

Greater Sydney, Place and Infrastructure Plan Finalisation Report

IRF20/432

Department Reference No.	PP_2017_LANEC_001_00
Local Government Area	Lane Cove
Name of Draft LEP	Lane Cove Local Environmental Plan (LEP) 2009 (Amendment No. 29)
Address/ Location	4-18 Northwood Road, 274 & 274A Longueville Road, Lane Cove
Original Planning Proposal	<p>The planning proposal originally sought to amend Lane Cove LEP 2009 at 4-18 Northwood Road, 274 & 274A Longueville Road, Lane Cove to:</p> <ul style="list-style-type: none"> • permit seniors housing as an additional permitted use; • increase the maximum permitted floor space ratio (FSR) from 1:1 and 0.8:1 to 1.98 for seniors housing only; and • increase the maximum permitted building height from 9.5 and 12 metres to 70.25 RL (approx. six storeys) for seniors housing only.
Amended Draft LEP following Council finalisation	<p>The planning proposal now seeks to amend Lane Cove LEP 2009 at 4-18 Northwood Road, 274 & 274A Longueville Road, Lane Cove to:</p> <ul style="list-style-type: none"> • rezone the site to B4 Mixed Use to permit seniors housing; • increase the maximum permitted FSR to 1:1 with incentives to increase this to 1.85:1 for a residential aged care facility; and • amend the maximum permitted building height to 9.5m with incentives to increase this to RL 66.25 (3 storey street wall and 5 storeys at the rear) for a residential aged care facility.

1. SITE DESCRIPTION

The planning proposal relates to land at 4-18 Northwood Road, 274 & 274A Longueville Road, Lane Cove.

The site is located within Northwood Neighbourhood Centre, located approximately 1km south of the Lane Cove Town Centre. The site has a total area of 5,050 m² and a street frontage of 104 metres to Northwood Road, a classified road.

Existing built form on the site includes two detached residential dwellings, a service station, and three 1-2 storey shops with residential above and ground level parking.

Most of the site is zoned B1 Neighbourhood Centre with an FSR of 1:1 and a maximum building height of 9.5 metres. 274 & 274A Longueville Road is zoned R4 High Density Residential, with an FSR of 0.8:1 and a maximum building height of 12 metres (**Figures 2-4**).

The site is located on a ridgeline running along Longueville/Northwood Road and the land falls steeply to the east to Lane Cove Golf Course and Gore Creek, which are zoned E2 Environmental Conservation and RE1 Public Recreation (**Figures 1 and 2**).



Figure 1: Aerial view of subject site (source: Nearmap).

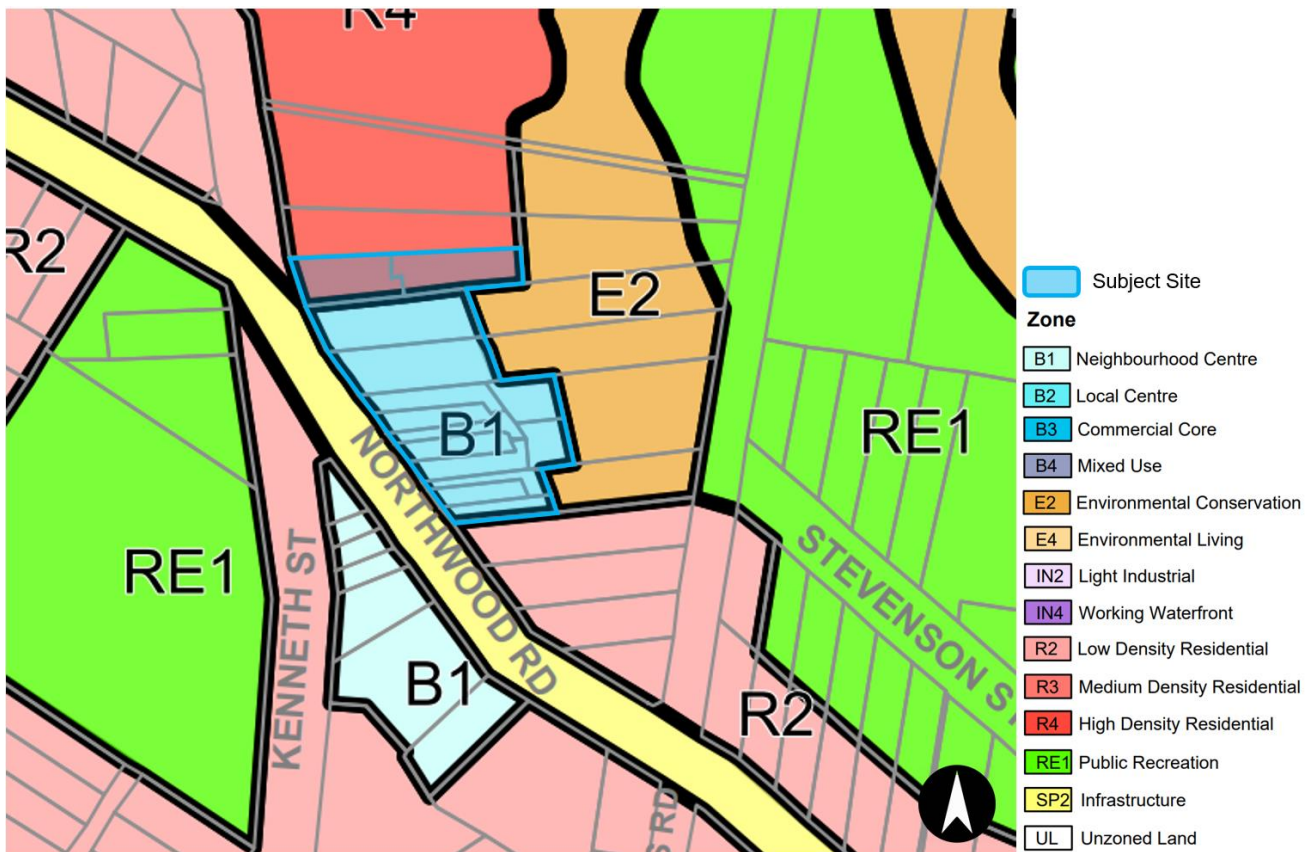


Figure 2: Lane Cove LEP 2009 Land Zoning Map.

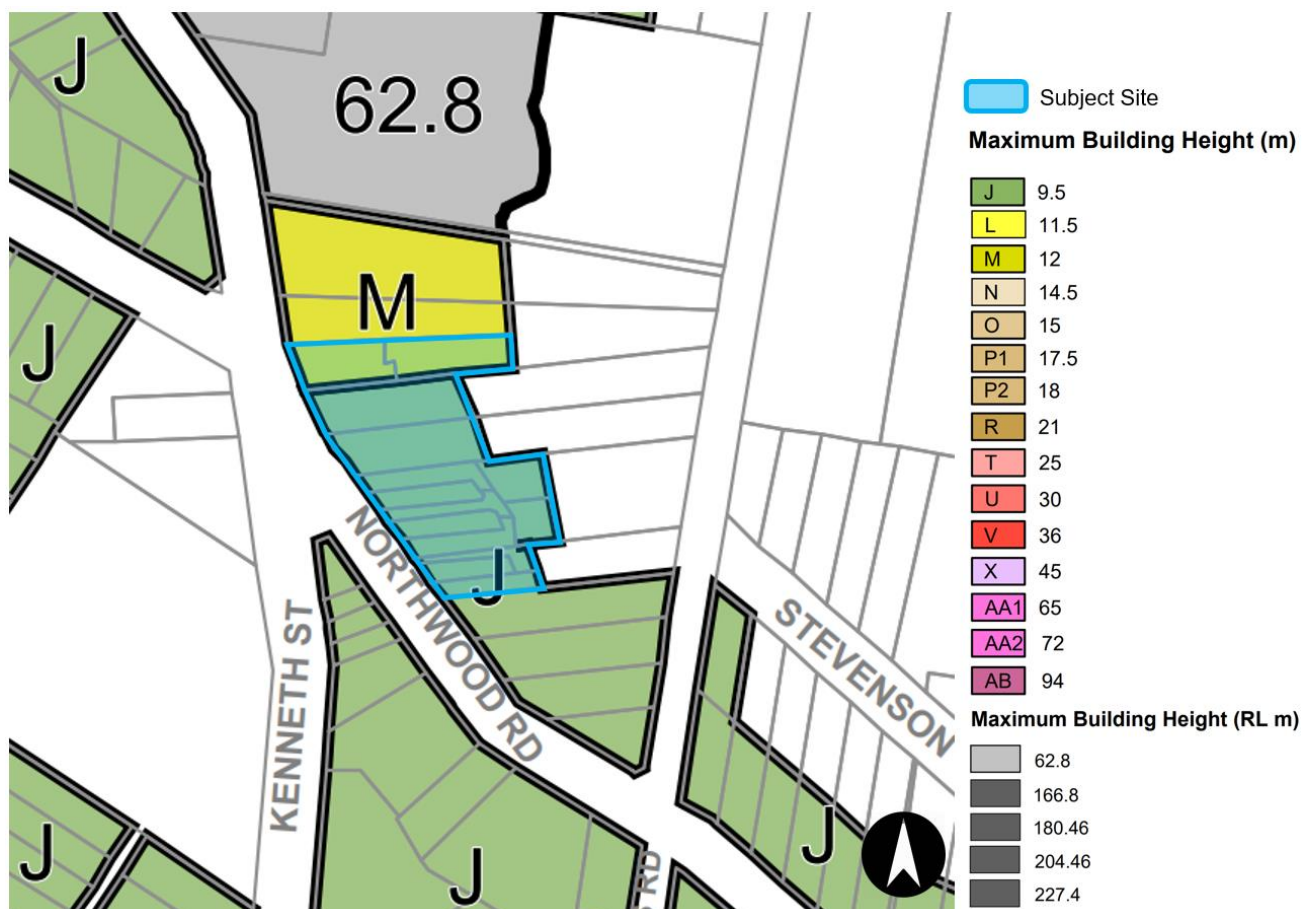


Figure 3: Lane Cove LEP 2009 Height of Buildings Map.

