

17 December 2025

LANE COVE COUNCIL SUBMISSION

Ref: SSD-81941461

Mr Max Duncan,
Principal Planner, Social and Infrastructure
Assessments Department of Planning, Housing and
Infrastructure

Infill Affordable Housing
12-20 Berry Road and 11-19 Holdsworth Avenue St Leonards

Thank you for the opportunity to comment on the Infill Affordable Housing development at 12-20 Berry Road and 11-19 Holdsworth Avenue St Leonard's (SSD-81941461).

I refer to the above submitted application and can confirm Councils Planning Team have considered the submitted documentation.

1. BACKGROUND

DA115/2022

On **May 10 2023**, the Sydney North Planning Panel at its meeting determined to **refuse** Development Application DA115/2022 for:

- 'Demolition of existing structures and construction of a mixed-use development containing two buildings comprising a total of 130 apartments (including one affordable dwelling), childcare centre, community facility and basement parking for 180 vehicles'.

Reasons for refusal included:

1. The proposed development did not satisfy the *Part 7 Additional local provisions – St Leonards South Area, Clause 7.1 – Development on land in St Leonards South Area objectives (a) & (b) and Clause 7.1(4)(d) of Lane Cove Local Environmental Plan (LCLEP) 2009*:
2. The proposed variation under *Part 7, Clause 7.1(3)(a) of LCLEP 2009* was not supported, where despite *Clause 4.3* of the same plan, the consent authority may only consent to development on land to which the above clause applies that would result in a building where the building height does not exceed the increased building height identified on the Incentive Height Buildings Map. Further, *Clause 4.6(8)(cb) – Exceptions to development standards* does not allow development consent to be granted for development what would contravene *Part 7, except Clauses 7.1(4)(e) and 7.2*.
3. The proposed development did not satisfy the *Part 7, Clause 7.6(3)(1) – Design Excellence - St Leonards South Area objective and Clause 7.6(4)(a),(b),(c),(f) and (g)(i),(iv), (v), (vi), (vii), (ix) & (x) of LCLEP 2009*:



4. The proposed development is an overdevelopment on the subject site and is inconsistent with the relevant aims of R4 High Density Residential and Building Height objectives of *LCLEP 2009*.
5. The development does not comply with the relevant requirements of the *Lane Cove Development Control Plan (LCDCP) 2009 Part C - Residential Localities*.
6. The proposal did not comply or address the following requirements *State Environmental Planning Policy (SEPP) No. 65* and the *Apartment Design Guide (ADG)*.
7. The proposal would unreasonably add to the intensity, bulk and scale of the development resulting in an overdevelopment of the site. The proposed development would have an unreasonable visual impact upon the future and envisioned South St Leonards precinct. The impacts on both the environmental, the built and social environments of the locality were unsatisfactory.
8. The subject Development Application was refused because the proposal would represent as an overdevelopment and the overall design would not be suitable for the subject development site having regard to the adverse impacts that the proposed intensification would have on the newly adopted precinct.
9. The subject Development Application was refused primarily for the reasons provided above, and approval of the Development Application would be contrary to the public interest.
10. The subject Development Application was refused because approval of the proposed development would set an undesirable precedent for a similar inappropriate development within the South St Leonards precinct.

On **June 30 2023**, a Class 1 appeal was lodged with the Land and Environment Court.

On **October 24 2024**, and following the hearing, the Class 1 appeal was dismissed by the Land and Environment Court.

2. PROPOSAL

The proposal is for the following:

- Construction of a new mixed-use development, comprising a total of 188 dwellings across 2 x 15 storey residential flat buildings:
- Building H (Area 16): – A 15-storey building with a maximum height of 48.1m and gross floor area of 9,643m², comprising:
 - 93 residential dwellings, including 8 x townhouses at the lower ground level and residential apartments above.
 - 40m² of indoor communal amenity and 131m² of communal open space on the rooftop.
- Building B (Area 17): – A 15-storey building with a maximum height of 49.4m and a gross floor area of 9,842m², comprising:
 - A 601m² community facility, comprising a childcare centre and a community hall.
 - A 2 x bedroom affordable housing unit (78m²) at the ground level to be dedicated to Council.
 - 95 residential dwellings, including 36 affordable housing units (15.6%) (in addition to the Council dedicated unit) in the podium.
 - 40m² of indoor communal amenity space and 131m² of communal open space on the rooftop.
- Construction of a shared basement carpark accessed from Holdsworth Avenue, comprising 206 car parking spaces, 70 bicycle spaces and 20 motorcycle spaces.

- Delivery of a portion of a 15m wide through site link within Area 16, which will facilitate connection between Holdsworth Avenue and Berry Road in the future.
- Delivery of a 450m² landscaped recreation area within Area 17, which will be dedicated to Council and used as the childcare outdoor play area.
- Provision of a high-quality north-south green spine traversing through the centre of the site separating the two buildings and offering an abundance of communal open space.
- Associated landscaping and public domain works.
- Augmentation of physical infrastructure and utilities as required.

Council raises the following concerns with the proposal.

3. BUILDING SETBACKS

LCDCP Setback Controls

Section 7 of Part C Building setbacks - Residential Localities in the Lane Cove DCP.

The northern elevations of building 16 and 17 fronting the east/west link are required to have a minimum building setback of 6m on ground to level 4, and a setback of 9m at level 5 and above.

The Berry Road and Holdsworth Avenue frontages are required to have a 4m setback from ground floor to level 5, and a setback of 7m setback from level 6 and above.

Proposed Building Setbacks

The proposed non-compliant street and pedestrian link setbacks are considered unsatisfactory, resulting in a poor built outcome. The proposal would negatively affect the level of amenity and spatial proportions which would not be in alignment with envisioned and established envelopes of the South St Leonards precinct.

The proposal does not comply with the street and pedestrian link building setback controls of Part C – Residential Localities Part 7 – Built Form Control No. 1 and Figure 9 – Building Setbacks/Building Depth under the 'Building Envelope Table' of Locality 8 – St Leonards South Precinct – Building Setbacks A and F of LCDCP.



