

PPSSNH-140 – Lane Cove – DA113/20 DRAFT REASON FOR REFUSAL		APPLICANT RESPONSE	RESPONDING CONDITION
1. Building height	<p>1.1 The proposal would not comply with the maximum height permitted on the site (RL 66.25m) under Clause 6.9(2)(a) of the Lane Cove LEP 2009.</p> <p>1.2 Objective (b) of Clause 4.6 and matters required to be demonstrated under Clause 4.6(3)(b) have not been adequately addressed in the Applicant's written request.</p>	<p>The height breach relates to architectural features and stair overrun on the roof – no habitable space</p> <p>Under the Seniors SEPP, the height would be measured to the ceiling of the uppermost floor and would not include any roof top structures including the parapet, services or lift/stair overruns.</p> <p>Given Clause 40(4) of the Seniors SEPP does not apply to this site (because RFBs are permissible in the B4 zone) the relevant controls contained in Clause 6.9 of the LCLEP apply. Consequently, the height is to be measured using the LEP definition "the vertical distance from the Australian Height Datum to the highest point of the building".</p> <p>Strict compliance with the RL would impact on the driveway access grades and internal amenity / public domain</p> <p>Refer to Clause 4.6 variation prepared by City Plan.</p>	Condition 1 (e)
2. Built-form	<p>2.1 The 3-storey built form to the street alignment would not adhere to the 2-storey requirement with recessed upper level (8m to boundary) and would create excessive mass and bulk at the pedestrian scale and walled effect along Northwood Road. In this regard, the proposal would not provide an improved streetscape, pedestrian experience, and an inviting public domain to Northwood Road.</p>	<p>The DPIE finalisation report for the site-specific planning proposal states: <i>... the amended controls 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.</i></p> <p>The DCP appears to be more restrictive than the LEP.</p> <p>The development provides an improved streetscape, pedestrian experience, and inviting public domain by:</p> <ul style="list-style-type: none"> - Consolidating multiple existing driveways into one; - Providing additional 3m landscaped setback in addition to Council's verge; and 	Condition 1

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	<p>2.2 The proposal would not comply with the 3m front setback control and southern side setback control.</p> <p>2.3 The proposal would not provide an appropriate transition in height and bulk to adjacent low density residential development to the south.</p> <p>2.4 The proposal would achieve the minimum 6m setback requirement to the northern-side boundary but would not provide any additional recess at the upper level to provide visual relief to adjacent development to the north.</p>	<ul style="list-style-type: none"> - providing footpaths and street activation. <p>Council has set a precedent with the approval of DA15/162 on 27 April 2016, which exceeded the height limit by 4800mm. This DA also proposed a nil setback for the first 2-storeys and 3.5 metre setback for the 3rd storey.</p> <p>The applicant is willing to amend the front setback to comply with the DCP's 3m setback requirement for the full street frontage if the Panel feels this is important.</p> <p>The building design addresses the transition to low density development to the south through:</p> <ul style="list-style-type: none"> - Staggered setbacks - Landscape planting <p>Visual relief of the northern elevation has been provided via design, materiality and colour selection.</p>	
3. Desired future character	<p>3.1 The proposed development would be inconsistent with the desired future character for the site expressed in terms of the fine grain built-form controls for the site.</p>	<p>DPIE's finalisation report states:</p> <p><i>... the amended controls 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.</i></p> <p>Refer to DPIE Planning Proposal finalisation report and SEE.</p>	-