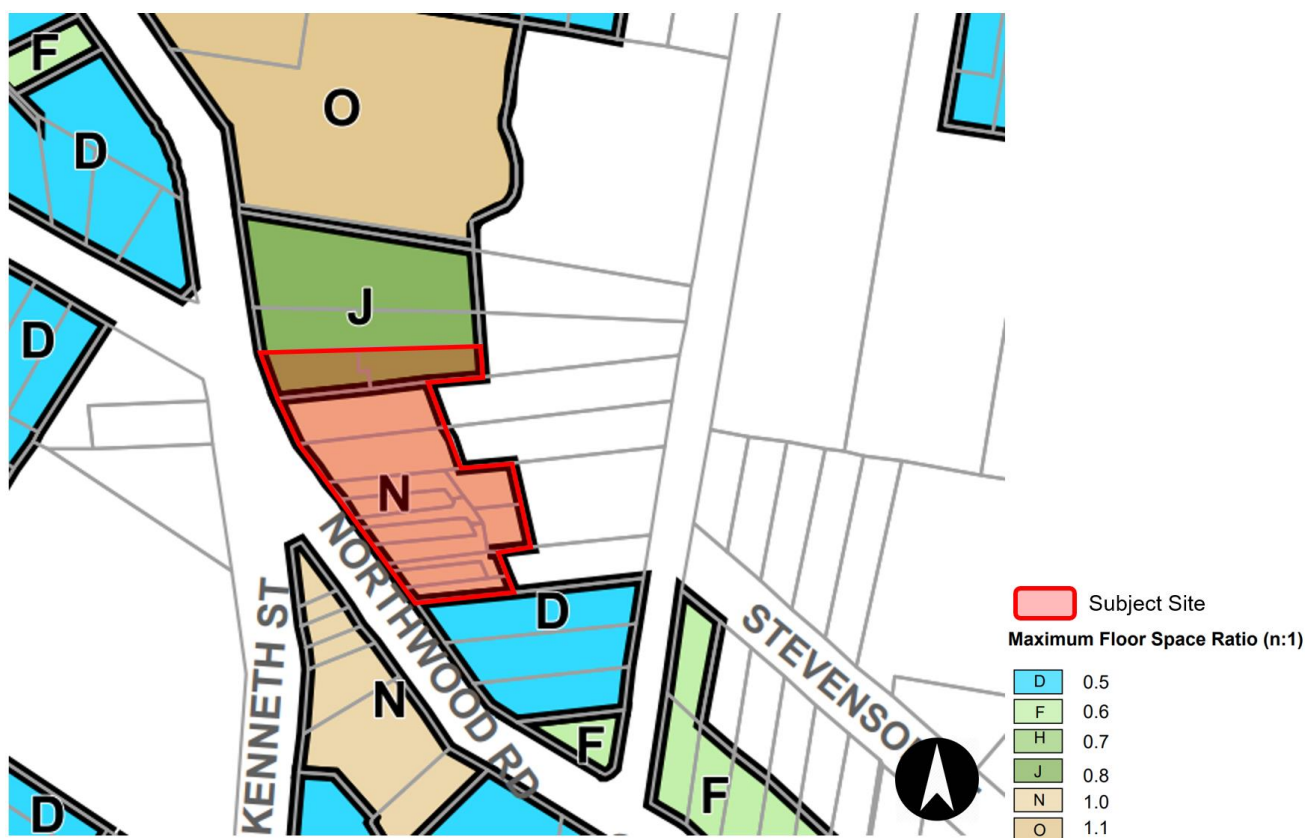


Figure 4: Lane Cove LEP 2009 Floor Space Ratio Map.

2. PURPOSE OF PLAN

The planning proposal (**Attachment A1-A6**) as originally exhibited sought to amend the Lane Cove LEP 2009 at 4-18 Northwood Rd, 274 & 274A Longueville Road, Lane Cove to:

- permit seniors housing as an additional permitted use;
- increase the maximum permitted floor space ratio from 1:1 and 0.8:1 to 1.98:1 for seniors housing only; and
- increase the maximum permitted building height from 9.5 and 12 metres to RL 70.25 AHD (approximately six storeys at its highest point on the site) for seniors housing only.

However, following from Council's decision not to support the proposal, the Department consulted with the proponent and Council. This resulted in further amendments to the proposal by the proponent and further consultation with Council. Based on the Department's assessment, the draft LEP has been recommended to proceed in the following amended form:

- rezone the site from part B1 Local Centre and Part R4 High Density Residential to B4 Mixed Use for Land Zoning Map LZN_004;
- amend the maximum height of buildings from part 9.5m and part 12m to 9.5m for Height of Buildings Map HOB_004;
- amend the maximum floor space ratio from part 0.8:1 and 1:1 to 1:1 for the Floor Space Ratio Map FSR_004; and
- insert under Clause 6 Additional local provisions for development at 4-18 Northwood Road, 274 and 274A Longueville Road, Lane Cove:

- (1) for the maximum height of buildings to exceed that shown on the height of buildings map to a maximum of RL 66.25, for the purposes of a residential care facility only;
- (2) for the maximum floor space ratio to exceed that shown on the floor space ratio map by an additional 0.85:1, for the purposes of a residential care facility only; and
- (3) for the consent authority to not grant development consent to a mixed-use development to which subclause (2) applies that results in a minimum commercial floor space ratio of less than 0.35:1.

A preliminary concept plan has been provided as part of the amended proposal, providing the intended outcome for the site and includes a residential aged care facility comprising 130 beds with ground level retail (café, medical centre, convenience retail and veterinary clinic) that is three storey scale at the street frontage to Northwood Road.

The reasons for the recommended changes to the plan have been detailed within Sections 10.0-16.0 further within this report.

3. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Lane Cove state electorate. The Hon. Anthony Roberts MP is the State Member.

The site falls within the North Sydney federal electorate. Mr Trent Zimmerman MP is the Federal Member.

On 18 February 2020, members of the North District Team met with The Hon. Anthony Roberts MP to discuss the subject planning proposal. The following matters were raised by the minister as areas of concern which have been raised by the local community:

- proposed maximum building and street wall height;
- proposed maximum FSR;
- traffic management;
- contribution for a potential roundabout at River Road and Northwood Road;
- egress; and
- provision of additional housing outside St Leonards South.

These matters have been addressed within the assessment of the proposal under Sections 10.0-16.0. A complete summary of matters discussed within this meeting is provided at **Attachment N**.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.

NSW Government reportable political donation: There are no donations or gifts to disclose and a political donation disclosure is not required.

4. PLANNING HISTORY OF THE SITE AND SURROUDING AREA

4.1. Previous Gateway determination

On 8 March 2013, a Gateway determination was previously issued for the site, to allow for the redevelopment of the site as a mixed-use precinct. Council sought a maximum FSR of 2.25:1 and a maximum building height of 18 metres (RL 72.25) (approximately 4-5 storeys) for the site.

On 16 September 2013, Council resolved to withdraw this planning proposal as it considered:

- the scale of development would set an undesirable precedent and noted it is a greater scale than Lane Cove Village;
- the scale of development would result in unacceptable traffic impacts;
- the scale is not justifiable on economic grounds based on Council's independent economic advice;
- there was a lack of any substantial benefit if Council were to consider a partial placement of the bushfire prone lands Asset Protection Zone (APZ) on public land;
- Council had already met its residential and jobs targets under the Metropolitan Strategy, within the existing Lane Cove LEP 2009; and
- there was overwhelming community opposition to the proposal (93% of 493 submissions in opposition).

4.2. Surrounding area

The site is surrounded by range of uses and types of development including public recreation facilities, community uses, neighbourhood shops and low to medium density residential development.

266 Longueville Road, Lane Cove

On 31 July 2015, a planning proposal was gazetted for residential development, predominantly intended for seniors living at 266 Longueville Road, Lane Cove (two lots to the north of the subject site). The planning proposal was initiated by Council and located on Council land (**Figure 5**).

This LEP amendment (Amendment No. 17):

- rezoned part of the site from RE1 Public Recreation to R4 High Density Residential; and
- applied a maximum FSR of 1.1:1 and a maximum building height of RL 62.8m (6-7 storeys).

On 6 July 2017, a site compatibility certificate (SCC) for a residential aged care facility containing 70 aged care beds and 93 independent living dwellings was issued by the Department.

On 10 August 2017, a development application for a 70-bed residential aged care facility, with 90 independent living dwellings was lodged at Lane Cove Council. The proposal presents two storeys to Longueville Road, increasing to four storeys and seven storeys as the land falls to the east. The consent authority in this instance is the Sydney North Planning Panel (the Panel) as the capital investment cost of development exceeds \$30 million (\$81,345,000).

On 11 July 2018, the Panel deferred its decision, pending further information from the applicant.

On 8 January 2019, the Panel agreed to a further extension for the submission of this information until 29 March 2019.

On 24 April 2019, Council confirmed they received the requested information. At this time there was no timeframe given for assessment or for a recommendation to be provided to the Panel.

On 6 July 2019, the SCC issued for 266 Longueville Road expired.

On 14 August 2019, an application for an SCC for a residential aged care facility containing 70-beds and 82-dwellings was submitted by GSA Planning. The assessment of this SCC is being undertaken by the Department at the time of writing this report. This SCC application will be determined by the Sydney North Planning Panel.