Figure 1 – Required Building Setbacks in Brown (A) and Blue (F)

Front Building Setbacks A (Refer to Figure 9)	<ul style="list-style-type: none"> • 4m at street level • + 3m at and above Level 6 	To Canberra, Marshall, Holdsworth & Berry (1-19) + east (21-23)
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Figure 2 – Required Setbacks to Berry Road and Holdsworth Avenue

Building Setbacks F (Refer to Figure 9)	<ul style="list-style-type: none"> • 6m at park and east-west pathway reservation level • +3m at and above Level 5 	<ul style="list-style-type: none"> • To Local Park (eastern buildings of Areas 21 and 22) and • to east-west pathway reservation as shown in Figure 5(b) (for Areas 5, 6, 7, 8, 14, 15, 16 and 17).
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Figure 3 - Required Setbacks to the East-West Pedestrian Link

Setbacks to the Green Spine

- The LCDCP and the associated Landscape Master Plan (LMP) requires a minimum 24m wide Green Spine Area be provided as part of any development. Under Part 7 – Built Form, the Building Envelope table: Control No. 2: Rear Building Setback requires a *‘Minimum 12m setback to rear boundary of an Area’*.
- The submitted plans do not demonstrate compliance with the required 12m rear building setback under Part 7 – Built Form Control No. 2 – Rear Building Setback under the ‘Building Envelope Table’ of Locality 8 – St Leonards South Precinct of LCDCP.
- The proposal includes private ground floor balconies and building elements which encroach into this area beyond the permissible 1m. This results in unreasonable amenity impacts, exacerbates non-compliant deep soil provisions within the green-spine area and fails to meet the objectives of the green spine area setbacks. Full compliance should be achieved, and these building elements be deleted as they cannot be approved.

Street Setbacks

- There are substantial variations being proposed to the required **minimum 7m setback** for both buildings **at Level 6 and above to Berry Road and Holdsworth Avenue** (see Figure 4).

E-W Link setbacks

- There are substantial variations being proposed to the required **minimum 6m and 9m setback** for both buildings to 15m wide pedestrian link (see Figures 5 and 6 below).
- The building setback controls have been carefully considered at the strategic planning stage to ensure that the bulk and scale of buildings are appropriate to the relevant public domain interfaces and to correspond across the whole precinct, including specific relevant street and pedestrian link characteristics. Any departures from the building setback map and associated tables would result in an inconsistent built form within the Precinct itself.
- Full compliance would ensure that any approval would reflect the expectations of the community that Council's newly adopted site-specific and precinct wide DCP be fully complied with which went through an extensive strategic planning and community consultation process.

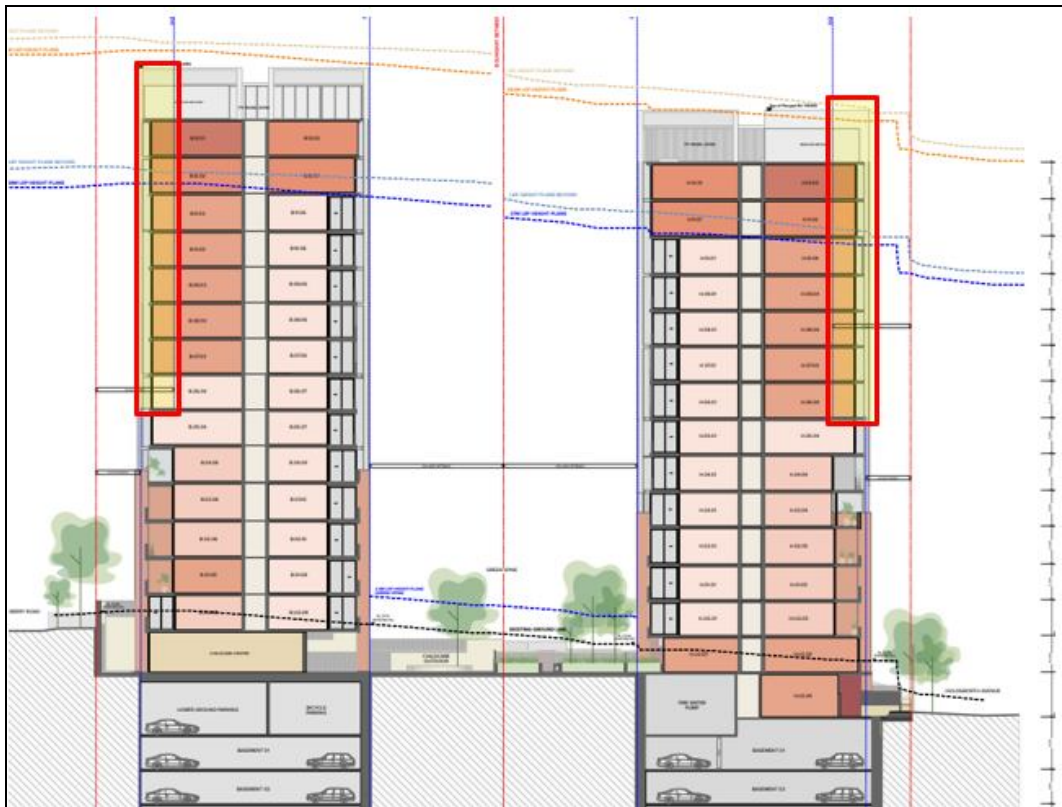


Figure 4 -Extent of Building Setback Variations to Holdsworth Avenue (Building to the Right) and Berry Road (Building to the Right).

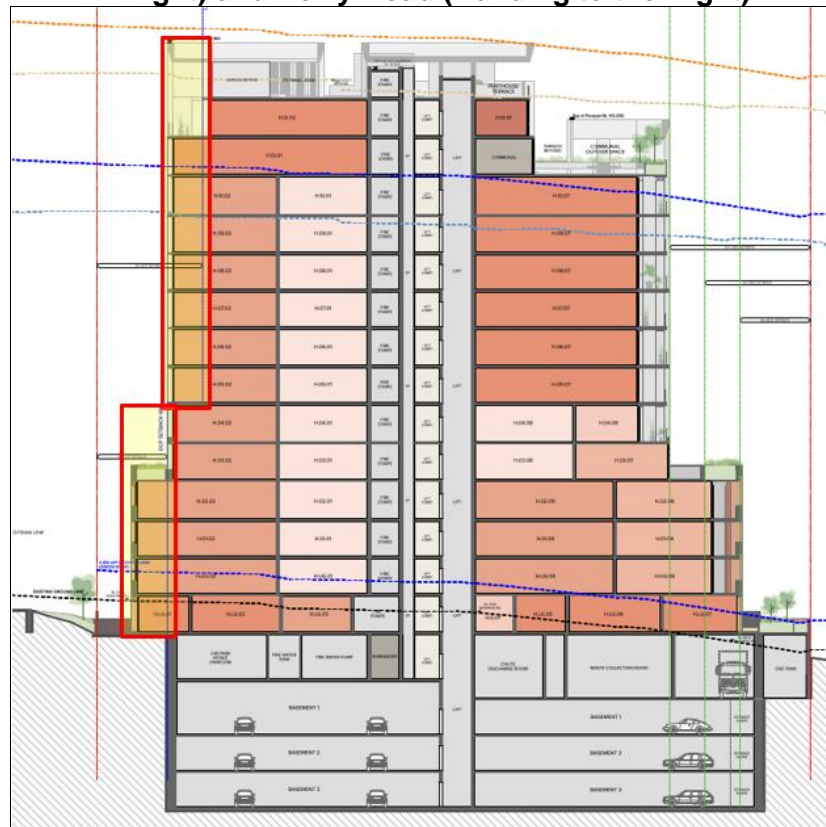


Figure 5 -Extent of Building Variations to the East-West Pedestrian Link (Area 16)