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4. Landscaping	<p>4.1 The proposed location and design of the development would not maximise the retention and protection of native trees. The removal of native turpentine trees 1, 2, 5, 6, 10 and 11 is not supported as they act as canopy trees that provide amenity, habitat, and are a food source for native fauna.</p> <p>4.2 The replacement tree ratio of 2:1 would not adhere to the 3:1 requirement and would not provide sufficient replacement tree canopy coverage.</p> <p>4.3 The proposed basement excavation to the front boundary would not allow for deep soil landscaping and canopy trees within the front setback. The south-western corner of the development would not provide any deep soil planting and canopy trees.</p>	<p>The Applicant is willing to retain Trees 1 and 2 however it is noted this would conflict with the DCP principle of providing view corridors from the street to the bushland reserve.</p> <p>Retention of the other trees, within the building/basement footprint, would require significant amendment to the design.</p> <p>The DCP requirement is for 2:1 offset planting, which is satisfied. The development provides 3:1 offset planting.</p> <p>There is a difference of opinion around the definition of a “canopy tree”. The Applicant has offered to plant a total of 20 canopy trees as requested by Council. We propose 10 trees are planted on the site and the remaining 10 trees are planted in the adjoining bushland reserve.</p> <p>There is a conflict between providing street trees within the 3 metre setback area and Council’s requirement to provide a continuous awning along the site’s frontage. Instead, lower planting have been provided between the turf verge and the pedestrian footpath.</p> <p>In addition, under existing conditions, there is only approximately 800mm of soil above rock along the site’s main frontage to support plantings.</p>	Condition 1 and 19.
5. Bushland protection	<p>5.1. Except for the southern boundary, the curtilage to the south-eastern section of the development would not adhere to the 10m buffer requirement to adjacent E2 zoned land. As such, the proposal would not provide an appropriate transition area between the</p>	<p>The proposed development complies with the State Environmental Planning Policy No 19—Bushland in Urban Areas.</p> <p>The development also satisfies the DCP’s objectives of providing a 10-metre rear buffer to the bushland.</p>	Condition 1 (f) and 29

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	<p>building and bushland area so as to reduce impacts of the development upon adjacent bushland.</p> <p>5.2 The encroachment of the south-eastern section of the development into the buffer zone would have an adverse visual impact for users of the adjacent public bushland and public recreation area.</p> <p>5.3 The proposal was not accompanied by a Bushland Rehabilitation and Maintenance Plan. The proposal would not promote the management of bushland in a manner which protects and enhances the quality of the bushland and facilitates public enjoyment of the bushland compatible with its conservation including regeneration of the bushland buffer with native indigenous plants.</p> <p>5.4 The proposal would involve the removal of suitable foraging habitat for two threatened bat species listed under the Biodiversity Conservation Act 2016 and potential roosting habitat for one of those species.</p>	<p>The proposed development will remove a small area of suitable foraging habitat for two threatened bat species and potential roosting habitat for one threatened bat species. The removal of this habitat is considered unlikely to have a significant impact on any of the species. Furthermore, appropriate mitigation measures are recommended within the Flora and Fauna Assessment prepared by Cumberland Ecology, to mitigate any potential impacts on these threatened species.</p> <p>There is approximately 85m between the south-eastern section of the site and the publicly accessible recreation area. Views are obscured by the bushland reserve.</p> <p>The proposal includes bushland regeneration of the rear (north-eastern) portion of the site. A <i>Bushland Rehabilitation and Maintenance Plan</i> can be provided as a condition of consent.</p> <p>The proposed development will remove a small area of suitable foraging habitat for two threatened bat species and potential roosting habitat for one threatened bat species. The removal of this habitat is considered unlikely to have a significant impact on any of the species. Furthermore, appropriate mitigation measures are recommended within the Flora and Fauna Assessment prepared by Cumberland</p>	

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		Ecology, to mitigate any potential impacts on these threatened species.	
6. Stormwater	6.1 The proposed stormwater disposal strategy involving draining into bushland at the rear and not to the front of the site would have adverse impacts on the adjoining bushland and Gore Creek.	The Applicant has introduced rainwater capture and re-use to half the quantity of stormwater disposal required. Stormwater disposal approach has been verbally agreed with Council staff during on-site meetings and this is reflected in draft without prejudice condition 30.	Condition 30
7. Suitability of the Site	7.1 The site is unsuitable for the proposed development for the following reasons: a) the application has not demonstrated a stormwater disposal strategy that would protect adjoining bushland; b) the proposal would not strictly adhere to the 10m bushland buffer requirement and would adversely impact upon existing bushland at the rear of the site; c) the proposal would involve the removal of native trees that provide valuable canopy, habitat, and food source for native fauna; and d) the proposal would be inconsistent with the desired future character for the site as expressed in the site-specific provisions pertaining to height/setbacks.	The suitability of the site to accommodate seniors housing/mixed use development and an increase in FSR and building height, was clearly demonstrated with the gazettal of the site-specific planning proposal, which was supported by both DPIE and the Sydney North Planning Panel.	Condition 1 and 30
8. Public Interest	8.1 Due to the deficiencies detailed above, approval of the proposed development would be contrary to the public interest.	All requested additional information has been provided.	-