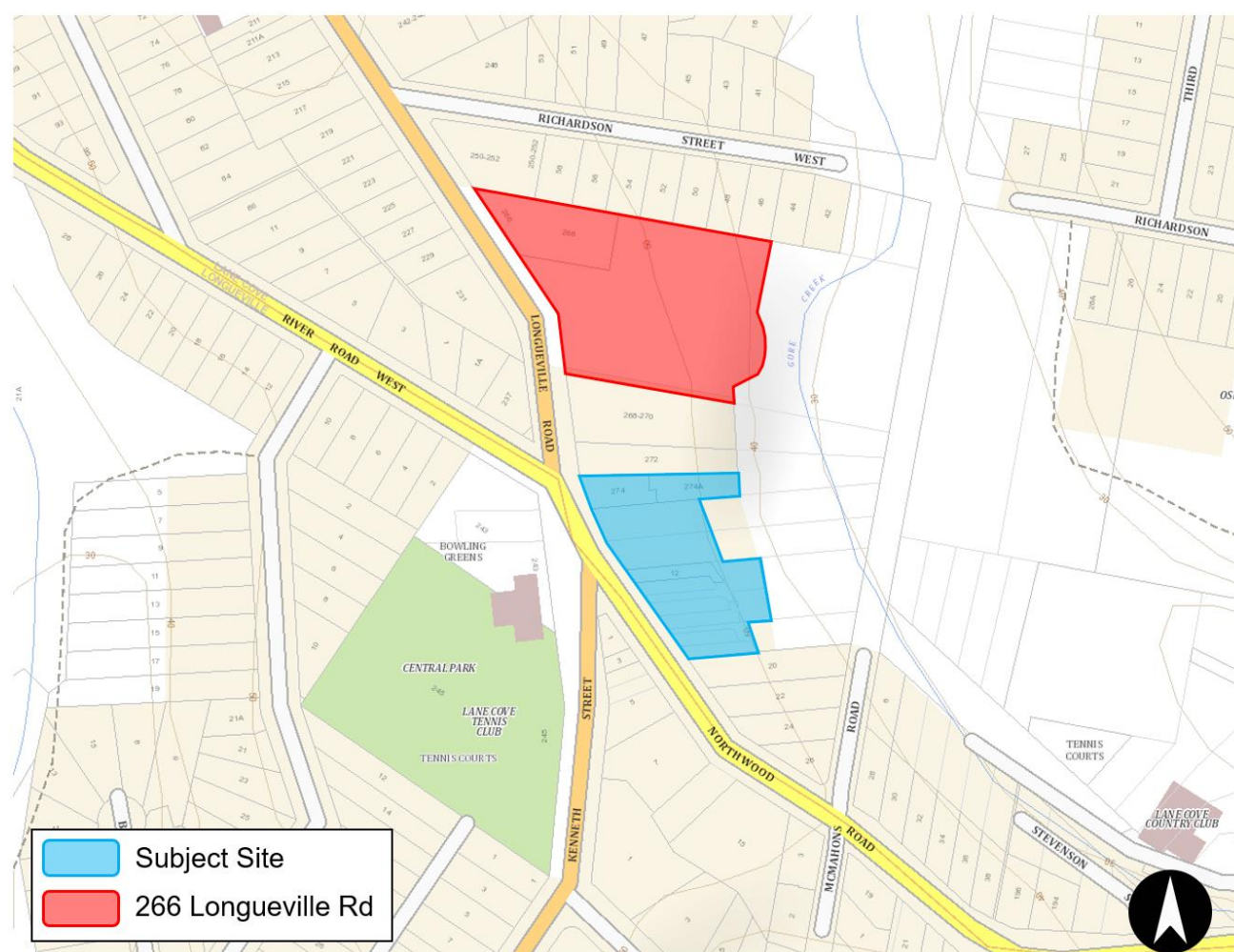


Figure 5: Subject site in relation to 266 Longueville Road, Lane Cove (source: SIX Maps).

5. REZONING REVIEW AND GATEWAY DETERMINATION

5.1. Council's decision not to support the planning proposal

On 20 February 2017, Council resolved not to support the subject planning proposal for the following reasons:

- the proposed bulk and scale is out of proportion with the 1-2 storey context of the area and challenges the primacy of the Village CBD, sending mixed messages to other uses in this and other B1 Neighbourhood Centres;
- the proponent has failed to make a supportable case for the land use changes proposed;
- the traffic impact significantly underestimates the impact of the proposal on state and local roads, in particular, traffic impacts to the Northwood residential precinct;
- necessary intersection design and road modifications are outdated or not addressed;
- proposed parking is unlikely to cater for staff and visitors, especially on the weekend;
- it has the effect of isolating No. 272 Northwood Road from achieving the minimum site area for residential flat developments appropriate to its R4 zoning;
- Council has amenity and safety reservations about the location of a residential care facility on such a busy intersection; and
- the draft plans submitted will need to be modified to comply with DCP Part H for land adjacent to bushland.

5.2. Rezoning Review

On 27 February 2017, the proponent subsequently submitted a rezoning review request.

On 2 May 2017, the Panel considered the planning proposal and made a unanimous decision that the proposal had strategic and site-specific planning merit and should be submitted for Gateway determination (**Attachment B**). The Panel also recommended that a site-specific DCP be prepared and exhibited alongside the planning proposal.

On 14 July 2017, Council accepted the role of Planning Proposal Authority (PPA).

5.3. Gateway determination

On 26 September 2017, a Gateway determination issued allowed the proposal to proceed subject to conditions (**Attachment C**).

Gateway conditions required the planning proposal to be updated to:

- correctly describe the relationship with *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004*;
- demonstrate consistency with the Draft North District Plan;
- demonstrate consistency with *State Environmental Planning Policy No. 19 (Bushland in Urban Areas)*; and
- amend the accompanying Traffic Impact Assessment to provide:
 - analysis of signal and phase data for the combined intersection and network layout;

- details on the impact of permissible development on surrounding intersections; and
- a traffic safety audit, including pedestrian desire lines.

The Gateway issued a 9-month timeframe for completion of the plan by June 2018. Council was not authorised to be the local plan making authority.

The proposal was amended prior to exhibition to address the conditions of the Gateway determination.

6. PUBLIC EXHIBITION

From 8 March to 19 April 2018, community consultation was undertaken by Council in accordance with the conditions of the Gateway determination.

The proposal received 160 public submissions during public exhibition. According to Council, of the submissions received:

- eight (5%) were in support;
- seven (4%) were neutral; and
- 145 (91%) were opposed to the proposal.

Council has addressed the submissions received during public exhibition in its planning submissions report (**Attachment D**). The main issues raised in submissions included:

- traffic and parking;
- road and pedestrian safety;
- public transport;
- suitability of proposed land use;
- public benefits;
- conflict of interest/public hearing;
- Seniors Housing SEPP;
- bushland;
- proposed building height and FSR;
- visual impacts; and
- open space/amenity.

7. ADVICE FROM PUBLIC AUTHORITIES

Council was required to consult the following authorities in accordance with the Gateway determination:

- NSW Roads and Maritime Services;
- Department of Health and Ageing;
- Transport for NSW; and
- The former NSW Office of Environment and Heritage.

7.1. Issues raised by Public Agencies

Submissions were received from all four public agencies in addition to Sydney Water (**Attachment E**) and the following matters raised.

7.1.1. Roads and Maritime Services (RMS)

RMS raised no objection to the proposal, although provided the following comments:

- as Northwood Road is a Classified Road, the proposed entry/exit should be consolidated into one combined access point at the southern end of the site with only left in/left out movements permitted;
- the proposed fourth (east) leg of the signalised intersection at Northwood Road/Kenneth Street is not supported;
- a deceleration lane to facilitate entry to the site from Northwood Road southbound at no cost to RMS and Council should be considered and assessed in the traffic impact assessment;
- the traffic generation rates should consider the maximum permissible yield or development intensity, not just for seniors housing;
- the traffic study should identify improvements to pedestrian connections to the site on key desire lines and bus stop facilities;
- the setbacks required to facilitate access arrangements should be identified in the draft DCP;
- the proposed drop off zone at the departure of the traffic signals as shown in the draft DCP is not supported;
- consideration should be given to potential improvements to the existing bus stop facilities on Northwood Road at the site frontage; and
- electronic copies of SIDRA analysis should be provided to Council and RMS.

RMS also advised that the base case traffic generation rates could be further substantiated through a traffic survey generated by existing uses.

Refer to **Section 10.1 Traffic and Parking** for further discussion on RMS' comments.

7.1.2. Department of Health

The Department of Health confirmed it had no comment on the proposal and advised the proponent has a provisional allocation of 86 residential aged care places for the site. The provisional allocation expired on 22 October 2018. However, a 12-month extension (**Attachment F1**) was subsequently granted until 22 October 2019.

On 6 December 2019, a further 12-month extension (**Attachment F2**) was granted and will expire on 22 October 2020.

7.1.3. Office of Environment and Heritage

The Office of Environment and Heritage (OEH) provided the following recommendations in relation to the planning proposal:

- The proponent should clarify whether there is potential to amend the development footprint to avoid removing remnant trees on the site;
- The planning proposal should be amended to include a minimum 10-metre wide buffer between the development and the adjoining bushland to be consistent with Lane Cove DCP. Where it is not possible to provide a 10-metre wide buffer, the applicant should demonstrate that the adjacent bushland can be adequately protected by the proposed 3-metre wide buffer.
- The proposed pedestrian link should avoid removing/disturbing remnant vegetation in the adjoining bushland/E2 – Environmental Conservation zone;
- Details on overland flow should be provided for the proposed site and adjacent areas for the full range of events up to the probable maximum flood (PMF) to ensure consistency with section 9.1 Direction 4.3 of the EP&A Act.

Refer to **Sections 10.2.2 Setbacks** and **10.3 Ecology** for further discussion on OEH's comments.

7.1.4. Sydney Water

Sydney Water raised no objection to the proposal and noted the following:

- water and wastewater facilities are available within the area;
- amplifications or extensions to these mains may be required depending on the size and scale of development; and
- detailed requirements will be provided once the development is referred to Sydney Water for a Section 73 Compliance Certificate.

7.1.5. Transport for NSW

Transport for NSW raised no objection to the planning proposal. The following recommendations were provided for any future development application:

- a Pedestrian Access and Mobility Plan should be prepared with a view to identify any required improvements for pedestrians and cyclist facilities (in particular along Northwood Road); and
- a Green Travel Plan is requested to promote the use of public and active transport to reduce reliance on private vehicles.

8. PROPONENT'S PROPOSED POST EXHIBITION CHANGES

Prior to Council's final resolution of the planning proposal, and in response to community and public agency submissions and Council's post-exhibition report, the proponent proposed several changes to the planning proposal (**Attachment G1-G5**).

These changes included:

- reduction in height by 1 metre to RL 69.25 (to the underside of the ceiling), which sought to deliver a street wall height to Northwood Road of RL 66.55, which is consistent with the height to the top of the street wall as already approved on the site under DA162/2015 for 16 Northwood Road, which forms a part of the subject site;
- increase the rear setback of any development on the site from 3 metres to 6 metres;
- agreed to relocate the driveway for the development on the site 30 metres south along the Northwood Road boundary, away from the Longueville/Kenneth Street intersection;
- restrict access on Northwood Road to left in/left out only; and
- work with Council to amend the draft DCP to reflect the recommendations of OEH.

The proponent also provided further analysis in relation to the urban design, traffic and ecological impacts of the proposal. These matters are discussed in further detail in **Sections 10.0-16.0**.

9. COUNCIL RESOLUTION AND RECOMMENDED POST EXHIBITION CHANGES

On 18 June 2018, Council considered the planning proposal and a post-exhibition submission from the proponent and resolved not to support the planning proposal in its current form (**Attachment H**). The reasons for its decision were:

- the 3 metre buffer to the adjoining SEPP 19 Bushland (zoned E2 Environmental Protection) is opposed by NSW Office of Environment and Heritage, and has not been demonstrated that the adjacent bushland can be adequately protected by the 3m wide buffer;
- offset planting is required by OEH on-site if two turpentine trees are removed;
- OEH has confirmed that the impacts on the adjoining SEPP 19 Bushland area are not adequately addressed;
- based on independent urban design analysis of the proponent's original urban design documents, the building envelope envisaged by the proposed FSR and height control cannot be achieved;
- Council's independent urban design analysis has confirmed that a more modest scale would achieve a better built form and design outcomes, and further likely reduce overshadowing impacts on adjoining residential properties;
- the proponent's amended urban design response does not adequately address issues raised by Council's independent urban design analysis, nor do they provide any justification for its proposed height and floor space ratio;
- the proposed scale is considered excessive and conflicts with the scale of the nearby Lane Cove Village;
- the proposed scale is inconsistent with other B1 Neighbourhood Centre zones;

- the fourth leg at the Kenneth/Northwood signalised intersection is opposed by the RMS;
- a single entry/egress is requested at the southern end of the site by RMS; and
- no public benefits are proposed to be delivered despite a development that seeks substantial uplift.