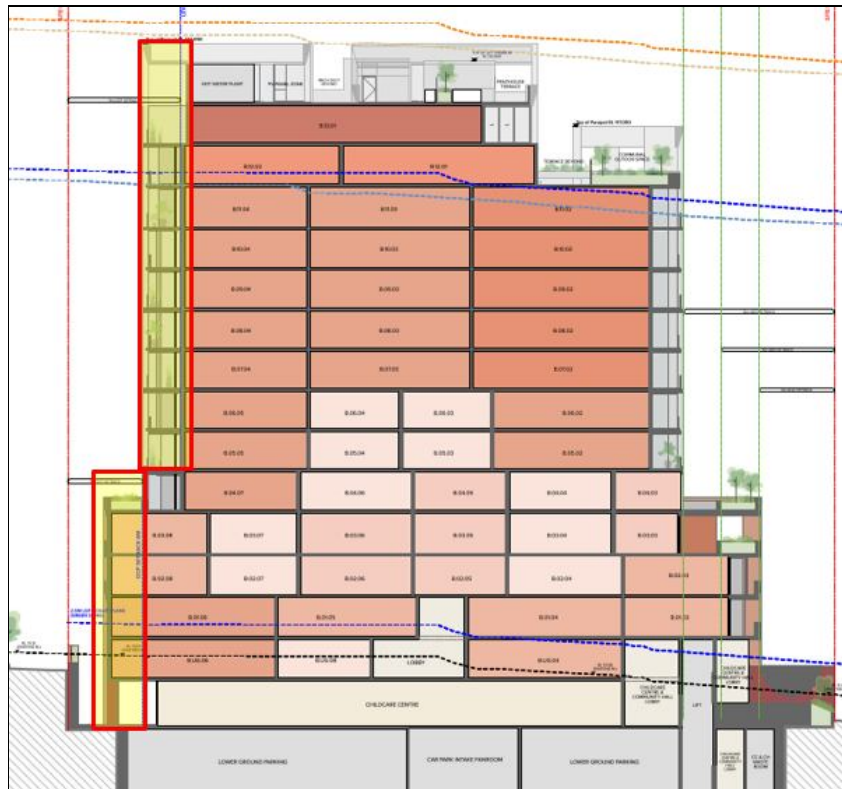


Figure 6 - Extent of Building Variations to the East-West Pedestrian Link (Area 17).

- (d) Recent determinations within the precinct have reinforced the provisions of compliant building setbacks to relevant street frontages to ensure there are appropriate street wall heights present to minimise any unnecessary bulk/scale and overshadowing onto the public domain space areas.
- (e) This includes the recently determined PPSSNH-647 (by the Sydney North Planning Panel) for DA56/2023 which proposed the addition of affordable housing with the associated bonuses at Area's 13, 14 and 15. This Application originally included the same variations to the east west pedestrian link which was amended to comply and thus supported by Council and the SNPP at their meeting on 11 December 2025.
- (f) A compliant setback scheme would reduce significant visual massing impacts when viewed from the street.
- (g) A fully compliant scheme for the subject proposal is strongly recommended to ensure that developments within the Precinct are similar in scale.
- (h) The proposed non-compliant setbacks under the subject proposal would not provide for a better planning outcome.
- (i) A compliant scheme would offer a much-improved designed development.
- (j) The applicant ought to redesign the development in a manner that fits within the set parameters of the relevant building envelope as set out by the recently adopted Precinct wide planning documentation.

- (k) The relevant street setbacks of the DCP are 'generous' (i.e. fairly minimal street setbacks to be provided for) in nature to begin with, which allows for an expansive building envelope to be provided on site and any requests to further reduce the required minimum street setbacks are not supported under any circumstances.
- (l) It is considered that the Department of Planning should give greater weight to the relevant new introduced DCP controls due to them being applied consistently throughout the whole precinct.
- (m) The proposed development does not comply with the LCDCP 2009 requirements for building setbacks, resulting in a development that is incompatible with street landscape character and is contrary to the desired spatial proportions of the surrounding street.
- (n) Clause 3.5 in Part C3 of LCDCP 2009 contains the setback provisions that apply to the proposed development. The objectives of this clause are to:
 - 1 To establish the desired spatial proportions of the street and define the street edge and provide a transition between public and private space.*
 - 2 To assist in achieving visual privacy to dwellings from the street.*
 - 3 To allow for street landscape character.*
- (o) The proposed development does not comply with LCDCP 2009, which requires consistency with the predominant street and pedestrian link setback. The non-compliant building envelope is misaligned with the surrounding locality and streetscape, resulting in a visually dominant and overbearing structure within its context.
- (p) Clause 3.5.1(a) in Part C3 of the LCDCP 2009 stipulates that the front setback of the building shall be consistent with the prevailing setback along the street, or 7.5m should be applied where there is no such prevailing setback.
- (q) It is noted that the prevailing setback would be the setbacks set by under Part C – Residential Localities Part 7 – Built Form Control No. 1 and Figure 9 – Building Setbacks/Building Depth under the 'Building Envelope Table' of Locality 8 – St Leonards South Precinct – Building Setbacks A and F of LCDCP which have been consistently applied and should be given greater weight.
- (r) Any such breaches to these new controls would be unacceptable and contrary to cl 3.5.1.
- (s) Achieving those prevailing or predominant setbacks to the streets and pedestrian links would be an acceptable outcome, being a setback that is consistent with the surrounding locality and streetscape, if the objectives of cl 3.5 are achieved.
- (t) The proposed variation to the predominant setbacks, is unsatisfactory and does not meet the objectives of the cl 3.5 in relation to defining the street edge, spatial proportion, achieving visual privacy to dwellings from the street and allowing for street landscape character in accordance with the LCDCP objectives. The resultant

spatial proportions of the buildings as they relate to the relevant boundaries are not satisfactory contrary to the objectives of the LCDCP 2009. In particular, objective three in cl 3.5 to "*allow for a street landscape character*" and therefore cannot contribute to the street landscape character, and objective one in cl 3.5 "*to establish the desired spatial proportions of the street*".

