.
109. Noise monitoring must be carried out by a qualified acoustical consultant if complaints are received, or if directed by Council, and any control measures recommended by the acoustical consultant must be implemented during the demolition work.
110. The playground within the pocket park shall be fenced with appropriate child-proof fencing.
111. Playground equipment must conform to all relevant Australian Standards, legislation and policies including but not limited to AS 4685 Playground equipment and surfacing and AS 4422 Playground surfacing.

Bushland and Tree Protection and Management During Construction

112. The grading of the soil in the buffer area to achieve finished levels between the development site and the bushland area is to be done in 2 stages, with rough grading to be done at the most practicable time during the demolition stage and finish grade at landscape construction. Work must not commence in this area at either stage until an on-site meeting has been held with Council's Coordinator Bushland and a suitable work plan has been prepared.
113. During construction, the designated buffer area between the building area and the adjacent public bushland area must be kept clean of all building materials and rubbish. There must not be any filling or stockpiling of soil or building materials or dumping of building rubbish in this area. Any rubbish that is blown into these areas must be immediately cleaned up.
114. All plant species to be used within the bushland buffer and northern bushland planting and revegetation area must be indigenous to the Lane Cove municipality and meet the satisfaction of Council's Bushland Manager. A species list is available from Council on request.
115. Work, including control of any weeds, must not commence until an on-site meeting has been held with Council's Coordinator Bushland and a suitable work plan has been prepared. All bush regeneration works within the Bushland Buffer Area within the development site must be carried out to the satisfaction of Council's Bushland Manager.
116. Any trenching for the stormwater pipe through the E2 bushland area downhill of the bioretention basin is to be done by low impact techniques including hand digging, directional bore with root mapping where necessary. Heavy-duty jute mesh will be

required to stabilise the soil near any digging together with pinning of the mesh and planting of locally indigenous ground covers. These works are done to the satisfaction of Council's Coordinator Bushland.

117. The sediment fence is to be located outside of and parallel to the catch drain in the north eastern corner of the site so that the grove of trees to be retained in the northern area are protected from any potential sediment runoff from the construction area.
118. Stormwater infrastructure within the Tree Protection Zones of trees to be retained is to be located as far away from existing trees to be retained as practical. Should the excavation for the stormwater pits and trenches conflict with any major structural roots (greater than 40mm diameter) of existing trees, their location and alignment is to be modified in consultation with the Project Arborist to avoid impact. Under no circumstances should roots be severed or cut without prior approval from the Project Arborist.
119. All stormwater and drainage works shall be in accordance with the stamped and approved Civil Report prepared by Calibre Professional services and approved by Council's Senior Tree Preservation Officer. Any variations to the approved plans need to be assessed by Council's Senior Tree Preservation Officer for approval prior to implementation.
120. Any utility services to be located underground within the TPZ are to be undertaken utilising excavation techniques that prevent or minimise damage to structural roots (roots greater than 40 mm diameter). To prevent soil compaction and root damage these works should be conducted with non-motorised hand tools or directional drilling.
121. The project Arborist shall conduct monthly inspections of all trees to be retained and protected and record their findings. Any mitigation measures required shall be proposed to Council for review and implemented upon advice from Council's Senior Tree Preservation Officer. A journal of the record of attending the site shall be submitted with the final condition report following construction.
122. The following trees, as referenced on Landscape Plan drawing number LA01 (Revision F dated 05.06.2018), are permitted for removal: Tree 9, 10, 11, 12, 13, 16, 17, 18, 24, 29 & 94. All other trees must be retained and protected as part of any development works regardless of the recommendations of any other reports or information shown on any other drawings.
123. The portions of the public access pathway located within the Tree Protection Zones of those trees to be retained are to be provided as a fire rated Fibre Reinforced Polymer (FRP) or steel boardwalk design elevated above existing ground levels with minimal excavation required for installation. Details of are to be submitted and approved by Council prior to the issue of a Construction Certificate.