Council also resolved to write the proponent and request a new planning proposal be submitted, as follows:

- rezone the subject site to B4 Mixed Use with a minimum commercial FSR (to be determined);
- establish a base floor space ratio of 1:1 across the site, which may be increased up to 1.5:1 under the bonuses of the Seniors Housing SEPP (through an SCC);
- establish a single height control limit of 9.5m across the site, with an incentive height of RL 66.25 (approximately 1 storey lower than originally proposed) only if the site is developed for seniors housing with vehicular access to be contained along the south eastern setback area;
- provide a single site entry/egress at the southern end of the site, as requested by the NSW Roads and Maritime Services;
- require a minimum 10m rear buffer as per Council's DCP Part H be strictly adhered to, that the 10m be measured from the zone boundary not from the remnant bushland as commented by the OEH and that the buffer area be replanted with native indigenous plants;
- every effort be made to retain as many turpentine trees as possible on the site in accordance with the request of OEH and should more than two turpentine trees be removed, that these be replanted on the site in proportion to the number removed;
- respond to the independent traffic analysis by Bitzios Peer Review;
- clarify the exact nature of proposed through site links and provide more useable communal open space through an additional roof garden through the Draft DCP; and
- give consideration at the development application stage to other issues raised, such as an appropriate contribution to a roundabout at the intersection of Northwood/River Road as proposed by the applicant of the previous planning proposal, which Council and the community favours to alleviate the impact of traffic resulting from this proposal.

Council originally intended to implement these changes by requesting an alteration to the original Gateway determination and re-exhibiting the proposal. However, since Council has now refused to support the plan this approach is not possible.

10. KEY ISSUES

The proposal has been subject to a detailed review and assessment through the rezoning review, the Department's Gateway determination, public agency and community consultation and Council's assessment and recommendation to the Department.

Assessment of key issues raised during the review for the finalisation of the planning proposal and in all submissions is provided below.

10.1. Traffic and parking

The following table (**Table 2**) outlines the reports and agency submissions provided in relation to the traffic and parking impacts of the proposal:

Table 2: Summary of traffic and parking assessments and submissions prepared to date.

Document	Author	Date Prepared	Commissioned by
Traffic Impact Assessment	Traffix	October 2016	Proponent (for original planning proposal)
Northwood Shops Planning Proposal Independent Peer Review (Attachment A3)	Bitzios Consulting	July 2017	Council (prior to issuing of Gateway determination)
Traffic Impact Assessment (amended) (Attachment A4)	Traffix	October 2017	Proponent (prepared to respond to Gateway conditions)
Feasibility Design Road Safety Audit (Attachment A4)	DC Traffic Engineering	October 2017	Proponent (prepared to respond to Gateway conditions)
RMS submission (Attachment E)	RMS	11 May 2018	RMS (required by Gateway conditions)
Northwood Shops Planning Proposal Independent Peer Review (Attachment I1)	Bitzios Consulting	June 2018	Council
Proponents response to RMS submission (Attachment G2)	Traffix	5 June 2018	Proponent
Proponent's response to Bitzios Consulting Peer Review (Attachment G3)	Traffix	5 June 2018	Proponent

A revised Traffic Impact Assessment (TIA) was prepared for public exhibition in accordance with the conditions of the Gateway determination. The TIA found that the traffic impacts of the planning proposal are acceptable based on the following:

- the proposal is expected to generate less traffic than what is currently permitted on the site, which has been assessed to generate 34 vehicle trips during the AM peak period and 103 trips during the PM peak period;
- the proposal is expected to generate 29 vehicle trips during the AM peak period and 62 during the PM peak period. This has been assessed to be a 'traffic neutral' outcome when compared to existing conditions on the site;
- the proposed site access will improve safety through the consolidation of driveways;
- an assessment of the intersection performance indicated no change to the level of service for the three relevant intersections surrounding the subject site; and
- the parking demand as required under Lane Cove DCP can be fully met on-site, with 46 spaces proposed within a single basement level.

10.1.1. Site access

With respect to vehicular access for the site, RMS recommended:

- a single access point located at the southern end of the site;
- removal of the proposed fourth leg to the signalised intersection of Northwood Road, Longueville Road and Kenneth Street; and
- restricting site access to left in/left out access only.

The Bitzios peer review agrees with these recommendations, as does the proponent. The Department also supports the approach of a single egress located at the southern of the site.

RMS also recommended a deceleration lane be considered in the final traffic assessment to facilitate entry to the site from Northwood Road southbound to be provided at no cost to Council or RMS. The Department considers that if required, this could be included as a condition of consent as part of any future development application.

Council, in its post-exhibition report and resolution also indicated the desire for the proponent to contribute to a roundabout to be provided at the intersection of Northwood and River Roads. This could form a component of a future development application; although the Department cannot mandate the delivery of this infrastructure through an LEP. Furthermore, none of the traffic reports prepared indicate the requirement of a roundabout in this location to support the proposal.

It is recommended that should Council still seek the provision of a roundabout in this location that it can be further investigated at the detailed development application stage once parking numbers and specific access details are arranged.

10.1.2. Traffic generation and level of service

The following table (**Table 3**) below outlines the estimated traffic generation levels on the site, as provided by Traffix in the October 2017 TIA:

Table 3: Estimated vehicle trips generated by proposal (source: Traffix).

	AM Peak	PM Peak
Existing	33	64
Proposed	29	62
Permissible	43	103

Council's post-exhibition report (**Attachment D**) notes that the proposed traffic volumes may be higher than existing volumes due to changes in user behaviour, the future share of commercial vehicles, and the reported timing of 'peak use'.

RMS suggested that the base case traffic generation rates and distribution of vehicle trips to the surrounding network could be further substantiated through survey of traffic generated by the existing uses on the site.

Council's Traffic Peer Review by Bitzios (**Attachment G1**) states that the TIA refers to the RMS Guide to Traffic Generating Developments and RMS Technical Direction TDT 2013/04a to determine the traffic generation of each existing property within the site boundary.

It proposes that given the conservative estimates of both guides, which is an adequate method for determining the trip generation of the existing site. However, it also stated that it

would be useful to have survey data of existing traffic to compare with the assumptions made for traffic generation.

The Department does not consider a traffic survey to be necessary at this stage of the process, given that RMS has not raised concern or objected to the original method of calculating traffic generation. A traffic survey could be prepared for any future development application for the site.

RMS also suggested that the traffic generation rates should consider the maximum permissible yield or development intensity, not just for seniors housing. Seniors housing has been used to calculate the proposed traffic generation rates as this will be the largest permitted development on the site as result of the proposal. The Department is satisfied that the maximum traffic generation rates have been appropriately considered for the subject proposal as the development for the purposes of seniors housing will result in the maximum traffic volumes generated.

10.1.3. Road safety

Council's post exhibition report states that the proponent's feasibility design road safety audit was based on the original concept and site access design. Given the relocation of the proposed site access to a single access point at the southern end of the site, Council intends to commission an additional independent road safety audit.

RMS has also recommended that building setback requirements adjacent to the access should be identified in the DCP to ensure clear driver sight lines to oncoming traffic are maintained at the proposed driveway location.

The proponent's response from Traffix notes that this matter does not alter the distribution of traffic on the road network or the traffic volumes and can be resolved at a subsequent development application stage. The Department agrees with this approach.

10.2. Urban Design

The following table (**Table 4**) outlines the reports and documents submitted in relation to the urban design of the proposal:

Table 4: Outline of urban design assessments prepared to date.

Document	Author	Date	Commissioned by
Urban Design Report (Attachment A5)	GMU	9 November 2016	Proponent
Review of Urban Design Issues (Attachment I2)	Annand Associates Urban Design Pty Ltd	May 2018	Council
Addendum Urban Design Report of Proposed Amendments to the Planning Proposal (Attachment G4)	GMU	6 June 2018	Proponent

10.2.1. Building height

Points of contention in relation to the proposed building height relate to:

- **How should the building height be measured?**

Council's post-exhibition report indicates there was concern and confusion amongst the community in relation to how the originally proposed maximum building height of RL 70.25 is to be measured. This is because the definition of building height under the Seniors Housing SEPP is measured to the ceiling, whereas under Lane Cove LEP 2009, height is measured to the highest point of the building.

The planning proposal originally sought to apply the definitions (including the building height definition) contained in Clause 3 of the Seniors Housing SEPP to a seniors housing

development on the site, rather than those contained in Lane Cove LEP 2009. Height as defined under the Seniors Housing SEPP is as follows:

“in relation to a building, means the distance measured vertically from any point to the ceiling of the topmost floor of the building to the ground level immediately below that point.”

However, this approach is not possible because the LEP cannot operate to switch on the definitions or provisions of the Seniors Housing SEPP to apply to the site. The definitions and provisions of the Seniors Housing SEPP would only be applicable under a future development application lodged for the purposes of seniors housing on the site.

The applicable definition of building height for the planning proposal is therefore that contained under Lane Cove LEP 2009, as follows:

“in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.”

A similar approach for building height was adopted for a comparable recent planning proposal at 266 Longueville Road, Lane Cove as detailed in **Section 4.2** of this report.

The planning proposal was adopted with height of RL 62.8 (to the highest point of the building) as described under the Lane Cove LEP 2009, even with the intention of enabling a future seniors housing development. It is recommended that a similar arrangement for the definition of building height is utilised within the draft LEP to ensure consistency, accuracy and transparency of the LEP amendment.

- **The proposed internal floor to ceiling heights are “excessive”.**

Council maintains that the proposed ground floor-to-floor height of 4.5m is suited to uses such as a mini supermarket or manufacturer showroom and the upper floor to floor heights of 3.25m and 3.5m are also higher than they need to be. While this matter forms part of Council’s reasons to not support the plan, this matter is better addressed at a detailed design stage as part of the development application. Consideration for this issue has however been addressed below.