- (u) Part 2C – Building height of the ADG recognises that street wall height is used to define the scale and enclosure of the street. The variation is proposed to maximise the development FSR development potential yield of the site. The setback breaches do not satisfy Part 2G Street setbacks to ensure the alignment of buildings along the public domain to define the proportion and scale of the street with appropriate street wall heights and contribute to the character of the public domain. It is noted that the proposal now exceeds the maximum building envelope permitted. The required street/pedestrian link wall heights stipulated by the DCP setback requirements assist in reinforcing the desired scale of buildings within the precinct at the relevant public domain frontages and to minimise overshadowing to these areas.

4. GREEN SPINE

LCDCP Controls:

Part 8 Landscape - Communal Open Space (Green Spines) in Locality 7, St Leonards South Precinct of Part C Residential Localities of the Lane Cove DCP requires that deep soil greater than 50% within the required green spine area. (*The Green Spines shall comprise predominantly deep soil as per the LMP*).

- (a) The relevant St Leonards South Landscape Master Plan deep soil zone is as follows:

Deep soil zones in the Green Spine Facilities are to include:

1. max 40% of area to be hard paved (including soft-fall)
2. min 60% of area to be soft with max 40% of this lawn & 60% planted (this means that the predominantly deep soil areas is 60% of the total site area)
3. min 1no. flexible lawn area (min 150m²) centrally located with direct access from apartment lobbies, main north-south pathways, play and picnic/bbq areas

- (b) The planning controls as outlined in the Lane Cove Development Control Plan are still of effect as follows:

Part C – Residential Development 3.18 Landscaped areas, Provision which states:

1. *A minimum of 40% of the site area is to be planted, comprising 25% landscaped area and a further minimum of 15% planting on structures or landscaped area and*

- (c) One of the main objectives of Council and the St Leonards South Landscape Master Plan is to restore the lost canopy through successful tree planting and increase the canopy cover in the development area overall.

Green Spine Deep Soil

The Deep Soil Plan indicates 557m² of the green spine would be true deep soil. This would equate to approximately 41% of the green spine. This does not comply with the requirements for deep soil to

be greater than 50% within the required green spine area. (*The Green Spines shall comprise predominantly deep soil as per the LMP*).

The proposed non-compliant green spine deep soil is considered unsatisfactory, resulting in a poor landscape and canopy outcome which would affect the level of amenity. The lack of meaningful deep soil results in inadequate dimensions and volumes of soil critical for tree root growth. This would compromise the ability of green spine to achieve viable long term canopy trees and is contrary to the Landscape Masterplan and the Lane Cove DCP.

5. OVERALL DEEP SOIL

Site Deep Soil:

The EIS and other documentation state the development proposes total deep soil of 1260m² or 25.12% of the site. It is noted that significant areas included in the deep soil calculation do not have adequate dimension to accommodate large, medium or even small trees as per the DCP requirements and therefore cannot be classified as true deep soil. (See below table in Figure 5).

An analysis of the deep soil plan with mark-ups in red identifying the non-compliant areas which have classified as deep soil can be found in Figure 6 below. The non-compliant deep soil is approximately 280m². The total deep soil calculation after removing the non-compliant areas is 980m² or approximately 19.5% of the site. This would result in inadequate Soil Area and Volume within the Berry Road and Holdsworth Avenue Setback Area for establishing Trees successfully over the long term.

The proposed development does not achieve the following required design outcomes as follows:

Page 15 Design Principles Trees & Planting

- Provide planting within building setbacks particularly in front setbacks to the street.

Page 16 Design Principles Setbacks

- Provide adequate front, side and rear setbacks to buildings with appropriate landscape treatments.
- Ensure that the landscape treatment of setbacks provides adequate privacy to private apartments and terraces/courtyards.
- Use landscaped setbacks to provide amenity, privacy and accommodate level changes.
- Provide deep soil planting within landscaped setbacks.
- Landscaped setbacks should be used to help mitigate the impact of basement car park structures where these emerge above ground level.



	Plant size	Minimum standards
A	Large trees (canopy diameter of up to 16m at maturity)	<ul style="list-style-type: none"> • minimum soil volume 150m³ • minimum soil depth 1.3m • minimum soil area 10m x 10m area or equivalent
B	Medium trees (8m canopy diameter at maturity)	<ul style="list-style-type: none"> • minimum soil volume 35m³ • minimum soil depth 1m • approximate soil area 6m x 6m or equivalent
C	Small trees (4m canopy diameter at maturity)	<ul style="list-style-type: none"> • minimum soil volume 9m³ • minimum soil depth 800mm • approximate soil area 3.5m x 3.5m or equivalent
D	Shrubs	<ul style="list-style-type: none"> • minimum soil depths 500-600mm
E	Ground cover	<ul style="list-style-type: none"> • minimum soil depths 300-450mm
F	Turf	<ul style="list-style-type: none"> • minimum soil depths 100-300mm

Figure 5 - LCDCP Part J- Soil volume & depth minimum standards for trees and vegetation.

