

Matthieu Santos
Senior Planning Officer
Department Planning Industry and Environment

300 Burns Bay Road -Early Works (SSD – 85848713)

Dear Mr Santos,

Thank you for the opportunity to review and comment on the proposal.

1. Background:

Council previously provided a submission of objection to the proposed redevelopment and rezoning proposal for the site (**Ref: SSD- 87925706**). This proposal relates to:

To amend the Lane Cove Local Environmental Plan 2009 by:

- amending the applicable maximum building height control from 21m to part 38.5m, part 45m and part 54.5m, and
- floor space ratio (FSR) control from 2:1 FSR to 3.22:1 for the site.

The built works include:

- The Construction of a new residential flat buildings ranging from maximum 10, 12, and 15 storeys and comprising 225 apartments including:
 - o 191 market apartments;
 - o 34 affordable apartments for a period of 15 years; and
 - o Communal areas at both lower ground, ground level and rooftop levels.
 - o Car and bicycle parking for residents and visitors at lower ground and two (2) basement levels.

This application is being assessed by the Department co-currently and is in the '*Response to Submissions*' stage. At time of writing no approval has been granted.

2. Site:

The site is legally described as Lot 15 of DP 1230609 and known as 300 Burns Bay Road, Lane Cove. The site is located on the eastern side of roundabout intersection between Burns Bay Road and Waterview Drive. The site has vehicular access via a right of way easement. The site has a skewed frontage and rear boundary.

The subject site contains 2 commercial buildings being an office building and a warehouse, a tennis court, significant on grade parking facilities and existing vegetation. The existing office building is to be retained as part of the proposal. The subject site is within the 30m buffer zone from Category 2 Vegetation under the NSW Rural Fire Service guide for bushfire prone land mapping. Therefore, the subject site is determined to be bushfire prone land.

East of the site adjoins bushland at Hartman Hill Reserve and Tannery Creek and Burns Bay Reserve beyond.

South of the site is 300A Burns Bay Road an 8-storey residential flat building. Further South are 2 x 5-storey residential flat buildings at 300B and 300C Burns Bay Road.

North of the site is a private carriageway providing access to 280 and 292-298 Burns Bay Road.

- 290 Burns Bay Road is a part 6 and part 7-storey residential flat building,
- 280 Burns Bay Road is a part 7 and part 8-storey residential flat building
- 292-298 Burns Bay Road is a 5-storey residential flat building.

Further north is an approved, but yet to be constructed Seniors Housing Development at 40A Cope Street which is part 4 and 6-storeys in height.

West of the site is Hughes Park, Waterview Drive and residential flat buildings and mixed-use developments 6 - 8-storeys in height.