The proponent states that the proposed 4.5m ground floor-to-floor height is required to allow for a loading/truck access to the basement. The proponent has proposed a reduction in the proposed maximum permitted building height by one metre to RL 69.25 in response to Council’s concerns.

The Department recommends that a 4.5m ground floor-to-floor height for the ground floor with residential levels above being approximately 3m is appropriate in this instance. This arrangement would enable a future development to deliver:

- a variety of mixed commercial/retail uses to create an activated ground floor and street frontage;
- appropriate basement access for vehicles; and
- improved views through the site to be obtained from Northwood Road via ground floor view corridors.

The future development would be able to achieve Council’s desired envelope of a 3-storey street wall with a 4.5m ground floor and 2 levels for the residential aged care facility above.

- **The suitability of the proposed building height within the context of the site.**

The planning proposal as originally proposed and exhibited included a maximum building height of RL 70.25 which would result in a three to four storey street wall and six storeys at the rear of the site as the site slopes down towards the east.

Council's resolution of 18 June 2018 recommends a reduction in building height to 9.5m with incentives to increase the height to RL 66.25. This would reduce the proposal by approximately one storey, providing for a two to three storey street frontage and five storeys to the rear based on the proposed concept design as originally submitted.

As part of the proponent's amendments following exhibition, a maximum building height of RL 69.25 was proposed to address Council's and the community's concerns. The lowered height was also supported by additional concept plans that would setback the proposed fourth storey from the street wall to minimise the visual impact of the development when viewed from Northwood Road.

Council maintains that a two-storey street wall, stepping up to three storeys fronting Northwood Road is consistent with the existing DCP for the site, while allowing five storeys at the rear could be considered as a reasonable compromise to allow an appropriate level of development of the site.

Council's independent urban design analysis also concludes that three to four storeys fronting Northwood Road and six storeys to the rear is considered to be excessive in the context of surrounding development.

Council's independent urban design analysis also recommends that buildings to the rear be limited to five storeys.

The following table (**Table 5**) provides a summary of the approximate building heights of existing buildings as they present to the street and the existing controls surrounding the site.

Table 5: Approximate building heights at street frontage for surrounding development.

	Existing use	Existing Building Height	Maximum permitted height	Difference to Amended Proposal (metres)	Location relative to subject site
Original Proposal	N/A	N/A	RL 70.25 (to underside of ceiling) Three to four storeys at street frontage and six storeys to rear.	N/A	Subject Site
Amended Proposal	N/A	N/A	RL 69.25 (to highest point of the building). Three storeys at Northwood Road and six to the rear	N/A	
Council resolution	N/A	N/A	RL 66.25 (to highest point of building) Two to three storeys at Northwood Road and five to the rear	3m	

	Existing use	Existing Building Height	Maximum permitted height	Difference to Amended Proposal (metres)	Location relative to subject site
274 Longueville Road	Single storey dwelling house	RL 60.56 (4.6m)	RL 67.96 (approx. 12m)	1.29m	
4 Northwood Road	Service station	RL 61.38 (5.4m)	RL 65.48 (approx. 9.5m)	3.77m	
12 Northwood Road	Two storey commercial/retail	RL 63.51 (8.3m)	RL 64.72 (approx. 9.5m)	4.37m	
16 Northwood Road	Single storey commercial/retail with parapet	RL 60.24 to parapet (5.06m)	RL 64.68 (approx. 9.5m)	4.57m	
18 Northwood Road	Two storey commercial/retail with parapet	RL 63.95 to parapet (9.11m)	RL 64.33 (approx. 9.5m)	4.92m	
272 Longueville Road	Three storey residential flat building	RL 62.92 (7.7m)	RL 67.23 (approx. 12m)	2.02m	Adjoining immediately to the north
20 Northwood Road	One to two storey detached dwelling house	RL 58.91 (7.36m)	RL 61.05 (approx. 9.5m)	8.2m	Adjoining immediately to the north
266 Longueville Road (proposed seniors housing on Council owned land)	Seniors housing proposed two to three storeys at street frontage increasing to four and seven storeys.	RL 62.6 to 67.8 (proposed 7.2m at street frontage)	RL 62.8 (DA proposes max of 17.6m) 2-3 storeys at Longueville Road and 6-7 storeys at the rear.	1.45m	Two lots to the north of the subject site.

Figure 6 below also demonstrates the current and approved heights of buildings within the surrounding local area.

It is acknowledged that the proposal, through incentives, would permit a development with a maximum height above that of neighbouring low-density residential properties. Although larger 3 storey medium density residential developments exist to the north of the site along Longueville Road, approaching Lane Cove Village. These larger developments have a predominately 2-3 storey street frontage with 3-5 storeys at the rear due to the topography.

Both Council's and the proponent's analysis conclude that it is normal practice for a local centre to have a greater height than the surrounding residential area as this creates a sense of place and clear identity for the centre.

Council's DCP for the Northwood Centre also indicates that the current centre is failing to provide sufficient vitality to the area which is recognised to be partially caused by:

- the centres failure to serve the local community as the 'node' of the surrounding area; and
- the existing low scale built form being unable to activate the street edges.

As such the Northwood Centre Strategy shown in **Figure 7** demonstrates Council's vision and design strategy for improving the centre. Under the strategy, the subject site is

identified as having an opportunity for showroom style retail development with residential uses located above. Some mixed-use development is also encouraged within the centre, with residential uses where possible located away from Northwood Road where possible.

It is also recognised that directly opposite the subject site, as indicated in **Figure 7**, mixed use development to 3-4 storeys with residential above ground floor retail would be considered appropriate. While the site does not fall within this area, it is suggested that the amended planning proposal could deliver a similar scaled development envisioned by the Northwood Centre Strategy to boost the centre's current lack of identity and give it a sense of place.

Council has raised concern that the built form controls as proposed by the proposal would potentially challenge the primacy of Lane Cove Village. The Lane Cove Village has LEP controls which are:

- land use zones include R4 High Density Residential, B2 Neighbourhood Centre and B4 Mixed Use;
- maximum height of buildings ranging from 9.5m to 30m; and
- maximum FSRs ranging from 0.8:1 to 4.1:1.

The Lane Cove Village provides a diverse range of built form typologies and mix of land use zones to appropriately service the needs of the wider LGA. Whereas the planning proposal seeks to provide a specific service, being residential aged care with some capacity for ground floor retail, to service the local community.

While the proposed built form controls are recognised to be above that of the surrounding area they are not considered to pose a threat to the primacy of the Lane Cove Village as the key strategic centre within the LGA. Furthermore, the development at 266 Longueville Road on Council owned land, indicates the potential for this area to accommodate higher density development with a focus on housing and care for seniors.

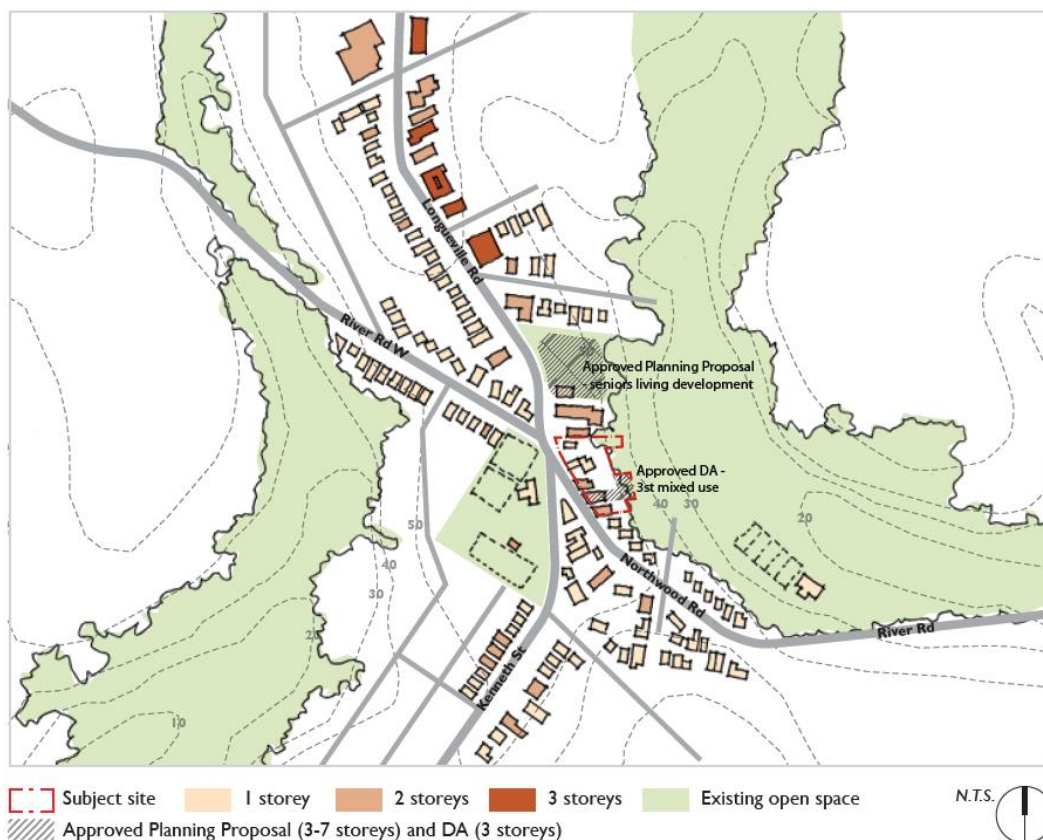


Figure 6: Existing building heights of development in the local area (source: GMU)