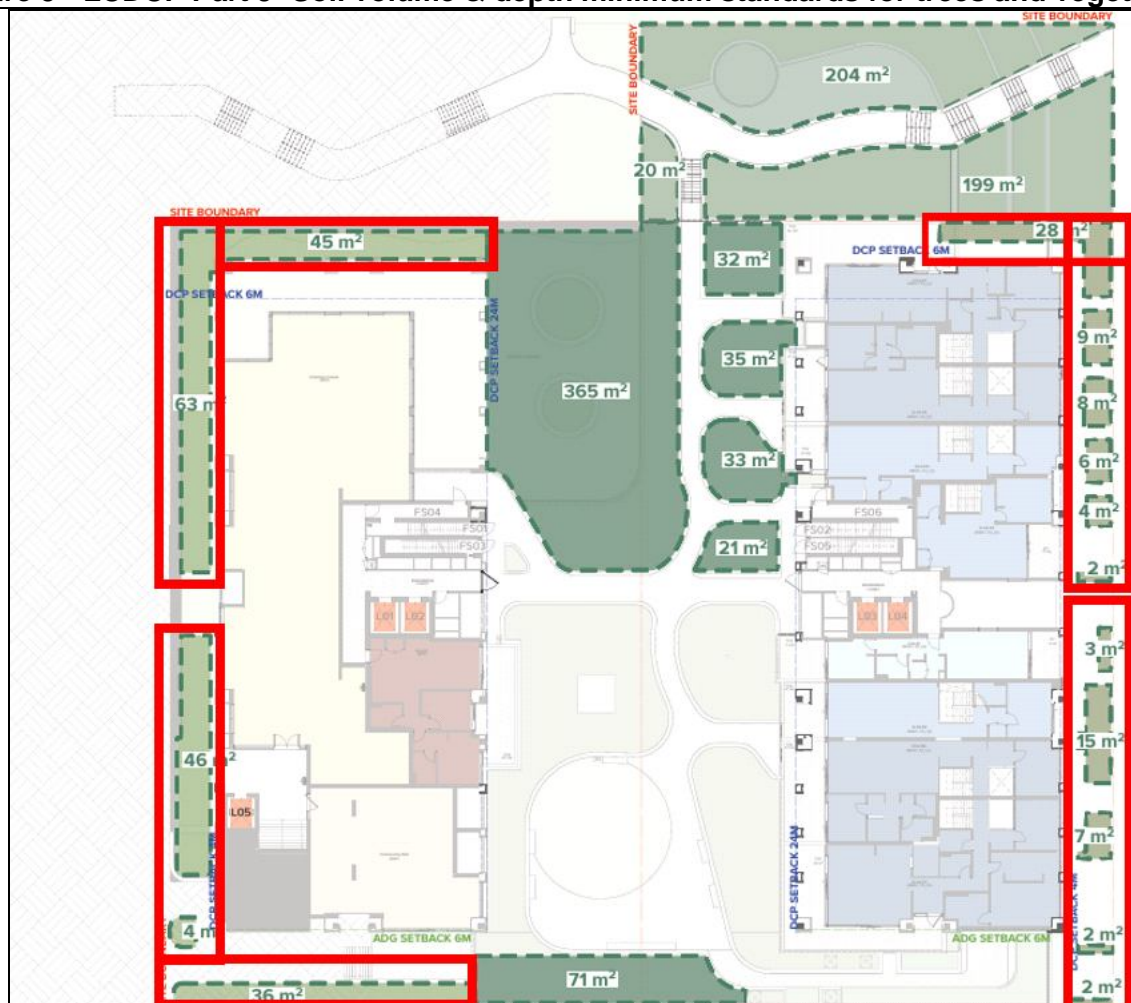


Figure 6 - Deep Soil Plan – Areas incorrectly included as total deep soil marked in red.



6. HEIGHT IN STOREYS

Residential Localities Part 7 – Built Form Figure 10 – Height of Buildings (in storeys) and Control No. 7 – Height in Storeys under the ‘Building Envelope Table’ of Locality 8 – St Leonards South Precinct of LCDCP. Areas 16 and 17 are subject to a 10-storey height control. (See figure 7 below).



Figure 7 - Height in storeys map St Leonards South Precinct.

The application is seeking to incorporate affordable housing and utilise the 30% height and floor space ratio bonus available under Chapter 2 of the State Environmental Planning Policy (Housing) 2021 (Housing SEPP). A 30% increase to the 10-storey height control would permit a **maximum of 13 storeys** for area/tower 16 and area/tower 17.

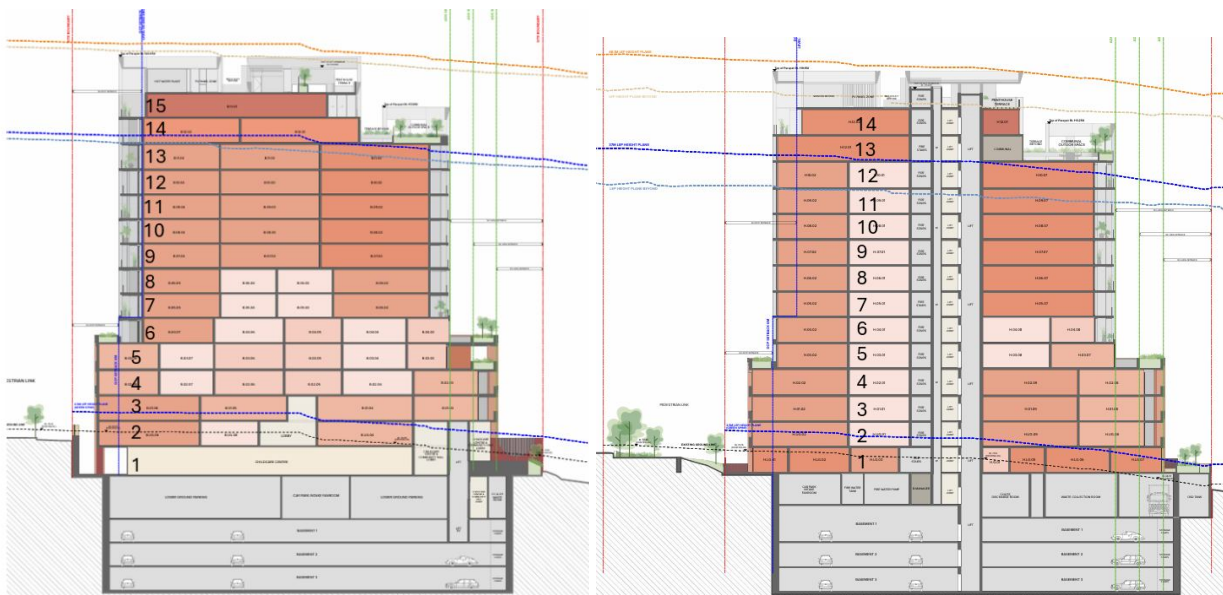


Figure 8 and 8A- Tower/Area 17 proposes 15 storeys (left) and Tower/Area 16 proposes 14 storeys (right) and do not comply with the LCDCP + SEPP bonus which permits a maximum of 13 storeys.

7. DESIGN EXCELLENCE

Based on the above raised non-compliances, the proposal does not demonstrate design excellence which is required to be provided for all developments within the St Leonards South precinct.

- (a) The proposed development does not satisfy the Part 7, Clause 7.6(1) – Design Excellence - St Leonards South Area objective of LCLEP 2009 which requires developments to deliver the highest standard of architectural, urban and landscape design to ensure design excellence would be achieved.
- (b) The proposed development does not satisfy the Part 7, Clause 7.6(4) of LCLEP 2009.
- (c) The non-compliance with the proposed number of storeys and building setbacks would not result in a high standard development within a new precinct that would expect to achieve design excellence. It is considered that the proposed building type, design, and location are not satisfactory in this instance. – Clause 7.6(4)(a).
- (d) The built form of the development would not improve the quality and amenity of the public domain. Based on the inappropriate nature of the proposal described above, the form and external appearance would not integrate appropriately with the public domain. The overall massing of the two residential flat buildings would not improve the quality and amenity of the domain. The proposed built form does not successfully implement the intent of the existing masterplan planning requirements of individual building forms sitting within a densely landscaped context. It presents as an overbearing scale to the street

and to the east-west pedestrian link where it does not ensure that taller elements are appropriately setback and recessive. The proposed substantial variations to the number of storeys and setbacks would not provide a high-quality design to the street/pedestrian link and internally. The variations would also contribute to additional unnecessary overshadowing onto the public domain areas. – Clause 7.6(4)(b).