Landscaping Works

124. All plant species to be used in and around the bioretention basin are to be local indigenous species to be the satisfaction of Council's Coordinator Bushland. The applicant must provide verification that the appropriate plant species have been sourced and ordered from a suitable plant nursery.
125. The proposed *Angophora costata* and *Eucalyptus haemastoma* plantings located within the proposed raised planter adjacent the southern side of the driveway access must be supplied and installed in pot sizes of no smaller than 200 litres.
126. Screen planting is required to soften the electrical substation. These plants must be healthy, good quality nursery stock, planted at a minimum 45L pot size, being free of girdling roots and other defects and be at least 2m tall above the ground at time of planting with a height at maturity of at least 3 m tall. Plants must be spaced

- 1.5 m apart at planting. Species selected are to be locally native. A species list of local native plants is available from Council.
127. The Applicant must ensure that there are a sufficient number of groundcover and low shrubs, planted at appropriate distances and depths to eliminate bare mulched gardens areas within twelve (12) months of completion of all landscaping works.
 128. The Applicant must ensure that all landscaping is completed to a professional standard, free of any hazards or unnecessary maintenance problems and that all plants conform to the specifications of AS 2303:2015 Tree stock for landscape use and NATSPEC.
 129. The proposed *Archontophoenix cunninghamiana* located within the Level 3 south terraces are to be substituted for *Elaeocarpus eumundii* planted at a minimum 75 litre pot size.
 130. Automatic irrigation systems are to be supplied to all landscape areas including communal open spaces to ensure adequate water is available to vegetation. Irrigation systems shall be fully automated and capable of seasonal adjustments.
 131. Raised planters provided on site must include minimum depths that are in accordance with Section 1.10 of Part J of the Lane Cove Development Control Plan 2010. Details of compliance are to be shown on the plans for Construction Certificate.
 132. Boundary fencing to the eastern rear boundary is to be provided as an open style palisade design with a minimum openness ratio of 70% and maximum height of 1.5m.
 133. Balustrades are to be provided to the edge of raised planters at Level 7 communal open space as necessary which meet the relevant Australian Standards and Building Code of Australia. Details of compliance are to be shown on the plans for Construction Certificate.

Prior to Issue of an Occupation Certificate

The following conditions numbered 134 to 156 must be satisfied prior to the issue of an Occupation Certificate:

134. A Completion Certificate is to be issued by either the Principal Certifier or a qualified accredited Fire Safety Engineer, confirming that all identified Performance Solutions have been completed for the building prior to the issue of a final occupation certificate.
135. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

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

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

The Section 73 Certificate must be submitted to the Principal Certifier prior to occupation of the development.

136. Validation Report

- 136.1 On completion of remediation work, and before the issue of any occupation certificate, the applicant must submit a validation report, prepared by a suitably qualified and experienced contaminated land consultant, where available certified by one of the two industry schemes recognised by the NSW Environment Protection Authority, to Council and the principal certifier (unless Council is the principal certifier).
- 136.2. The validation report must confirm the site is suitable for the proposed development and demonstrate, in the opinion of the suitably qualified consultant:
- a) the objectives of the approved remedial action plan (RAP) have been complied with;
 - b) the remediation acceptance criteria in the approved RAP have been satisfied; and
 - c) all remediation work complies with the Contaminated Lands Planning Guidelines, the *Contaminated Lands Management Act 1997* and *State Environmental Planning Policy 55*.
- 136.3 The validation report must also:
- a) attach works-as-executed plan(s), prepared by a registered surveyor, that identifies the extent of the remediation work undertaken (including any on-site containment of contamination)
 - b) attach a notice of completion of remediation work as required under clause 18 of SEPP 55; and
 - c) confirm the site, following remediation or on-site containment, is suitable for the proposed development.
137. A certificate shall be submitted from a practicing mechanical engineer certifying that the design and operation of the mechanical ventilation system meets the requirements of AS 1668 Parts 1 and 2.
138. The proposed suspended path along the eastern rear boundary to the south east corner in the location as shown on the General Arrangement Plan prepared by Calibre Consulting is to be installed together with the boundary fence on the eastern rear boundary prior to the issuing of an occupation certificate. The access path is to be located on Council land and shall not encroach into the private open space of the eastern facing, ground floor units.
139. The on-site detention system shall be indicated on the site by fixing a marker plate. This plate is to be of minimum size: 100mm x 75mm and is to be made from non-corrosive metal or 4mm thick laminated plastic. It is to be fixed in a prominent position to the nearest concrete or permanent surface or access grate. The wording on the marker plate is described in part O Council's DCP-Stormwater Management. An approved plate may be purchased from Council's customer service desk.
140. The publicly accessible pathway along the northern boundary shall be 1.5 metres wide, with minimal steps and of the least grade possible for the site conditions. It shall be built around the existing trees to be retained with a boardwalk style path made from fibreglass reinforced plastic material or approved equal that is resistant to decay and degradation.
141. Restoration of Council land and assets which may have been disturbed during construction must be completed.
142. All costs associated with the relocation or removal of services shall be borne by the applicant.
143. A final dilapidation report, recording structural conditions of all structures originally assessed prior to the commencement of works, must be carried out at the