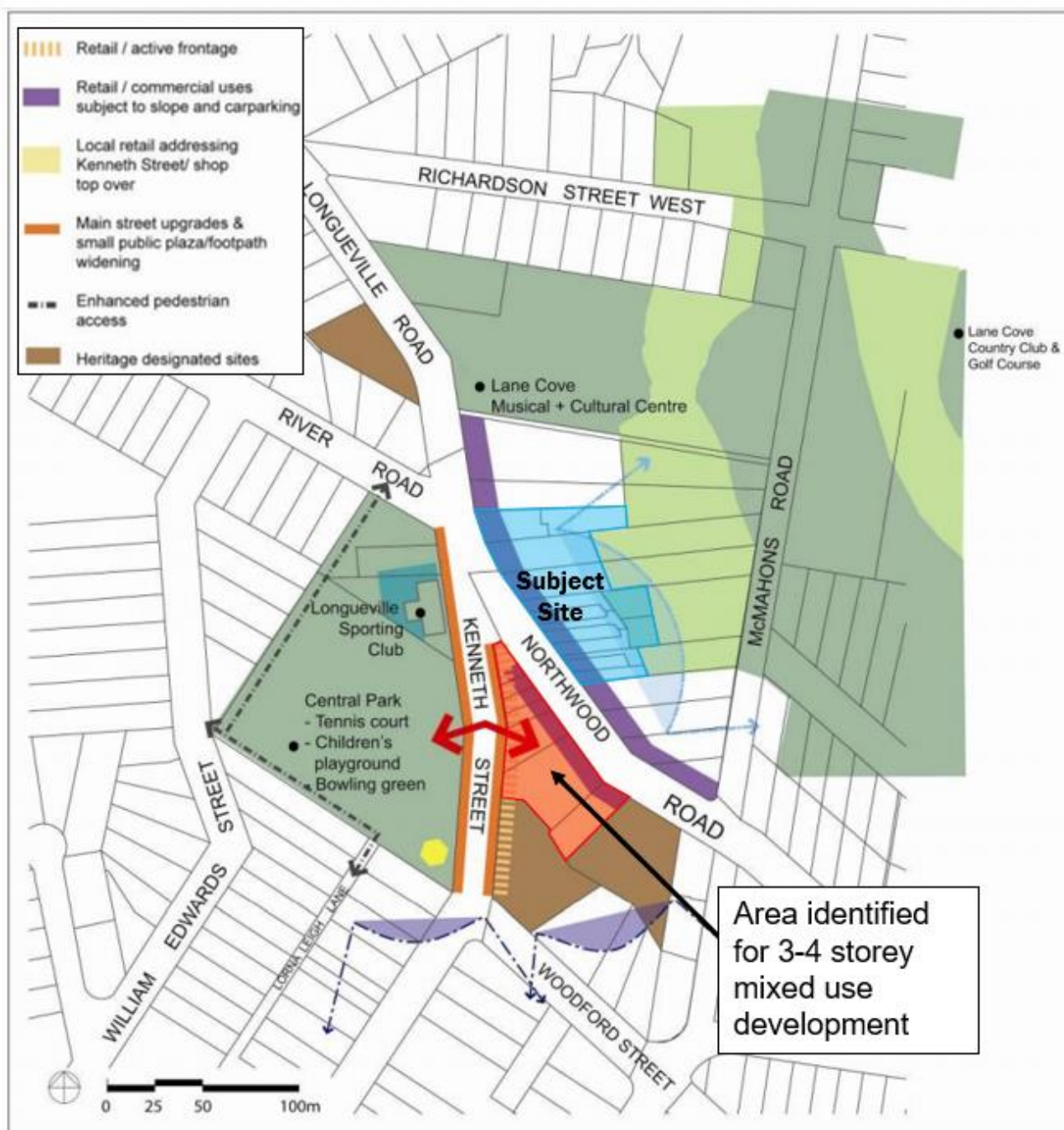


Figure 7: Northwood Neighbourhood Centre Strategy (source: Lane Cove DCP 2010).

The proponent has also prepared a concept to provide context regarding the potential streetscape character created by the proposed amended maximum height (**Figures 8, 9 and 10**). The blue outline reflects the proponent's recommended revised built form in relation to the reduction in height by 1m and the increased setback of the fourth storey from the street wall to 10.3m from the site boundary. This allows for the visual impact of the fourth storey to be minimised from Northwood Road. However, without an endorsed site-specific DCP to support the proposed concept, there is concern that a future development application will not achieve the desired development outcome.

The Department therefore recommends that a height of RL 66.25 (as defined within Lane Cove LEP 2009) would result in an appropriately scaled development being three storeys at Northwood Road and five storeys at the rear. This is consistent with the character of similar higher density development in the local area, while being sympathetic to the surrounding predominately low density residential properties.



Figure 8: Concept building envelope looking east from the intersection of Northwood Road and Kenneth Street (source: Morrison Design Partnership).



Figure 9: Concept building envelope looking south east from the intersection of Longueville Road and River Road West (source: Morrison Design Partnership).

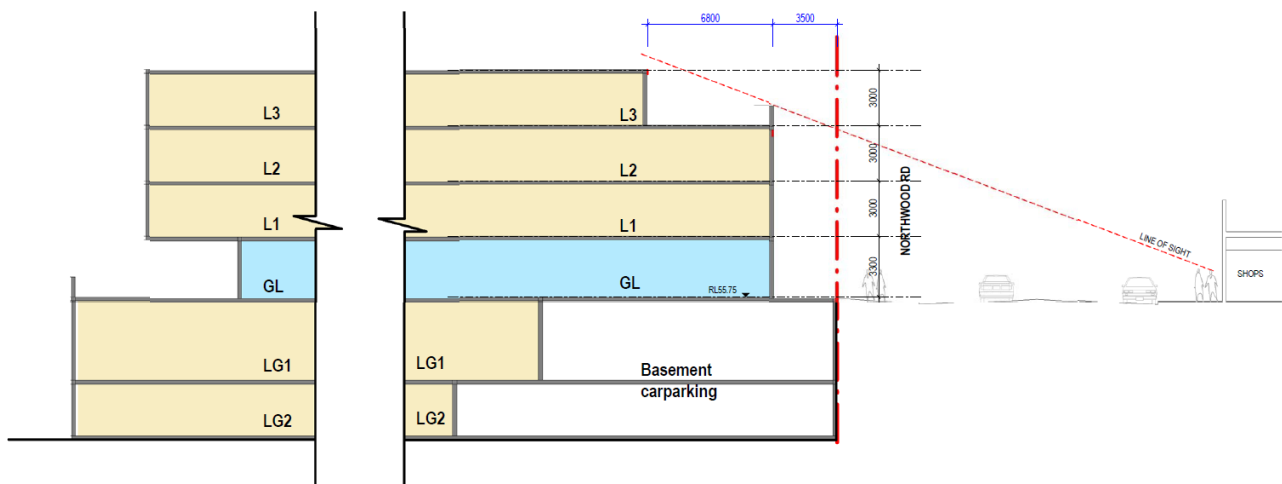


Figure 10: Concept section plan (source: Morrison Design Partnership).

10.2.2. Rear Setback

Council's resolution on 18 June 2018 recommends the proposal be revised to provide a minimum 10m rear setback in accordance with Part H of Council's DCP and based on advice from OEH.

The advice from OEH notes that the site adjoining bushland that is zoned E2 – Environmental Conservation, which is identified as being land with high biodiversity value as defined by the *Biodiversity Conservation Regulation 2017*. OEH recommends a 10-metre buffer from this land. However, where this is not possible the proponent should demonstrate that the adjacent bushland can be adequately protected by the proposed 3-metre wide buffer.

The proponent, as part of its post-exhibition recommendations, suggested an increase in the rear setback to a minimum of 6 metres. This response is supported by advice from Cumberland Ecology, which states that although this setback does not meet OEH's recommendations, a 6m wide buffer may be adequate in areas if additional mitigation measures are implemented to further minimise indirect impacts of future development on areas located outside of the site. Mitigation measures can include but are not limited to, sediment/erosion controls, ongoing monitoring and engineering.

However, Council's independent urban design review recommends increasing the rear setback to 6m, and desirably 10m in accordance with OEH's recommendations.

Further discussions with Council and the proponent have resulted in a general agreement of the 10m from the neighbouring bushland. The Department supports this approach and recommends that a 10m setback be incorporated into a future development application and site-specific DCP which is to be negotiated between Council and the proponent.

10.2.3. Floor Space Ratio

Council's independent design review by Peter Annand (**Attachment I2**) questions how the original proposed FSR of 1.98:1 has been calculated within the current proposed building footprint. The review recommends that an FSR of 1.3-1.5:1 would seem more appropriate for a 3-5 storey building.

Council has subsequently recommended a reduction in the proposed FSR to 1:1 and rezoning the entire site to B4 Mixed Use. This would allow for the bonus provisions of the Seniors Housing SEPP to be triggered for the purposes of a vertical village, which may increase the maximum permitted FSR up to 1.5:1 subject to the provision of 10% affordable places.

However, the bonus FSR offered under the Seniors Housing SEPP for a vertical village is entirely reliant on the lodgement and approval for a Site Compatibility Certificate (SCC) and that SCC being valid at the time of the determination of a subsequent development application.

As an alternative, the proponent has suggested that an amended proposal with a maximum and total FSR of 1.85:1 would be appropriate for the site considering the proposed changes to the maximum building height and setbacks.

Further testing of the FSR in relation to its bulk and scale impact has been conducted by the Department's Urban Design Team. Their recommendations have been included at **Attachment K** and further discussion is included under **Section 12.0** of this report.

The recommendations suggest that a proposed FSR of 1.85:1 could be appropriate in this context subject to the development being supported by a site specific DCP which would include:

- sufficient deep soil planting to allow the development of mature trees around the building perimeter, especially to Northwood Road;
- a minimum front setback of 3m;
- maximum car parking rates to limit basement excavation;
- detailed design of the car park access and ramp at the southern boundary; and
- a desired material and finishes schedule for the treatment of the ground floor plane.

Based on these recommendations, a 1.85:1 FSR can achieve an appropriate outcome for the site. Although, concern remains regarding the intended use of the site as a result of the B4 Mixed Use zoning. The B4 zone would permit a range of uses other than seniors housing and a residential aged care facility would not be the highest and best use.

Therefore, to ensure that the desired development outcome can be achieved, it is recommended that the proposed maximum 1.85:1 FSR could only be achieved through additional local provisions applied under Schedule 6 of the Lane Cove LEP 2009. The bonus FSR would apply only to a development that would be for the purposes of a residential aged care facility.

Maintaining a 1:1 base FSR would effectively retain the built form of the centre, with the only FSR change being to the properties at 274 and 274A Longueville Road being increased from 0.8:1 to 1:1 to reflect the change in zoning from residential to commercial. This arrangement would ensure that a residential aged care facility, as intended by the subject planning proposal, would remain as the highest and best use for the subject site.

10.3. Ecology

The site is adjacent to land zoned E2 Environmental Conservation, which according to OEH, is identified as being land with high biodiversity value as defined by the *Biodiversity Conservation Regulation 2017*.

A Flora and Fauna assessment report (**Attachment A6**) was submitted with the planning proposal and indicated that the proposed development is unlikely to have a significant impact on the long-term survival of any threatened species and/or ecological communities, if the recommended mitigation measures are implemented.

OEH provided several recommendations in relation to the planning proposal. Comments in relation to an adequate buffer from the adjacent protected bushland are addressed in **Section 10.2.2** of this report.

OEH also requested that details on overland flow should be provided for the site. Council has subsequently advised that the site is not identified as being prone to flooding including overland flow.