- (e) The proposal's setbacks between the buildings, height, amenity and built form is not satisfactory. The interrelationship between the site and neighbouring sites have not been carefully managed. Compliant setbacks, number of storeys and height ought to be provided for. - Clause 7.6(4)(g)(iv).
- (f) Street frontage heights do not comply with the DCP and would not provide an appropriate human scale. The overall setback scheme including the upper levels of the buildings are not setback significantly behind the required street wall heights to ensure that these levels do not dominate the relevant street frontages. - Clause 7.6(4)(g)(vi).
- (g) The proposed development would not ensure a high level of amenity for future residential and to the public domain. - Clause 7.6(4)(g)(vii).
- (h) The visual impact of the development onto the pedestrian link and green spine area is not supported. - Clause 7.6(4)(g)(ix).
- (i) The proposed setbacks and number of storeys involved would not provide for substantial improvements to the public domain - Clause 7.6(4)(g)(x).
- (j) The visual impact of the development onto the pedestrian link and green spine area is not supported – Clause 7.6(4)(g)(xi).

8. COMMUNITY CONSULTATION

The recently reduced public exhibition period for all Major Projects to only 14 days is not considered to be reasonable time to allow for adequate community consultation. It is recommended the Department review the public exhibition policy. The subject proposal includes complex and detailed documentation which requires considerable time review and provide comment. Lane Cove Council suggests a minimum of 21-28 days be considered to provide a realistic timeframe for public comment.

9. CONCLUSION



Council does not support the proposed development in its current form. Council asks the Department to request the design be amended to ensure compliant setbacks, height in storeys, and deep soil zones.

Should such be the determination be issued by the Department, it is further recommended that the below draft conditions of consent be imposed for inclusion and guidance when preparing the development consent. (See Attachment 1- Draft Conditions).

Yours sincerely

A handwritten signature in blue ink that reads "Chris Shortt". The signature is written in a cursive, flowing style.

Chris Shortt – Senior Town Planner
Lane Cove Council

ATTACHMENT 1 DRAFT CONDITIONS

Whilst Council does not support the proposed SSDA for the reasons provided above, it is recommended that the following conditions are included should the NSW Department of Planning, Housing and Infrastructure be of the mind to support the application

1. Section 7.11 Contribution

The payment of a contribution of **\$6,088,317.00** for additional persons in accordance with Council's section 7.11 contributions plan. This payment being made prior to the issue of a construction certificate and is to be at the current rate at time of payment.

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

The Section 7.11 Contribution is calculated in the following manner:

Residential Contributions

Dwelling Type	Rate per dwelling	Contribution payable 2025/26 fees
59 x 1-bedroom dwellings	\$24,118.28	\$1,422,978.52
92 x 2-bedroom dwellings	\$34,455.70	\$3,169,924.40
37 x 3 + -bedroom dwellings	\$53,407.64	\$1,976,082.68
Total:		\$6,568,985.60

Total credits: 16 x 3-bedroom houses = 9 x \$53,407.64 = \$480,668.76

Net Total minus credit = \$6,568,985.60 - \$480,668.76 = **\$6,088,317.00**

As at the date of this consent, the total contribution payable to Council under this condition is **\$6,088,317.00** in accordance with St Leonards South Precinct Section 7.11 Development Contributions Plan.

The final total amount payable will be calculated at the time the payment is made, in accordance with the provisions of the St Leonards South Precinct Section 7.11 Development Contributions Plan.

A copy of the development contributions plan is available for inspection on the Lane Cove Council's website.

Payment method: Payment by means of electronic funds transfer, of cleared funds into a bank account nominated by the Council with a remittance receipt provided to Council.

Reason: To ensure development contributions are paid to address the increased demand for public amenities and services resulting from the approved development.

2. Payment of Security Deposits

Prior to the commencement of any works on site or the issue of a Construction Certificate, the applicant is required to lodge the proposed security deposits with Council and provide written evidence of payment to the Certifier. These bonds are required to ensure that any damage to existing public infrastructure is rectified and that all approved civil public domain



works are completed in accordance with Council's standards and specifications.

Security deposit	Revision
1. Infrastructure Damage Bond	\$40,000.00
2. Civil Public Domain Work Bond	
Kerb and Gutter	\$68,900.00
Shared Footpath	\$117,000.00
Road resealing	\$263,250.00
Turfing	\$19,800.00
Road blisters for planting	\$16,000.00
Drainage works including new inlet Pit	\$20,000.00
Total Civil Public Domain Works Bond	\$504,950.00
3. Positive Covenant Bond for all OSD Systems	\$1000.00

The Civil Public Domain Works and Positive Covenant Bonds will be refunded following the issue of the Occupation Certificate. The Infrastructure Damage Bond will be retained by Council for a period of six (6) months from the date the Occupation Certificate is registered with Council.

Bond Payment method: Payment must be in the form of a bank cheque or bank transfer or Bank guarantee.

Reason: To ensure any damage to public infrastructure is rectified and public works can be completed.

2A. Council Construction Requirements for Civil Public domain Works:

The applicant is required to construct and/or reconstruct the following civil public domain works to the satisfaction of Council:

1. Construction of a new shared path along the entire frontage of Berry Street and Holdsworth Avenue, including the provision of compliant pram ramps if required.
2. Construction of new kerb and gutter along the entire frontage of Berry Street and Holdsworth Avenue.
3. Construction of any new street drainage system on public land as part of the development
4. Milling and asphalt resurfacing (mill and fill) of a minimum of half the road width to a minimum total depth of 100 mm, applied in two layers, along the entire frontage of Berry Street and Holdsworth Avenue.
5. Construction of the new planter blisters on Berry Road
6. Reinstatement of all nature strips within the road reserve with suitable topsoil and turf.
7. Reinstatement of all damage identified in the approved dilapidation report.
8. Reinstatement of all damage identified in the CCTV inspection report for drainage.

All works must be completed to Council's satisfaction and receive final inspection and written sign-off from Council prior to the issue of the Occupation Certificate.

All costs associated with the design, approvals, construction, inspection, and reinstatement



of the above works are to be borne wholly by the applicant.

Note: Detailed engineering plans for all required civil public domain works must be submitted to Council for review and approval prior to the commencement of works. Separate approval under Section 138 of the Roads Act is required for works within Council land. Drainage works may be carried out under a separate Section 138 approval if required. Council inspections are mandatory for all public domain works. An initial pre-commencement site meeting must be arranged with Council and the appointed contractor prior to the start of any works to confirm construction methodology, set-out, and Council requirements. All inspection bookings and applicable fees must be arranged and paid by the applicant

Reason: In accordance with Council's requirements to reconstruct and restore the area.

3. **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:-

- 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.
- Saturday 8am to 12 noon
- 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.
- 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.

