

SYDNEY NORTH PLANNING PANEL

ADDENDUM REPORT

Panel Reference	PPSSNH-140						
DA Number	DA113/2020						
LGA	Lane Cove						
Proposed Development	Mixed-use development including a 143-bed residential care facility and commercial premises including a medical centre premises, and basement parking.						
Street Address	4-18 Northwood Road & 274-274A Longueville Road, Lane Cove						
Applicant/Owner	Applicant: City Plan (Contact: Elyse Kenny) Owner: Pathways Property Group Pty Ltd						
Date of DA lodgement	28/08/2020						
Number of Submissions	256						
Recommendation	REFUSAL						
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Development that has a capital investment value of more than \$30 million (CIV \$40,837,440.00).						
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • List all of the relevant environmental planning instruments: s4.15(1)(a)(i) <ul style="list-style-type: none"> - SEPP (Housing for Seniors or People with a disability) 2004 - SEPP 55 – Remediation of Land; - SEPP (Infrastructure) 2007; - SEPP (Building Sustainability Index) 2004; - SEPP (Vegetation in non-rural areas) 2017; - SEPP No. 19 – Bushland in Urban Area; - Lane Cove Local Environmental Plan 2009; and • List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s4.15(1)(a)(ii) <ul style="list-style-type: none"> - Draft Housing Diversity SEPP • List any relevant development control plan: s4.15(1)(a)(iii) <ul style="list-style-type: none"> - Lane Cove Development Control Plan 2010 • Other relevant plans: <ul style="list-style-type: none"> - Lane Cove Section 94 Contributions Plan 1996 (as amended) • List any relevant planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under s7.4: s4.15(1)(a)(iv) Nil • List any coastal zone management plan: s79C(1)(a)(v) Nil • List any relevant regulations: s4.15(1)(a)(iv) e.g. Regs 92, 93, 94, 94A, 288 <ul style="list-style-type: none"> - 92: Additional matters the consent authority must consider - 98(1)(a): Compliance with Building Code of Australia 						
List all documents submitted with this report for the Panel's consideration	<table> <thead> <tr> <th>Annexure</th><th>Document</th></tr> </thead> <tbody> <tr> <td>1.</td><td>Original Assessment Report – Presented to SNPP on 16/12/2020</td></tr> <tr> <td>2.</td><td>Unsatisfactory DA letter issued by Council on 25/03/2021</td></tr> </tbody> </table>	Annexure	Document	1.	Original Assessment Report – Presented to SNPP on 16/12/2020	2.	Unsatisfactory DA letter issued by Council on 25/03/2021
Annexure	Document						
1.	Original Assessment Report – Presented to SNPP on 16/12/2020						
2.	Unsatisfactory DA letter issued by Council on 25/03/2021						

	3.	<i>Ecology Letter</i> , prepared by Cumberland Ecology, dated 25/03/2021
	4.	<i>Cover Letter</i> , prepared by City Plan, dated 25/03/2021
	5.	<i>Letter Re: Telecommunications Leases</i> , prepared by McCabe Curwood, dated 02/12/2020
	6.	<i>Response to Council Letter</i> , prepared by City Plan, dated 25-03-2021
	7.	<i>Addendum Ecology Letter</i> , prepared by Cumberland Ecology, dated 08/04/2021
	8.	<i>Tree Protection Measures – Tree 11</i> , undated, prepared by Stuart Pittendrigh
	9.	<i>Independent Ecological assessment for Council</i> , prepared by Applied Ecology, dated 18/03/2021
	10.	Revised Draft (without prejudice) Conditions of Consent
Clause 4.6 requests	<ul style="list-style-type: none"> Clause 6.9(2)(a) of Lane Cove LEP 2009 – Maximum height of RL 66.25 3.6% (2.4m) variation sought 	
Summary of key submissions	- Addressed in original Assessment Report	
Report prepared by	Ms. P Frecklington, Sydney Planning (Consultant)	
Report date	3 December 2020	
Summary of s4.15 matters Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?		Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>		Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?		Yes
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S7.24)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>		No
Conditions Have draft conditions been provided to the applicant for comment? <i>Note: In order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>		Yes
Land and Environment Court Appeals		Yes

SYDNEY NORTH PLANNING PANEL

SUPPLEMENTARY REPORT

In Response to Deferral of Matter PPSSNH-140 on 16 December 2020

PANEL MEMBERS:	Peter Debnam (Chair), Juliet Savet Ward, Brian Kirk, Eugene Sarich, Deborah Sutherland
PANEL REF:	PPSSNH-140
DA NO:	113/2020
MEETING DATE:	21 April 2021
PROPOSAL:	Mixed-use development including a 143-bed residential aged care facility and commercial premises including a medical centre premises, and basement parking.
ADDRESS:	4-18 Northwood Road and 274-274A Longueville Road, Lane Cove
REGARDING:	Supplementary report in response to Deferral of Matter PPSSNH-140 on 16 December 2020
AUTHOR:	Ms P Frecklington

1. Purpose

The purpose of this addendum report is to:

- address the reasons for deferral of matter PPSSNH-140;
- update the Panel on the meeting held with the Applicant on 31 March 2021 following the Panel Briefing Meeting on 24 March 2021; and
- to outline the contentions that have been resolved and three (3) remaining unresolved matters.