completion of the works and be submitted to Principle Certifying Authority prior to issue of an Occupation Certificate.

144. A final dilapidation report that includes details of all changes and damage caused to the surface of Longueville Road as a consequence of truck and/or plant movements associated with the construction of the development shall be submitted to the Council. The Council may require the applicant to repair any damage or may apply funds from the damage deposit held by Council for the cost of making good any damage caused to the road surface. The dilapidation survey and reports must be prepared by an engineer registered with the Institute of Engineers.
145. All works associated with the construction of the crossing to Longueville Road shall be completed prior to the satisfaction of the Council.
146. A suitably qualified engineer shall certify that the drainage system has been constructed in accordance with the approved plans, part O Council's DCP-Stormwater Management and AS-3500. The certification is to include a work as executed plan. The work as executed plan shall:
 - be signed by a registered surveyor, and
 - clearly show the surveyor's name and the date of signature.

All documentation shall be submitted to the Principle Certifying Authority.

A suitably qualified engineer shall certify that all retaining structures and excavations have been carried out in accordance with the relevant Australian Standards and Codes of Practice. The certification and a complete record of inspections, testing and monitoring (with certifications) must be submitted to the Principal Certifier.

147. All redundant gutter and footpath crossings shall be removed and the kerb, gutter and footpath reinstated to the satisfaction of Council's Urban Services Division.
148. A site inspection of all trees which have been retained shall be conducted jointly by Council's Senior Tree Preservation Officer and the project Arborist. The project arborist shall provide a report to Council which documents the current health of the trees post-construction. The report shall be submitted to Council and shall include site photographs of all trees documenting any defects that exist at the time the joint report was conducted.
149. A revised Arboricultural Impact Assessment shall be prepared and submitted to Council for approval. The revised report shall reflect the latest plans from all other consultants with specific attention focused on the latest civil, soil and stormwater management report and the impacts on Trees # 92, and #93.
150. A landscape practical completion report, prepared by the consultant landscape architect, shall be submitted to the Principal Certifier. This report must certify that all landscape works have been completed in accordance with the landscape working drawing.
151. A compliance certificate, prepared by the consultant landscape architect or horticulturalist, certifying that the proposed subsoil drainage and any associated waterproofing membrane has been installed in accordance with the details shown on the approved landscape working drawings and specification. The certificate shall be submitted to the Principal Certifier.
152. The applicant shall submit evidence of an agreement for the maintenance of all site landscaping by a qualified horticulturist, landscape contractor or landscape architect, for a period of 12 months from the date of issue of the Certificate of Occupation. The evidence shall be submitted to the Principal Certifier.
153. A plan of consolidation of the land identified as 266 Longueville Road – comprising Lots 1 & 2 in DP1227921 and Lot 1 in DP321353, shall be registered at the Land

Titles Office. The plan shall incorporate the creation of a Right of Carriageway as defined in Part 1 of Schedule 8 of the Conveyancing Act 1919 burdening the aforementioned land as the servient tenement and benefitting the adjoining land identified as 268 – 270 Longueville Road, Lane Cove comprising all of that land comprised in SP5383 (Timbertops Land) as the dominant tenement, being generally in the location identified in the approved drawings showing the location of proposed driveway, and in any event of such dimensions and in such location as approved by the Lane Cove Council so as to ensure vehicular access to and from Longueville Road to the residential parking areas on the Timbertops Land.