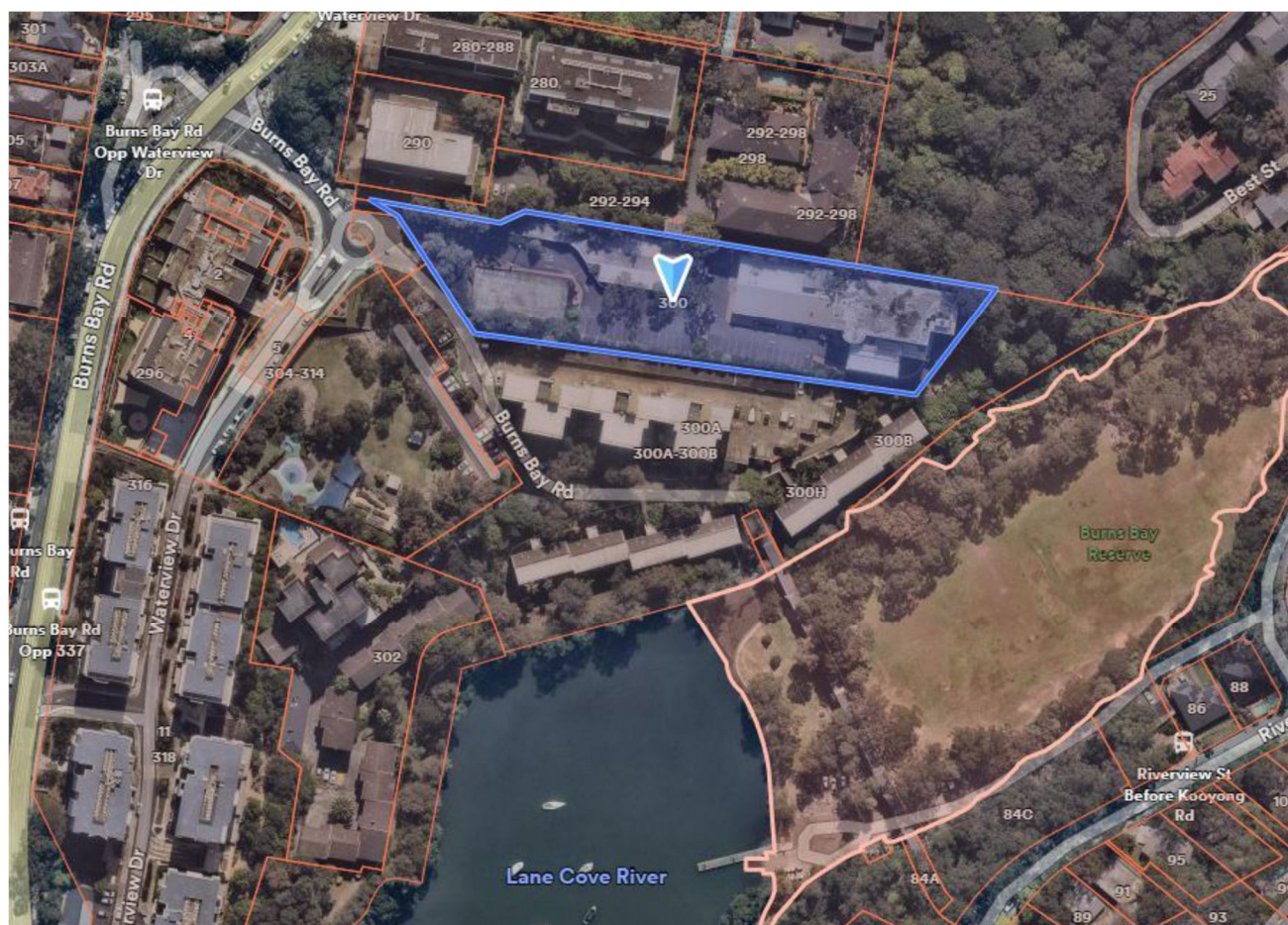


Figure 1: Subject site (Source Nearmaps).

3. Proposal:

The SSDA seeks development consent for the following:

- Site establishment works including: – Erection of site hoarding, fencing and signage – Installation of site office and amenities.
- The demolition of all existing structures at the site comprising: – Office Building – Warehouse – Car Parking structure
- Removal of 32 trees on the site;
- Shoring and bulk excavation works to enable the excavation of basement levels; and
- Extension and augmentation of services and infrastructure as required.

The following concerns area raised by Council in relation to the proposal.

4. Tree Removal:

The proposal requests the removal of 32 trees and canopy cover of approximately 822m² from the site. This would result in approximately 54% of the site's canopy cover being removed.



Figure 2: Trees proposed for removal (red) (Source CPS)

Councils DCP Part J Landscaping and Tree Preservation requires:

J.2 Submission requirements

2.2 Objectives

- 1. Existing medium and high value trees and canopy coverage shall be retained as assets and the building footprint designed to enable their retention. Pre-development consultation with Council is encouraged to avoid unnecessary clearing or damage to medium and high value trees.**

3.2 Landscape Character

Objectives

- (d) Minimise loss of medium and high value trees and maximise opportunities for new tree planting**

The trees to be removed include 10 medium and high retention value trees including: Trees 35, 36, 39, 40, 37, 57, 58, 59, 60, 61.

The removal of the medium and high value trees is not supported by Council. It is noted that no DA approval has been granted for the re-development of the site, therefore proposed removal of the trees is considered premature. The built form including building setbacks have not been approved. In particular, the 14 trees adjacent to the southern boundary could be retained if greater building setbacks were required.

As discussed in Council's previous submission to the proposed redevelopment and rezoning proposal (Ref: SSD- 87925706), the design would result in unacceptable shadow impacts to the adjoining southern neighbours. The proposed buildings have not been appropriately setback from the southern boundary to minimise overshadowing impacts. A re-design to allow greater setbacks would also allow a larger amount of existing trees to be retained.

In terms of retained trees, the arboricultural report discusses retaining 34 trees on neighbouring properties. These trees inflate the overall tree numbers and should not be included in the net calculation. The applicant does not have owners' consent to remove or prune any trees on neighbouring properties in any case. The proposal would retain only 19 trees on site and only 727m² of canopy cover.