OEH has recommended a number of other measures that are suitable for adoption in a site-specific DCP and vegetation management plan or may be addressed as part of any future development application for the site.

These include:

- replacement planting of turpentine trees;
- the use of native species for landscaping and street planting;
- the location of pedestrian links to adjoining bushland;
- the provision of a green roof; and
- consideration of the potential for Aboriginal heritage on or near the site.

The Department supports this approach, and these are matters for further consideration as part of the future detailed design stage within a development application.

10.4. Public Benefit

Council has raised concerns that the proposal fails to provide any substantial public benefit which was also reflected in submissions from the community. Consequently, Council recommends that the proponent prepare a revised planning proposal that seeks to rezone the site to B4 Mixed Use and apply a single floor space ratio of 1:1 across the site, which may be increased up to 1.5:1 under the bonuses of the Seniors Housing SEPP.

Rezoning the site to B4 Mixed Use would allow for the application of the Seniors Housing SEPP by way of an SCC for a Vertical Village. Under Clause 45 (Vertical Villages) a bonus floor space ratio of 0.5:1 is available if the proposed development delivers on-site support services and at least 10% of the dwellings as affordable places.

This is similar to the process that has been entered into at the site at 266 Longueville Road as discussed in **Section 4.2** where an SCC was shortly lodged after the gazettal of Lane Cove LEP 2009 (Amendment No. 17) for this site. The SCC was also seeking the 0.5:1 FSR bonus as applicable under Clause 45 of the Seniors Housing SEPP for a vertical village.

However, the application of an SCC immediately following a planning proposal to rezone and uplift the built form controls for a site is undesirable. This is due to a range of factors including:

- uncertainty from the public over built form outcomes;
- concern that a development would use two separate processes to obtain a development outcome which exceeds that was originally envisioned within the planning proposal; and
- the timeframe for the lapsing of an SCC being only 2 years from the date of issue, causing difficulties over the processing of a future development application.

It is therefore recommended that the suggestion of a reduction in FSR and for a bonus to be obtained under a future SCC application is unnecessary and would only lead to further delays.

While it is recognised that the rezoning of the site to B4 Mixed use would open up the opportunity for an SCC application for this exact purpose to be lodged, it is considered that

the controls established within this draft LEP and a future site-specific DCP would appropriately cap the maximum yield of the site and potential development.

The approval of any future SCC would also be subject to the rigorous assessment and determination from the Sydney North Planning Panel, meaning the additional bonus FSR as desired within the current plan may not be awarded.

Rezoning the site to B4 Mixed Use would also permit a range of other uses on the site. Although, as discussed under **Section 10.2**, the building height and FSR as sought under the planning proposal would only be able to be achieved where a development for the purposes of a “residential aged care facility” is proposed.

Under Commonwealth legislation, all residential aged care services are required to meet the *supported resident ratio* for the region in which they are located. In the case of the North Sydney Region, this requires 16% of places to be provided to residents who receive Government assistance for their accommodation costs. The restriction on this permitted use would ensure Council’s objective for a minimum of 10% affordable places on site could be satisfied.

This legislation would not apply to self-contained dwellings, a land use also permitted under the definition of ‘Seniors Housing’, which could be available if the site was rezoned to B4 Mixed Use.

Therefore, the restrictions on the available bonus FSR and height for the purposes of a residential aged care facility would ensure that should the site be developed to its highest and best use, a minimum of 16% affordable places would be required to be provided. This would achieve Council’s desired public benefit.

11. Meeting with proponent and Council

On 1 August 2019, a meeting was held at Lane Cove Council to discuss the status of the planning proposal and options moving forward. The following recommendations were generally agreed to by all parties as a suitable outcome:

- rezoning the site to B4 Mixed Use to allow for Seniors Housing SEPP to be applied to a future development. This would also allow for provision of affordable places within a future residential aged care facility providing a tangible public benefit;
- requiring a minimum commercial FSR to maintain some retail/commercial capacity for the Northwood Town Centre;
- requiring a single egress at the southern end of the site, being left in/left out only as recommended by RMS; and
- requiring 10m buffer to the neighbouring E2 Environmental Conservation zone as recommended by OEH.

However, the following provisions were not able to be agreed upon:

- maximum building height;
- maximum FSR;
- height of the proposed street wall; and
- height of the rear building.

Council’s meeting minutes of 19 August 2019 (**Attachment J**) confirm the matters that were discussed at this meeting.

12. Department's Urban Design Review

All matters that were not able to be resolved during the 1 August 2019 meeting relating to built form and bulk and scale. The Department's Urban Design team were consulted and engaged to undertake a review of the proposed built form, including the proponent's recommended amendments floor space ratio being 1.85:1.

The Urban Design Review (**Attachment K**) notes that the proponents recommended amendments has the potential to deliver both positive and adverse design outcomes as summarised within **Table 6** below:

Table 6: Positive and adverse outcomes of proposal (source: DPIE Urban Design Review).

	Positive Outcomes	Adverse Outcomes
Streetscape and Local Character	<ul style="list-style-type: none"> The proposal could provide a safe attractive streetscape and enhance the existing character. Detailed landscaping elements, including the planting of mature street trees, within a future development proposal would need to be provided. 	<ul style="list-style-type: none"> The lack of deep soil planting to Northwood Road is not supported. Trees of similar variety to the local area and depicted in the planning proposal will need to establish root systems appropriate for mature trees. The trees to Northwood Road will be important in integrating the development to the local character.
Building Height	<ul style="list-style-type: none"> The increase to the ground floor to floor height would support the intent of a podium and structure to accommodate an adaptable commercial/public space. 	<ul style="list-style-type: none"> The ground floor, floor to floor height needs to be increased to cater for an effective structure, to allow for an appropriate scale to the open arcade elements, future ground floor design and adaptability.
FSR	<ul style="list-style-type: none"> The review would support the retention of a partial 4th storey, where there is a defined setback from the predominate 3 storey street wall. 	
Setbacks	<ul style="list-style-type: none"> The increased 10m setback to the rear would allow for additional deep planting with the provision of mature trees as the site falls away. These soft landscape areas will assist in mitigating the visual bulk of the development from the neighbouring environmental conservation and public recreation areas 	N/A
Overshadowing	N/A	<ul style="list-style-type: none"> The major overshadowing impact from the proposal is to the southern boundary, being 20 Northwood Road. However, the extent of overshadowing received to this property would be similar to that which is currently received, and which could be developed under a complying envelope.

Following its analysis of the proposal and consideration of the potential positive and adverse outcomes relating to the likely future development of the site, the Urban Design team made the following conclusions regarding the proposal:

- there is confusion with the community over where building height is to be measured from, being either the Lane Cove LEP 2009 or Seniors Housing SEPP. A consistent approach to describing building height is required through the proposal and is most effective for the community when described in terms of overall building height;
- the floor to floor height at ground level needs to be adequate for an adaptable commercial tenancy and to improve the amenity of the ground plane. The urban design review supports increasing the floor to floor height to ensure an adequate structure can be accommodated without compromising through site view lines and the commercial floor space offering;
- the urban design review would support the feasible FSR for the site within the constraints that have been established as part of the planning proposal. The appropriate treatment for the ground plane, quality finishes, deep soil planting to the street, appropriate setbacks, maximum parking numbers and parking ramp design would need to be further considered at the later development stage;
- the rezoning of the site to B4 Mixed Use would be supported;
- the proposal makes no allowance for the provision of deep soil planting at the Northwood Road frontage. The upper level car park will need to be planned to accommodate generous planting to achieve the desired streetscape outcomes for public benefit;
- mature trees are required to the building perimeter and will aid the transition of the built form the boundary, especially the Northwood Road edge;
- a minimum 3m setback to Northwood Road is required to permit pedestrian amenity and accessibility and is a desired minimum for street tree planting;
- minimising traffic intervention by carefully designing carparking access, aggregating vehicle movements with a revised legible and egress to the south of the site including visual screening and detailed design treatments;
- integrating a stepped building setback with respect to solar access towards 20 Northwood Road to the south; and
- modifying the built form and increasing setbacks to respect the site's visually significant location, and to protect solar access to green spaces within and externally to the site.

Therefore, the urban design review recommends that subject to the inclusion of appropriate streetscape improvements (additional deep soil planting, setbacks, mature street trees, appropriate podium height and careful attention to detailed design treatments), the proposed FSR amendments to the proposal could be able to be supported.

Further refinements of the development would be able to be considered at the detailed design stage as part of a future development application.

13. Section 9.1 Directions

13.1. Direction 1.1 Business and Industrial Zones

This direction seeks to encourage employment growth, protect employment land in business and industrial zones and support the viability of identified centres.

The proposal originally intended to retain the B1 Local Centre use with the inclusion of a Schedule 1 additional permitted use for the purposes of seniors living.

The amended proposal now intends to rezone the land to B4 Mixed Use which still retains the intention of the existing land use by permitting commercial uses on the site. The inclusion of minimum commercial FSR of 0.35:1 for any future development for the purposes of a residential aged care facility further reinforces the intention of the plan for a continued commercial presence to serve the locality. The proposal is therefore considered consistent with this direction.

13.2. Direction 3.1 Residential Zones

This direction seeks to encourage a variety of housing types to provide for existing and future housing needs.

The proposal intends to rezone an existing parcel of R4 High Density Residential land to B4 Mixed Use. This parcel is occupied by 2 single dwellings and does not represent the highest and best use for the site. As the proposal still intends to allow the provision for some form of residential accommodation to be provided within the B4 zone, the proposal is considered consistent with the intention of this direction.

14. State Environmental Planning Policies

14.1. SEPP 55 Remediation of Land

There is an existing service station located on the subject site at 6-10 Northwood Road. Clause 6 of SEPP 55 requires consideration of whether the site is contaminated and the suitability of the land for the proposed use.

The proposal includes a Ground Water Testing Report, which concludes that the site can be remediated to a condition suitable for residential and retail land use (including seniors housing), subject to remediation measures. It is considered that sufficient information has been provided to demonstrate the suitability of the proposed LEP amendments in relation to remediation of land.

14.2. SEPP 19 Bushland in Urban Areas

Council's Land Adjoining Bushland Map (**Figure 10**), identifies that SEPP 19 applies to part of the site.

The SEPP requires that the preparation of a LEP must consider the general and specific aims of the Policy and give priority to retaining bushland, unless significant environmental, economic or social benefits will arise which outweigh the value of bushland.

A Flora and Fauna Assessment Report (**Attachment A6**) has been carried out as well as consultation with OEH. As discussed in **Sections 10.2.2 Setbacks** and **10.3 Ecology**, the recommendations from OEH will be considered and adopted where applicable as part of the plan making process.