4. **Preparation of the Dust Monitoring Plan**

A Dust Monitoring Plan is to be provided to Council's Manager Development Assessment for Approval Prior to 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. **Preparation of the Noise Monitoring Plan**

A Noise Monitoring Plan is to be provided to Council's Manager Development Assessment for Approval Prior to 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. Construction in accordance with the approved Dust Monitoring Plan

Dust monitoring devices shall be installed on all boundaries or at appropriate locations of the construction site in accordance with the approved Dust Monitoring Plan. The level and composition of dust during the course of construction shall be recorded within the intervals of half an hour. The data recorded shall be provided to Council.

The dust levels should meet the requirements of "Dust from construction sites visual guide" link to which is:

<https://www.epa.nsw.gov.au/sites/default/files/240186-local-government-air-quality-toolkit-dust-from-construction-sites-visual-guide.pdf>

Reason: Protection of environment and amenity of the neighbouring residents.

7. Construction in accordance with the approved Noise Monitoring Plan

Noise monitoring devices shall be installed on all boundaries or at appropriate locations of the construction site in accordance with the approved Noise Monitoring Plan. The noise levels during the course of construction shall be recorded within the intervals of half an hour. The data recorded shall be provided to Council.

The noise levels should meet the requirements of "Draft Construction Noise Guidelines" link to which is:

<https://www.epa.nsw.gov.au/sites/default/files/09265cng.pdf>

Reason: Protection of environment and amenity of the neighbouring residents.

8. Trades Personal Parking and logistics plan

A parking plan for trades personal is to be prepared which prioritises the provision of parking within the excavated basement.

Reason: Provide for orderly parking for trades personal.

9. Construction Traffic Management Plan /Work Zone:

A Construction Traffic Management Plan (CTMP) and an application for a Work Zone adjacent the development shall be submitted to Lane Cove Council for determination, prior to any works that require construction vehicle and machinery movements to and from the site.

The CTMP shall be prepared by a Transport for NSW accredited person and submitted to Council's Traffic Department for approval prior to commencing of any work.

Details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site. The construction traffic management plan shall comply with the requirements of Part R of Lane Cove DCP 2010 and shall be submitted to Council's Traffic Section for written approval. Consultation with NSW Police, TfNSW, and Sydney Buses may be required. Note: Heavy vehicles are not permitted to travel on local roads without Council approval.

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 relevant Construction Certificate.**

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

10. Payment of development contributions

Payment of special infrastructure contribution

The applicant is to provide written evidence to the certifier from the Department of Planning, Industry and Environment that payment of the special infrastructure contribution has been made in accordance with the EP&A Act.

A special infrastructure contribution must be made in accordance with the Environmental Planning and Assessment (Special Infrastructure Contribution - St Leonards and Crows Nest) Determination 2020 (as in force when this development consent takes effect).

A person may not apply for a construction certificate or occupation certificate (as the case may require, having regard to the Determination) in relation to development the subject of this development consent unless the person provides, with the application, written evidence from the Department of Planning, Industry and Environment that the special infrastructure contribution for the development (or that part of the development for which the certificate is sought) has been made or that arrangements are in force with respect to the making of the contribution.

More information A request for assessment by the Department of Planning, Industry and Environment of the amount of the contribution that is required under this condition can be made through the NSW planning portal (<https://www.planningportal.nsw.gov.au/special-infrastructure-contributions-online-service/>).

Please refer enquiries to SIContributions@planning.nsw.gov.au.

Planning agreement

Before the first construction certificate is issued the applicant and Council must enter into a Planning Agreement under section 7.7(3) of the EP&A Act in the terms of the Draft Voluntary Planning Agreement exhibited with the Development Application. The certifier is to receive written confirmation from Council that the Planning Agreement has been entered into prior to the issue of the first construction certificate.

11. Community engagement plan (major development in St Leonards)

A comprehensive community engagement plan is to be prepared that addresses complaint management and strategies to address noise impacts on surrounding residents. The community engagement plan shall be prepared to the satisfaction of Council's Environmental Health Officer with written approval submitted to the Principal Certifying Authority, prior to the commencement of any works (including demolition).

Reason: To manage noise impacts to residential properties in the St Leonards area during construction.

12. A.11 – Lot Consolidation and Subdivision

Subdivision as per the updated plan of subdivision approved by Council in A.2 (3) subject to this consent is to be registered prior to the issue of any Occupation Certificate.

- **88B Instrument:** An instrument under 88B of the Conveyancing Act 1919 plus two copies are to be submitted to Council prior to the release of subdivision certificate. The 88B instrument shall properly reflect the requirements of the conditions of the development consent, plans forming part of the consent and Council's policies.

Where Council, inter-allotment drainage lines or services are located within the development, drainage easements and easements for services shall be created in accordance with Council's minimum widths as set out in Council's DCP-Stormwater Management.

Part 2 of the 88B instrument shall contain a provision that any easements, rights of way, covenants shall not be extinguished or altered without the written consent of Council.

- **Linen Plan of Subdivision:** A Linen Plan of Subdivision plus five copies are to be submitted to Council prior to the release of subdivision certificate.

The linen plan of subdivision shall be suitable for endorsement by the general manager pursuant to Section 327 of the local government act and shall properly reflect the requirements of the conditions of the development consent, plans forming part of the consent and Council's policies.

Reason: To ensure the subdivision provides for orderly development.

13. A.13 – Compliance with Planning Agreement

The developer must comply with the requirements of the required planning agreement to be entered into with the Council pursuant to condition **10.** by the time or times specified in the agreement.

Reason: To ensure the requirements of the planning agreement are met.

- 14. A.30 – Use and Management of the Childcare Outdoor Recreational Area:** The childcare outdoor recreation area is to be made available for use by the general public at all times outside of the childcare centre operational hours. A suitable plan of management is to be prepared and submitted to the satisfaction of Council prior to the commencement of the operation of the childcare centre. The plan shall ensure any potential conflicts between the childcare use and general public are suitably mitigated.

Reason: To ensure the operation of the childcare centre and the associated outdoor recreational area are appropriately managed at all times.

- 15. A.31 – Childcare Outdoor Recreation Area Design:** An amended design of the childcare outdoor recreation area which provides wider and more inviting access points to the green spine and east west link is to be submitted to the satisfaction of Council.

Reason: To improve access to the childcare outdoor recreation area.

16. C.33- Child Care Centre Playground Area

Provision of details of the acoustic fence surrounding the childcare centre shall be included within the Landscape drawing package which shall be submitted to Council's Landscape Architect for approval **prior to issue of the relevant Construction Certificate.**

Reason: To ensure good amenity for the Childcare Centre and neighbouring units.