Council also raises significant concerns regarding the protection of trees based on the unforeseen Arboricultural Impacts resulting from the development.

- Per the LCC DCP Part J 2023, Council declared climate emergency in 2019, with directive/goal to increase canopy over to 40% within the municipality.
- Measured using Nearmap, proposal looks to remove approximately over 900m² of tree canopy, 822m² in arborist report or over 50% of on-site canopy coverage. This is inconsistent with objectives in Part J section 3.5, 3.6, 4.1 and 5.1. This proposal is also contrary to the environmental requirements of Sustainability DCP.
- There are also minor discrepancies between tree retention and removal within Arborist report, landscape and demolition plans.
- The applicant to consider larger replacement planting within western setback (I.E advanced *Syncarpia glomulifera*) to offset loss of trees within the site.
- The applicant to consider species change for *E. reticulatus* as feature tree on entry. Council would accept a larger deciduous tree such as *Nyssa sylvatica* or equivalent.

In light of the above, it is recommended that the tree removal component be removed from the early works DA. Tree removal should be only considered under the re-development and rezoning application for 300 Burns Bay Road (Ref: SSD- 87925706).

5. Bushland Protection and Recommendations

Council is of the view that the proposal, in its current form, does not adequately address bushland protection and landscape character outcomes.

Council recommends that the consent authority require the following prior to any approval:

1. **Revised Landscape Plans** Including: Increased deep soil areas and canopy tree provision, Clear canopy cover targets at maturity, and Demonstrated retention and integration of significant trees
2. **Bushland Interface Strategy** Including: Establishment of a vegetated buffer zone, Use of locally indigenous species, Long-term weed management and maintenance measures
3. **Updated Arboricultural Assessment Including:** Independent review of tree retention opportunities, Demonstrated compliance with AS 4970–2009
4. **Enhanced Biodiversity Outcomes Including:** Quantification of vegetation loss and replacement, and Measures to maintain or improve habitat connectivity

6. Excavation:

The application includes shoring and bulk excavation of 13.40AHD.

Council has recommended a number of conditions requiring dilapidation reports for the protection of adjoining properties, retained trees and Council infrastructure.

7. Next Steps:

Should the Consent Authority choose to support the proposal in its current form, it is further recommended that the following draft conditions of consent be imposed for inclusion and guidance and mitigate impacts during the demolition/excavation phase.

Should you require any further information or assistance please do not hesitate to contact Council's Senior Town Planner Chris Shortt 9911 3522 between 8.00am and 4.00pm Monday to Friday or via email on cshortt@lanecove.nsw.gov.au (preferred).

Yours faithfully,



Chris Shortt
Senior Town Planner

DRAFT CONDITIONS

1. Payment of Security Deposits

Before the commencement of any works on the site or the issue of a construction certificate, the applicant must make all of the following payments to Council and provide written evidence of these payments to the Certifier:

Security deposit	Revision
Infrastructure Damage Bond	\$5,000.00
Tree Bond	\$50,000.00
Civil Reconstruction Work	
Kerb and Gutter	\$43,070.00
Footpath	\$41,610.00
Road resealing	\$62,220.00
Turfing	\$7,240.00
Pram Ramps (2) (Additional ramps will be decided later)	\$8,000.00
Drainage Pits (8)	\$18,000.00
TOTAL:	\$172,920.00

The payments will be used for the cost of:

- making good any damage caused to any council property (including street trees) as a consequence of carrying out the works to which the consent relates.
- completing any public work such as roadwork, kerbing and guttering, footway construction, stormwater drainage and environmental controls, required in connection with this consent.
- any inspection carried out by Council in connection with the completion of public work or the making good any damage to council property.

Note: The inspection fee includes Council's fees and charges and includes the Public Road and Footpath Infrastructure Inspection Fee (under the *Roads Act 1993*). The amount payable must be in accordance with council's fees and charges at the payment date.

Note: Council inspection fees are calculated in accordance with Council's fees and charges at the payment date.

1A. Pre-Construction Dilapidation report: Trees to be Retained

Before the issue of a construction certificate, an Arborist with a minimum of an AQF level 5 qualification must prepare a pre-construction dilapidation report on the health of the trees to be retained and protected following a site visit with Council's Senior Tree Preservation Officer. The report shall be agreed upon by both parties and shall include photographs of each tree and any existing damage, defects or areas of concern well represented.