A 10m buffer zone to the rear of the site has been generally agreed upon to ensure that adequate separation to the adjoining bushland is retained and to ensure appropriate mitigation and maintenance to this bushland area. It is considered that sufficient information has been provided to demonstrate the suitability of the proposed LEP amendments in relation to bushland in urban areas. Further details and additional reporting are able to be provided as part of a future detailed design stage.



Figure 10: Land Adjoining Bushland Map (source: Lane Cove Council 2010).

14.3. SEPP Housing for Seniors or People with a Disability (2004)

Originally the proposal intended to include the land use 'seniors living' as an additional permitted use. In this instance the Seniors Housing SEPP would not be applicable to a future development. This is because Clause 4 – Land to which this Policy Applies, states that the Seniors Housing SEPP only applies if dwelling-houses, residential flat buildings or hospitals are permitted on the site, the land is zoned for special uses or the land is used as an existing registered club. It is not applicable to land for which the purposes of 'seniors living' is an additional permitted use.

However, considering the recommended amendments to the planning proposal, which include rezoning the site to B4 Mixed Use, the provisions of the Seniors Housing SEPP would be applicable as the B4 zone permits residential flat buildings.

As indicated within the North District Plan, Lane Cove's ageing population is expected to grow significantly over the next 20 years with a projected increase of 60% for persons between 65-84 and 92% for persons 85 and above. The proposal is considered to be consistent with the aims of the Seniors Housing SEPP as it intends to introduce suitable provisions to allow for the future development of a residential aged care facility. This development would allow people to age in place and be supported with sufficient on-site services.

15. State, regional and district plans

15.1. Greater Sydney Region Plan – A Metropolis of Three Cities

The Greater Sydney Region Plan sets a vision up to 2056 and seeks to establish a 20-year plan to manage growth and change for Greater Sydney in the context of economic, social and environmental matters. It provides objectives and directions to inform district and local plans and the assessment of planning proposals.

The Lane Cove local government area is located within the Eastern Harbour City, which is projected to grow from 2.4 million people in 2016 to 3.3 million people by 2036.

Of the 10 directions set out in the plan, the following are relevant to the proposal:

- *A city for people*: the proposal intends to provide health services to meet Sydney's growing needs by permitting housing for seniors and people with a disability with on-site support facilities;
- *Giving people housing choices*: the proposal encourages the delivery of approximately 130 aged care beds in an inner-city location; and
- *A city of great places*: the proposal encourages urban renewal by replacing ageing buildings on underutilised land with a mixed-use development aimed to provide housing for the aged as well as employment.

The proposal is considered generally consistent with the objectives and directions of the Greater Sydney Region Plan.

15.2. North District Plan

The North District Plan was released in March 2018 and establishes the planning priorities for improving the quality of life for residents as the district grows and refines the previous work commenced by the Greater Sydney Region Plan.

An assessment of the relevant priorities of the North District Plan are provided within **Table 7** below.

Greater Sydney Region Plan Direction	North District Plan Priority	Proposal's Consistency
A city supported by infrastructure	N1: Planning for a city supported by infrastructure	The site's proximity to the St Leonards and Crows Nest precinct would enable a future residential aged care facility to take advantage of the ongoing investment in health services within this area.
A city for people	N3: Providing services and social infrastructure to meet people's changing needs	<p>The District Plan states that Lane Cove is expected to see a 60% per cent proportional increase in people aged between 65-84 and over, and a 92% per cent increase in the 85+ age group by 2036.</p> <p>The proposal would enable the delivery of a residential aged care facility to cater for the needs of the district's aging population.</p>

Greater Sydney Region Plan Direction	North District Plan Priority	Proposal's Consistency
	N4: Fostering healthy, creative, culturally rich and socially connected communities	By maintaining a commercial/retail presence on the site, the proposal enables the renewal of the existing Northwood Shops to continue providing a low scale commercial precinct to the local community.
Housing the city	N5: Providing housing supply, choice and affordability with access to jobs, services and public transport	The proposal allows for urban renewal in an accessible location linked to infrastructure and services.
A city of great places	N6: Creating and renewing great places and local centres, and respecting the District's heritage	The proposal will incorporate a well-designed built environment to improve the streetscape and maintain district views through the site. The proposal does not impact on any heritage items.
Jobs and skills for the city	N9: Growing and investing in health and education precincts	The proposal will contribute to the delivery of a residential aged care facility within reasonable proximity of the St Leonards health and education precinct.
A well-connected city	N12: Delivering integrated land use and transport planning in a 30-minute city	The proposal will allow for the delivery of a residential aged care facility that is well-connected to the Lane Cove Village and the strategic centre of St Leonards and Crows Nest.
A city in its landscape	N16: Protecting and enhancing bushland and biodiversity	The planning proposal will allow future redevelopment on the site to retain landscaping, and deep soil to maintain the established leafy character of the neighbourhood. The proposed 10m setback to the adjoining remnant bushland will ensure that this bushland is retained where practical.
	N17: Protecting and enhancing scenic landscapes	The planning proposal intends to replace significant trees lost on site and retain district views through the site. Additional deep soil zones and tree planting will occur within the front setback to enhance the quality of the streetscape.

Table 7: Proposal's consistency with North District Plan

The planning proposal is therefore considered to be generally consistent with the priorities and objectives of the North District Plan.

16. Amendments to Plan

To enable a proposed future residential aged care development to appropriately respond to the issues raised within this report, the plan is to be made subject to the following amendments:

- rezone the site from part B1 Local Centre and Part R4 High Density Residential to B4 Mixed Use for Land Zoning Map LZN_004;
- amend the maximum height of buildings from part 9.5m and 12m to 9.5m for Height of Buildings Map HOB_004;
- amend the maximum floor space ratio from part 0.8:1 and 1:1 to 1:1 for the Floor Space Ratio Map FSR_004;
- insert Clause 6 Additional local provisions for development at 4-18 Northwood Road, 274 and 274A Longueville Road, Lane Cove:
 - (1) for the maximum height of buildings to exceed that shown on the height of buildings map to a maximum of RL 66.25, for the purposes of a residential care facility only;
 - (2) for the maximum floor space ratio to exceed that shown on the floor space ratio map by an additional 0.85:1, for the purposes of a residential care facility only;
 - (3) for the consent authority to not grant development consent to a mixed use development to which subclause (2) applies that results in a minimum commercial floor space ratio of less than 0.35:1; and

17. Mapping

As Council did not support the plan, draft mapping (**Attachment Maps**) has been prepared by the Department's GIS staff. The maps have been sent to Parliamentary Counsel.

18. Consultation with Council

Council was consulted on the terms of the draft instrument under clause 3.36(1) of the *Environmental Planning and Assessment Act 1979* (**Attachment L**). Council provided a response on 24 January 2020 (**Attachment M**) and while disappointed with the outcome did not raise any significant comments in relation to the making of the plan. Council did however seek clarification over the following matters:

- The application of the bonus FSR's able to be obtained under the Seniors Housing SEPP and Draft LEP; and
- The notification/reporting of an amended DCP in response to the issues raised.

It was confirmed with the Department's legal team, that both of the FSR bonuses potentially applicable to the subject development, being 0.85:1 as proposed within the draft LEP and 0.5:1 currently offered within the Seniors Housing SEPP for a vertical village could be applied to the same development.

However, it should be noted that the maximum bonus 0.5:1 FSR provided within the Seniors Housing SEPP would only be applicable with a valid SCC. In discussions with the proponent, they have indicated an SCC is not a desirable approval path due to concerns over additional assessment timeframes and SCC's for the Seniors Housing SEPP only being valid for a period of 2 years.

The Department considers that the lodgement of an SCC to seek additional bonus FSR immediately following the making of a plan would require similar planning proposal process to retest FSR, which does not necessarily guarantee the additional FSR. Hence, the lodgement of the SCC could also be considered as a further de-facto rezoning beyond the scope of the proposed draft LEP. Additionally, this process of applying for and obtaining a SCC would add considerable and further time to the process, thereby unnecessarily delaying the delivery of new aged care facilities, which is evidently needed due to the aged care bed allocation afforded to the proponent for the site.

To ensure that the desired outcome of the plan is achieved, being a proposed residential aged care facility, the proposed maximum FSR of 1.85:1 could only be achieved through additional local provisions as indicated under **Section 17.0**.

In regard to the notification/reporting of the site-specific DCP, Council still has the opportunity to liaise with the proponent prior to the lodgement of a future development application for the site to prepare a site-specific DCP. However, there is no mandated requirement within the draft LEP that the proponent is to prepare a site-specific DCP.

19. Parliamentary counsel opinion

On 14 May 2020 Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

20. Recommendation

The planning proposal would enable the redevelopment of the subject site to provide a residential aged care facility comprising 130 beds with retail uses at ground level.

While Council has recommended that the planning proposal not proceed, subject to the recommended amendments as detailed within **Section 17**, it is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- it will encourage the development of a residential aged care facility on a suitable site, without limiting potential neighbourhood centres uses;
- it will provide sufficient public benefit to the community through provision of a minimum of 16% affordable spaces;
- subject to the finalisation of a site-specific development control plan, revisions to the LEP as recommended and further detail at the development application stage, the proposal is of an appropriate scale and massing for the locality and does not have undue impacts on the adjacent properties;
- it will promote employment growth through new jobs associated with the aged care facilities, as well as those associated with neighbourhood shops at ground level;
- it will assist in providing a more diverse supply of homes and allow people to continue living in their local areas; and
- it is consistent with the directions and priorities of the Greater Sydney Region Plan and North District Plan.



Stewart Doran
A/ Manager, North District



Malcolm McDonald 18 May 2020
Executive Director,
Eastern Harbour City

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Attachments

Attachment	Title
A	Planning Proposal and supporting studies
B	SNPP Rezoning Review Recommendation – 2 May 2017
C	Gateway Determination
D	Council's Post-Exhibition Report
E	Public Agency Submissions
F1-2	Department of Health – Extensions of time
G1-5	Proponent's Post-Exhibition Response
H	Council Resolution of 18 June 2018
I1-2	Council Commissioned Independent Reviews – Traffic and Urban Design
J	Council Meeting Agenda – 19 August 2019
K	Department's Urban Design Review
L	Section 3.36(1) Consultation with Council
M	Council Comments on Draft LEP
N	Minutes of meeting with Minister Roberts
Maps	Draft LEP Maps
MCS	Map Cover Sheet
LEP	Draft LEP
PC	Parliamentary Counsel's Opinion
Council	Letter to Council advising of the decision