154. A restrictive or positive covenant shall be registered on the land for the continued provision of affordable places identified in this approval in perpetuity, prior to the issue of an occupation certificate.

Reason: *To achieve compliance with Part 6 Clause 45(8) of the State Environmental Planning Policy (Housing for seniors or People with a Disability)2004.*

- 155.1 Documents giving effect to the creation of a positive covenant allowing for public access to the publicly accessible walkway, pocket park, playground and the access park located on the northern boundary of the site registered on the title of the property. The wording of the terms of the positive covenant shall be in accordance with the wording provided by Lane Cove Council.

- 155.2 Access to the public pathway along the northern boundary of the site shall be closed between the hours of dusk and dawn. Lockable gates and signage shall be installed to the satisfaction of Council.

- 156 Documents giving effect to the creation of a positive covenants over the on-site detention system and over the basement pump out system shall be registered on the title of the property prior to the issue of an Occupation Certificate. The wording of the terms of the positive covenants shall be in accordance with part O Council's DCP-Stormwater Management.

Operating Conditions

The following conditions numbered 157 to 166 must be satisfied at all times during the operation of the premises.

157. All sound producing plant, equipment, machinery, mechanical ventilation systems and or refrigeration systems, shall be designed and or located so that the noise emitted does not exceed 5db(A) above the ambient background level when measured from the boundary of any affected premises between the hours of 8am to 10pm. Between the hours of 10pm and 8am, noise shall not exceed the ambient background level when measured at the boundary of an affected premises.
158. All sound producing equipment shall comply with the Protection of the Environmental Operations Act 1997.
159. All outside lighting must be appropriately designed and directed to reduce the amount of light projecting towards the east, where lighting may affect ground-dwelling mammals, such as the Common Brushtail Possum, Ringtail Possum and micro-bats.
160. All garbage shall be stored in a designated garbage area, which includes provision for the storage of all putrescible waste and recyclable material emanating from the premises.
161. Waste and recycling material generated by the premises must not be collected between the hours of 10pm and 7am on any day.

162. Sharp disposable instruments (such as needles, lances or blades) be placed in a special sharps disposable container and disposed of in accordance with the "Skin Penetration Guidelines" 1991, published by the NSW Health Department.
163. All air handling and water systems regulated under the *Public Health Act 1991* must be installed, operated and maintained in accordance with the requirements of the *Public Health (Microbial Control) Regulation 2000*. These systems must be registered with Council within one month of installation.
164. A final food premises inspection shall be arranged by the applicant and shall be undertaken by Council before trading commences.
165. At the completion of the 12-month landscape maintenance period, the consultant landscape architect/ designer must submit a final landscape condition report to Council certifying that all plant material has been successfully established, that any outstanding maintenance works or defects have been rectified.
166. Ongoing maintenance of the publicly accessible pocket park, playground and walkway shall be the responsibility of the Applicant, and shall remain useable and in a hygienic condition at all times to the satisfaction of Council.

The reasons for the imposition of these conditions are listed under Section 4.17 of the *Environmental Planning and Assessment Act 1979* as are relevant to the subject of this consent.

Review of Applicant's Proposed Changes to Draft Conditions

DA0117/2017 | 266 Longueville Road Lane Cove

Further to previous detailed responses to the draft conditions of consent, the applicant provided a submission to the SNPP dated 26 August 2021. As part of that submission, the applicant requested that the wording of conditions 3, 5, 9 154 and 156 be considered by the Panel.