Before the issue of an occupation certificate, the principal certifier is to provide a copy of the post-construction dilapidation report to Council (where Council is not the principal certifier) and to the relevant adjoining property owner(s).

Reason: To identify condition to existing trees retained prior to commencement of building

2. Dilapidation Report

Before any works or the issue of a construction certificate, a suitably qualified engineer must prepare a dilapidation report detailing the structural condition of adjoining buildings, structures or works, public roads, public assets and public land, to the satisfaction of the certifier. If the engineer is denied access to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and demonstrate, in writing, to the certifier's satisfaction that all reasonable steps were taken to obtain access to the adjoining properties.

This report is to specifically include, but is not limited to, the following areas:

- 300A Burns Bay Road
- 290 Burns Bay Road
- 280 Burns Bay Road
- 292-298 Burns Bay Road

Reason: To establish and document the structural condition of adjoining properties and public land for comparison as building work progresses and is completed.

2. Project Arborist

Prior to the commencement of any works including demolition, a project arborist of minimum Australian qualitative framework (AQF) Level 5 qualification is to be appointed to oversee/monitor trees/condition compliance during the construction process. The project Arborist shall:

- Certify tree protection measures prior to any works including demolition.
- Prescribe and oversee any tree pruning of trees on both public and private land. The applicant is to ensure Council's Senior Tree Assessment Officer is also in attendance to monitor pruning supervision.

- Where works must take place within the Structural Root Zone of any tree to be retained, root mapping through hand digging shall take place and a report showing the findings shall be prepared and submitted to Council's Senior Tree Assessment Officer for approval prior to any works commencing in the SRZ.

Reason: To ensure trees to be protected on the site.

3. Safety fence along the boundary of the property:

Before commencement of any works, barrier or temporary fencing is to be provided along the full frontage of the property. This fence is for the safety of pedestrians on the public footpath.

Reason: To ensure worksite pollutions are controlled accordingly to protect the environment

4. Dust Monitoring Plan:

A Dust Monitoring Plan is to be provided for Approval Prior to the commencement of any demolition works or the issue of the Construction Certificate. This is to include, but not be limited to, the locations of dust monitoring devices on all boundaries or at appropriate location of the site so as to record, at half an hour intervals, level and composition of dust during the course of construction.

Reason: Protection of environment and amenity of the neighbouring residents

5. Noise Monitoring Plan:

A Noise Monitoring Plan is to be provided for Approval Prior to the commencement of any demolition works or the issue of the Construction Certificate. This is to include, but not be limited to, the locations of noise monitoring devices on all boundaries or at appropriate locations of the site so as to record, at half an hour intervals, noise levels during the course of construction.

Reason: Protection of environment and amenity of the neighbouring residents

6. Trades Personal Parking and logistics plan:

A Trades Personal Parking and logistics plan is to be provided for Approval, Prior to the commencement of any demolition works or the issue of the Construction Certificate. This plan shall detail the provisions of parking on site for workers and the existing basement should be utilised for trades personal parking to reduce the strain on local kerb side parking.

Reason: To reduce the traffic amenity impacts.

7. Hours of work:

The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between: All demolition, building construction work, including earthworks, deliveries of building materials to and from the site to be restricted as follows:-

- (a) Monday to Friday (inclusive) 7am to 5.30pm
High noise generating activities, including rock breaking and saw cutting be restricted between 8am to 5.00pm with a respite period between 12.00 noon to 1.30pm Monday to Friday.
- (b) Saturday 8am to 12 noon
- (c) with NO high noise generating activities, including excavation, haulage truck movement, rock picking, sawing, jack hammering or pile driving to be undertaken. Failure to fully comply will result in the issue of a breach of consent P.I.N.
- (d) A Notice/Sign showing permitted working hours and types of work permitted during those hours, including the applicant's phone number, project manager or site foreman, shall be

displayed at the front of the site. The principal certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency. Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Note: Any variation to the hours of work requires Council's approval.

Reason: To protect the amenity of the surrounding area.