- 17. East-West Pedestrian Link:** The finished levels of the link are to match the approved green spine level connection at the approved adjoining development to the south to the link area. The applicant is to consult with the adjoining applicant with Council's facilitation prior to construction of the link. Appropriate details are to be provided and the issue of the relevant Construction Certificate.

18. A.12 – Green Spine Title Restrictions

Prior to the issue of any occupation certificate, a right of foot way that benefits all lots except the future Council owned east west pedestrian link lot subject to this consent, in the terms set out in Part 2 of Schedule 8 of the Conveyancing Act 1919 must be registered



against the title of the property on which development is to be carried out over the area shown as “green spine area”.

Prior to the issue of any occupation certificate, a public positive covenant must be registered against the title of the property on which development is to be carried out in accordance with section 88E of the Conveyancing Act 1919, that will ensure that the following requirements are met in respect of the area shown as “green spine area” at the sole cost of the registered proprietor:

- (a) the landscaping and play equipment is maintained at all times in good order and condition and in accordance with the approved landscaping plans identified in the conditions of this development consent. Such order and condition shall as a minimum require the adequate watering of all trees and other vegetation and the removal of weeds;
- (b) any dead or dying tree, or other vegetation is replaced with the same or equivalent species shown on the approved landscaping plans;
- (c) all structures erected in accordance with the approved landscaping plans are maintained in good order and condition;
- (d) the storage of articles, matter or waste does not occur;
- (e) it is kept in a safe and healthy condition.

The terms of the covenant must also incorporate the following:

- (f) Permission for the Council or its authorised agents from time to time and upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land for the compliance with the requirements of the covenant;
- (g) That the registered proprietor will comply with the terms of any written notice issued by the Council in respect of the requirements of the covenant within the time stated in the notice.
- (h) That in the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above the Council or its authorised agents may enter the land with all necessary materials and equipment and carry out any work which the Council in its discretion considers reasonable to comply with the said notice and that the Council may recover from the registered proprietor in a Court of competent jurisdiction:
- (i) Any expense reasonably incurred by it in exercising this power. Such expense shall include reasonable wages for the Council’s employees engaged in effecting the work, supervising and administering the said work together with costs, reasonably estimated by the Council, for the use of materials, machinery, tools and equipment in conjunction with the said work; and
- (j) (ii) Legal costs on an indemnity basis for issue of the said notices and recovery of the said costs and expenses together with the costs and expenses of registration of a covenant charge pursuant to Section 88F of the Conveyancing Act 1919 or providing any certificate required pursuant to Section 88G of the Conveyancing Act 1919 or obtaining any injunction pursuant to Section 88H of the Conveyancing Act 1919.”

19. E.26 - Plant supply

All trees planted on site shall conform to Australian Standard AS 2303-2015 Tree Stock for Landscape Use. All other plants shall conform to NATSPEC specifications and be free from disease or defects and be in a healthy condition.

Reason: To ensure the proposed planting is free of disease and defects to provide the best chance for successful establishment and ongoing health and vigour.

20. E.27 - Planting of garden beds

All garden beds shall be planted out with enough plant quantities and spacing to ensure that no areas of bare mulch remain visible following the typical 12-month landscape establishment period.

Reason: For suppression of weeds and to fulfil the Landscape Design intent.

21. E.28 - Automatic irrigation system

An automatic drip irrigation system is to be designed and installed to all garden bed areas that will ensure the ongoing health of the planting scheme for the life of the development

Reason: To ensure adequate moisture levels are maintained for the 12-month establishment period eliminating the threat of plants dying due to lack of water during this time of in times of future drought.

22. E.29 - Raised planter boxes

All raised planter boxes shall be waterproofed by a licensed professional in accordance with AS4654.1-2012 *Waterproofing membranes for external above-ground use*.

Reason: The ensure the structural integrity of the planter box and parking structure below are maintained and to ensure that no leaks occur in the raised planter box as installed.

23. F.11 - Waste collection / deed of indemnity

Prior to the issue of any Occupation Certificate, the applicant is to complete Council's Deed of Indemnity for its waste contractor to enter the premises to collect waste and recycling.

This is to be submitted to Council at least forty (40) days, prior to any occupation of the building.

Reason: To manage risk to any Council infrastructure.

24. F.12 - Installation of Public Art

Certification from the artist is to be provided to the Certifying Authority prior to the issue of an Occupation Certificate that the site-specific public art has been installed in accordance with the Public Art Strategy approved by this consent. The certification from the artist is to also include certification from Council's Executive Manager Human Services of installation and the meeting of the Council-specific terms of the Public Art Strategy.

Reason: To ensure public art is delivered in accordance with the approved development.

25. F.13 - Dedication to Council of Pedestrian Link

Provision of part of the 15m wide pedestrian link connecting Berry Road and Holdsworth Avenue (Area 16) embellished in accordance with the "*Specifications for Public Open Space in the St Leonards South Precinct*" and dedicated to Council in perpetuity prior to the issue of an Occupation Certificate.

Reason: To ensure landscape maintenance and establishment has occurred and continues.

26. F.14 - Dedication to Council of Child Care Centre, Community facility and Recreation Area

Provision of a multi-purpose community facility comprising 600m² including a child care facility, 450m² for a recreation area (Area 17) of associated recreation area to be embellished in accordance with the “*Specifications for Community Facilities in the St Leonards South Precinct*” and dedicated to Council in perpetuity prior to the issue of an Occupation Certificate. The recreation area will be adjacent to the community facility.

Reason: To ensure facility maintenance and establishment has occurred and continues.

27. FA.13 - Dedication of Affordable Housing dwelling

Provision of 1 affordable housing dwellings (Area 17) dedicated to Council in perpetuity, prior to the issue of *the relevant* Occupation Certificate. The affordable dwelling shall comprise a minimum of 2 bedrooms with an internal area of at least 70 sqm and one car space, embellished in accordance with the “*Specifications for Affordable Housing in the St Leonards South Precinct*”; (Amended: September 2024)) **Reason: To ensure affordable dwellings are complied with.**

28. H.7 - Landscape Completion Report and Ongoing Maintenance

At the completion of the landscape maintenance period, the consultant landscape architect/designer must submit a final report to Council and the accredited certifier, certifying that all plant material has been successfully established, that all of the outstanding maintenance works or defects have been rectified prior to preparation of the report and that a copy of the 12-month landscape maintenance strategy has been provided to the Owner/ Occupier. The landscaping approved by this consent is to be maintained for the life of the development with the exception of the publicly owned east west pedestrian link.

Reason: To ensure landscape maintenance and establishment has occurred and continues.

29. J.6 - Provision of Waste Services

Prior to the issue of an Occupation Certificate, the applicant must make written application to Council for the provision of domestic waste services.

Reason: Waste management.



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