The following table provides a summary of the draft condition, the applicant's request and comments from the independent assessor. A revised list of draft conditions dated 1 September 2021, which incorporates all agreed changes, is submitted to the Panel.

| No. | Draft Condition Summary | Applicant's Comment / Request | Independent Assessor's Comments |
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| 3 | Condition requires Thomson Adsett Architects to be retained through the life of documentation and construction unless an alternative architect is approved by Council. | <p>Applicant requests re-wording as follows:</p> <p><u>i. The design architect of the project shall be Thomson Adsett (NSW) Pty Ltd or such other architect appointed with prior agreement by the Council. Council shall not unreasonably withhold or delay such agreement;</u></p> <p><u>ii. A design architect contemplated by paragraph (i) is during the course of their appointment to have direct involvement in the design documentation, contract documentation and construction stages of the project;</u></p> <p><u>iii. A design architect contemplated by paragraph (i) shall during the course of their appointment have full access to the site;</u></p> <p><u>iv. Evidence of the commission of a design architect contemplated by paragraph (i) shall be provided to Council prior to the release of a Construction Certificate.</u></p> | <p>Agreed. Condition 3 amended as per request. Condition 3 now reads:</p> <p>3.1 The design architect of the project shall be Thomson Adsett (NSW) Pty Ltd or such other architect appointed with prior agreement by the Council. Council shall not unreasonably withhold or delay such agreement.</p> <p>3.2 A design architect contemplated by paragraph 3.1 is to have direct involvement in the design documentation, contract documentation and construction stages of the project during the course of their appointment.</p> <p>3.3 A design architect contemplated by paragraph 3.1 shall have full access to the site during the course of their appointment.</p> <p>3.4 Evidence of the commission of a design architect contemplated by paragraph 3.1 shall be provided to Council prior to the release of a Construction Certificate.</p> |

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| 5 | Requirements for design of pocket park and playground. | <p>The applicant is concerned that there is scope for ambiguity in the way the condition is worded. It is submitted that the condition should be re-worded as follows:</p> <p>Design of the Pocket Park and publicly accessible playground, including details of all playground equipment and surface treatments selected must be submitted to Council for approval. The playground is to be located a safe distance from the building footprint allowing safe fall-zone areas that comply with the Australian Standards. The design will be in accordance with the intent of the concept drawings provided in the DA Landscape Package revision E dated 23/08/2018, and includes a cubby and nature play consisting of a log for climbing and a four steppers that can be implemented in the space in consideration of play and safety compliances and Australian Standards.</p> | <p>Agreed. Condition 5 amended (not entirely as requested). Condition 5 now reads:</p> <p>5. Design of the Pocket Park and publicly accessible playground, including details of all playground equipment and surface treatments selected must be submitted to Council for approval. The design shall be in accordance with the intent of the concept drawings included in Landscape Plans revision E dated 23 August 2018. The playground equipment, surfaces and design shall comply with the relevant Australian Standards. with the Australian Standards.</p> |
| 9 | Section 7.11 Development Contributions | <p>Australian Unity has previously submitted that the calculated section 94 contribution amount be offset by the works in kind that Australian Unity will be constructing in the form of publicly accessible facilities on the site, namely the publicly accessible walkway, pocket park, playground and access park as envisaged by condition 156.</p> <p>As noted in condition 9.2, the section 94 contribution is intended for the funding of infrastructure for community facilities, open space and recreation, among other things. The publicly accessible facilities that Australian Unity will be developing on the site will themselves serve those purposes.</p> <p>The publicly accessible facilities to be developed on the site meet one or more of the criteria for satisfaction of section 94 contributions as set out in the Development Contributions Practice Note, and on that basis Australian Unity submits that they should be taken into account for the purpose of the section 94 contribution obligation.</p> | <p>The section 7.11 contributions are calculated in accordance with the Lane Cove section 7.11 Development Contributions Plan. The rates are based on a schedule of works for various public amenities and facilities within the locality and the broader LGA.</p> <p>The public pathway and playground/pocket park are not included within the s7.11 Contribution Plan schedule of works. Rather, these publicly accessible facilities are required as a consequence of removing the existing open space (ie the entire site) from public use.</p> <p>The provision of the public pathway and playground /pocket park are therefore conditions imposed pursuant to section 4.17 of the Environmental Planning and Assessment Act, 1979.</p> <p>Accordingly, it is not appropriate to offset the vale of these on-site works against s7.11 contributions.</p> |