8. Work Zone

A Construction Traffic Management Plan and an application for a Work Zone adjacent the development shall be submitted to Lane Cove Council for determination, prior to the commencement of the demolition and prior to any works that require construction vehicle and machinery movements to and from the site. If the development has access to a State Road, the Construction Management Plan and Work Zone need to be referred to RMS for approval. The approval of the Traffic Construction Management Plan and application for a Work Zone by Council's Traffic Section must be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**

Reason: To provide safer working environment and minimize interruption to pedestrians and motorists

8A. Demolition Traffic Management Plan

As a result of the site constraints, limited vehicle access and parking, a demolition traffic management plan (DTMP) and report shall be prepared by an *Transport for NSW* accredited person and submitted to and approved by Council prior to commencing any demolition work.

The DTMP must:-

- A. Make provision for all construction materials to be stored on site, at all times.
- B. Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- C. Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site is not permitted unless a Works Zone is approved by Council.
- D. Include a Traffic Control Plan prepared by an RMS accredited ticket holder for any activities involving the management of vehicle and pedestrian traffic.
- E. Specify that a minimum seven (7) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measures.
- F. Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath areas (hoardings, scaffolding or temporary shoring) and extent of tree protection zones around Council Street trees.
- G. Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the DTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined

impact of construction activities. These communications must be documented and submitted to Council prior to work commencing on site.

- H. Be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’s Manual – “Traffic Control at Work Sites”.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

8B. Asbestos removal, handling and disposal

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. Details of the method of removal in accordance with this condition is to be submitted to the Principal Certifying Authority and Council’s Environmental Health Section, prior to commencing any demolition works.

Reason: To ensure worker and public health and safety.

9. Rubbish during construction

Rubbish must be stored in a locked container/cage. Any building rubbish that is not contained must be cleaned up immediately, including the immediate worksite, surrounding area and/or public open space.

Reason: To avoid illegal dumping in bushland. To avoid wildlife access to rubbish and foreign materials. To minimise likelihood of chemical spills, building waste and foreign materials from entering bushland.

10. No Access to Reserve

There shall be no access through the adjacent park/reserve to carry out any building works, storage of materials, storage of soil or storage of rubbish during construction.

Reason: In compliance to DCP part H.1 Objectives:

1. To protect both public and private bushland from adjacent development which could result in any adverse change to the condition of bushland through altered moisture conditions, increased nutrient levels, soil movement, invasive or inappropriate plant species and proximity of development.

11. Maintain Bushland Adjacent to site

During construction/landscaping the designated environmental/bushland area within the property and adjacent public bushland area must be kept clean of all building materials and rubbish. Any rubbish that is blown into these areas must be immediately cleaned up. In the event that there occurs any accidental or intentional dumping of building material in the bushland area, Council’s *Coordinator of Bushland* must be notified immediately. Any clean-up operation which involves disturbing the vegetation, leaf litter, soil crust, or natural bedrock, must be coordinated through Council’s *Coordinator Bushland*.

Reason: To ensure the correct course of action is taken for clean-up of environmentally sensitive areas and reported to the relevant authoritative bodies.

12. Aboriginal Relics

All Aboriginal sites and relics in NSW are protected under the *National Parks and Wildlife Act 1974*. If during the course of construction an Aboriginal site or relic is uncovered, works must cease and the *Metropolitan Local Aboriginal Lands Council* and

the *NSW National Parks and Wildlife Service* must be notified immediately.

Reason: In compliance with: National Parks and Wildlife Act 1974 to report any Aboriginal site or relic uncovered during course of construction.

13. Offsite disposal of contaminated soil

All contaminated material to be removed from the site will need to be assessed, classified, and managed in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the NSW EPA Waste Classification Guidelines (2014). Once assessed, the materials will be required to be disposed to a licensed waste facility suitable for the classification of the waste with copies of tipping dockets supplied to Council. 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.

Reason: To ensure health and safety.

14. Hazardous or intractable wastes

Hazardous or intractable wastes arising from the site works, excavation and remediation process must be removed and disposed of in accordance with the requirements of WorkCover NSW and the Environment Protection Authority, and with the provisions of:

- Work Health and Safety Act 2011;
- The Occupational Health and Safety (Hazardous Substances) Regulation 2001;
- The Occupational Health and Safety (Asbestos Removal Work) Regulation 2001;
- Protection of the Environment Operations Act 1997 (NSW);
- Protection of the Environment Operations (Waste) Regulation 2005;
- Waste Avoidance and Resource Recovery Act 2001; and
- NSW EPA Waste Classification Guidelines (2014).

The works must not cause any environmental pollution, public nuisance or, result in an offence under the Protection of the Environment Operations Act 1997 or Work Health & Safety Act 2011 and Regulations.

Reason: To ensure health and safety