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	8.2 Approval of the subject application would set an undesirable precedent for development in the area with respect to building height at the street frontage, and non-compliant side and rear setbacks.	The development outcome provided in DA 113/2020, provides a far superior outcome as it provides a 3-metre setback to all 3-storeys of the development, for the majority of its Northwood frontage.	
9. Insufficient Information	<p><u>9.1 Traffic</u> Additional information required:</p> <p>a) A Safety and Functionality Report is required for the proposed traffic signal outlining the potential wait times/queue lengths and location of the loops.</p> <p>b) The use of traffic counts to determine the traffic generation of the existing development (as oppose to rates from the RMS guide) would be an accurate representation of existing conditions and therefore the net increase in traffic volumes. Passing trade of 80% should be applied to the service station and convenience store component of the existing development.</p> <p>c) The traffic report must consider:</p> <ul style="list-style-type: none"> • River Road/Longueville Road upgrade • Impact on local streets • Northwood Roundabout – Council is the process of gaining approval for a roundabout at the Northwood Road/River Road intersection. Given the development is restricted to left 	<p>Refer to the response to Council’s RFI prepared by McLaren Traffic Engineering, dated 1 December 2020.</p> <p>A Safety and Functionality Report has been provided.</p> <p>Additional traffic counts have been provided.</p> <p>In addition, the PP assessed traffic implications for a “worst case” traffic scenario, that included the site’s full development potential, rather than a residential aged care facilities.</p> <p>It is noted there is no current RMS approval for a roundabout at the Northwood Road/River Road intersection.</p>	-

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	<p>in/left out access, the proposed roundabout will facilitate westbound movements from the development which will potentially reduce rat-running through local streets. As such, the developer is required to contribute funding towards the construction of the proposed roundabout.</p> <p>d) A revised traffic analysis to address the cumulative impact of approved/pending developments in the vicinity of the site including the proposed development at 266 Longueville Road.</p> <p>e) Ramp sections are to be provided indicating the height clearance for the largest design vehicles accessing the development. AutoCAD files of the ground clearance test is to be provided for a B99 and MRV as the plan provided is unclear.</p>	<p>It is noted there is no current approval, or certainty of approval for the proposed development at 266 Longueville Road, due to issues with the site compatibility certificate.</p> <p>Ramp sections have been provided to Council.</p>	
	<p><u>9.2 Bushland</u></p> <p>Further independent studies and evidence is required to support the claim in the revised <i>Flora and Fauna Assessment Report</i>, prepared by Cumberland Ecology, that the proposed setback to adjoining E2 zoned land <i>would be unlikely to have a significant impact on the long-term survival of any threatened species and/or ecological communities occurring, or that have the potential to occur within the subject site or locality.</i></p>	<p>The applicant submitted a revised Flora and Fauna Assessment prepared by Cumberland Ecology, appropriately assesses impacts to threatened species/ecological communities and no further studies are considered to be required.</p> <p>Appropriate measures are recommended within the flora and fauna assessment to mitigate any impacts on threatened species, and no threatened ecological communities occur in nearby areas within the E2 zoned land.</p>	-

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	<u>9.3 Stormwater</u> Further details are to be provided regarding the agreed strategy for stormwater management involving a pipe system through the bushland to the golf course and improvement to the existing 300mm pipe system at the golf course.	Several meeting with Council were organised to discuss potential stormwater strategies. The preferred strategy, which is reflected in condition 30, is to install an HDPE pipe above ground (with pipe supports and anchors). This option was suggested to minimise any impact to the downstream bushland. Council suggested (during detailed design) to survey the trees and find the best route for the pipe alignment to minimise impact.	Condition 30
	<u>9.4 Telecommunications tower</u> An Electromagnetic Radiation (EMR) assessment is to be undertaken and a report prepared to determine the impact of the existing telecommunications tower on future residents/employees/visitors.	Pathways has given formal notice to both Telstra/Vodafone to relocate the telecommunications infrastructure off-site. There is therefore no need to prepare an EMR assessment.	-
10. Matters which the consent authority must be satisfied of	10.1 The consent authority cannot be satisfied of the relevant matters under Clause 101(2)(b): <i>Development with frontage to classified road</i> of SEPP (infrastructure) 2007 and therefore cannot grant consent.	The proposed development provides for a safer and more efficient traffic environment, as it proposes to remove 4 existing driveways, which will reduce vehicular and pedestrian conflict along the site's frontage. Transport for NSW has provided a submission, which outlines no objection to the proposed development. TfNSW considers that the proposed development is suitable from a traffic perspective and satisfies the relevant legislation.	Condition 107 requires a triangular median Island is at the driveway which contradicts TfNSW's conditions and should be deleted.