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| 154 | <p>Now condition 153 Proposed right of Carriageway for Timbertops land</p> | <p>Australian Unity has previously submitted that the Right of Carriageway referred to in condition 154 should bear the same terms that are contained in and were agreed to in clause 24 of the Lease for the site. This will ensure that a right of access is maintained for the Timbertops Land as long as that site is registered Strata Plan 5383.</p> <p>Ongoing access to the adjoining land is already secured by clause 24 of the Lease for the site. It is inappropriate for Council to seek to impose a broader proprietary right in favour of the adjoining land as part of the development consent, to that which was negotiated and agreed to under the Lease. Australian Unity has reasonable concerns that if a Right of Carriageway is required to be registered in perpetuity, there may be changes to the Timbertops Land which could result in a material increase in the use of the driveway resulting in impacts to driveway function and safety.</p> <p>Further, and similar to the comments made below with respect to public access to the pocket park, the playground and the publicly accessible walkway on the northern boundary of the site, Australian Unity's position is that the appropriate mechanism to allow access over the driveway is through a condition of consent and not through a Right of Carriageway, positive covenant or other easement.</p> <p>As such, Australian Unity has proposed that condition 154 be modified as set out below in red: (refer to applicant's submission)</p> | <p>The requirement for this condition comes about as a consequence of an historical oversight in the approval process when the Timbertops building was approved.</p> <p>When approved in 1969, it was intended that the driveway access was to be over the subject land. It is apparent that this access arrangement was never formalised, which may be attributed to the fact that the land was public open space, with no intention of that status changing at the time.</p> <p>Although it could be argued that the Council could have created a right of carriageway at any time, the current development application presents an opportunity to formalise the right of access. Indeed, it is now imperative to create the access before public access to the land is denied.</p> <p>The wording of the proposed condition is in accordance with Council's usual wording, which has been applied in similar situations. It is considered that the provisions of Schedule 8 of the Conveyancing Act, 1919 are clear on the rights and responsibilities in relation to the access.</p> |
| 156 | <p>Now condition 155 Requires positive covenant for public access to pathway and playground/pocket park.</p> | <p>Similarly to the proposal in relation to condition 154, Australian Unity has previously submitted that that a condition of consent only is appropriate to permit public access, and a positive covenant or easement is not required or appropriate. A condition of consent must be complied with in perpetuity and failure to comply with a condition of consent can be enforced by the Council just as readily as a public positive covenant or easement. The terms of access should also be in accordance with the Lease for the site.</p> <p>Further, given that the Council is the registered proprietor of the site, a positive covenant as proposed would create the unusual scenario of Council being both</p> | <p>The land is classified as operational under the provisions of the <i>Local Government Act, 1993</i>. Once the lease is executed between Council and Australian Unity, Council will have limited control over the land. This is a relevant planning matter as the footway and pocket park are required to have public access.</p> <p>It is considered that a positive covenant is appropriate to ensure ongoing public access.</p> |

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| | | <p>the entity benefitted and burdened by a registered Right of Access under the Conveyancing Act 1919. Also, and importantly from Australian Unity's perspective, the agreed position between Council and Australian Unity is that Council remains responsible for and has indemnified Australian Unity against any third party liability relating to the pocket park and public pathway. If a positive covenant were to be registered, it is unclear how that indemnity would operate.</p> <p>The Landscape Plans also refer to a dawn to dusk gate restricting access along the publicly accessible walkway.</p> <p>On the basis of the above, Australian Unity proposes that condition 156 be wholly redrafted as follows:</p> <p>The developer must allow the public to access and use the pocket park, the playground and the public pathway along the northern boundary of the site as shown in the DA Landscape Package revision E dated 23/08/2018 prepared by Taylor Brammer Access to the public pathway along the northern boundary of the site will be restricted between the hours of dusk and dawn.</p> | <p>It is agreed that the public access should only be available between dawn and dusk for security purposes.</p> <p>Condition 155.2 has been added:</p> <p>“Access to the public pathway along the northern boundary of the site shall be closed between the hours of dusk and dawn. Lockable gates and signage shall be installed to the satisfaction of Council.”</p> |
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