This report is to be read in conjunction with the original Assessment Report submitted to the Panel (**Annexure 1**).

2. Background

- On **16 December 2021**, DA113/2020 was referred to the Panel for determination with a recommendation for refusal.
- The Panel resolved to defer determination of the application to allow Council and the Applicant to resolve the reasons for refusal of the application.
- On **30 October 2020**, the Applicant commenced Class 1 Land and Environment Court proceedings appealing against Council's deemed refusal of the application.
- A conciliation conference is listed for **10 & 11 June 2021**.

- e) On **9 February 2021**, an amended package of material (on a without prejudice basis) was submitted to Council. This has been provided to the Panel previously (as part of the Briefing Paper material)
- f) At the request of the Panel Chair, a Briefing was held with Council and the Applicant on **24 March 2021** to obtain an update on the unresolved matters. A preliminary assessment of the amended plans and material was provided to the Panel as part of the briefing paper.
- g) Following the Briefing, a summary of the unresolved issues was provided to the Applicant on **25 March 2021 (Annexure 2)** in response to the amended DA package.
- h) On **31 March 2021**, a meeting was held between the Applicant and Council to discuss the unresolved issues. A summary of the issues raised and resolution (where resolved) is provided in **Section 7** of this Report. In the interest of limiting the unresolved matters to the key issues to Council, Council has conceded on all other contentions.
- i) Additional information was submitted to Council on **25/03/2021** and **08/04/2021**.
- j) Only three (3) unresolved contentions remain:
 - setback of the upper level to Northwood Road (additional 2m required);
 - compliance with the 10m bushland buffer; and
 - retention of Tree T10.
- k) An independent Ecological Study has been undertaken by *Applied Ecology* on behalf of Council (**Annexure 9**). This supports imposition of the 10m buffer zone requirement and suggests that there is likely to be significant impact to the flora and fauna in the adjacent bushland.
- l) The original recommendation of Refusal is to be upheld due to the unresolved contentions above. Albeit revised draft (without prejudice) conditions of consent have been provided to the Applicant to review (**Annexure 10**). The above unresolved matters have been conditioned (**Condition 1**).

3. Reasons for deferral

At its meeting on **16 December 2020**, the Panel resolved to defer the determination of DA113/2020 for the following reasons:

- the Panel considers the proposal to have merit;
- the reasons for the recommendation for refusal of the application are considered to be resolvable; and
- to allow time for the Applicant to resolve the reasons for refusal, as follows:
 - **Building height**
 - Clause 4.6 requires further work
 - Panel unconvinced of inclusion of parapet within architectural roof feature
 - **Built form**
 - Inconsistency with site specific DCP controls
 - 3m setback to be maintained to ground and first floor
 - Not less than 3m setback for the third floor to allow building to be read as 2-storeys.
 - **Council's Reasons for Refusal 3 to 10**

- Desired future character
- Landscaping
- Bushland protection
- Stormwater
- Suitability of the site
- Public interest
- Insufficient information (traffic, bushland protection, stormwater management, and telecommunications radiation assessment)
- Matters which the consent authority must be satisfied of (SEPP Infrastructure)

4. Amended DA Package – 9/02/2021

In response to Council's Deferral of DA113/2020, an amended DA package was submitted to Council to review.

4.1. Additional documents submitted

. The following additional documents were submitted:

- *Amended Architectural Plans*, dated 18/01/2021, prepared by MDPA (*Annexure 1 – Panel Briefing Paper, dated 19/03/2021*)
- *Response to Reasons for Deferral*, dated 09/02/2021, prepared by City Plan (*Annexure 2 – Panel Briefing Paper, dated 19/03/2021*)
- *Amended Clause 4.6 Request*, prepared by City Plan, dated 09/02/2021 (*Annexure 3 – Panel Briefing Paper, dated 19/03/2021*)
- *Amended Landscape Plans*, prepared by Svalbe & Co, dated 29/01/2021 (*Annexure 4 – Panel Briefing Paper, dated 19/03/2021*)
- *Amended Tree Report*, prepared by Stuart Pittendrigh, dated 30/01/21 (*Annexure 5 – Panel Briefing Paper, dated 19/03/2021*)
- *Amended Civil Plans*, prepared by ACOR, dated 20/01/2021 (*Annexure 6 – Panel Briefing Paper, dated 19/03/2021*)
- *Traffic Response Letter*, prepared by McClaren Traffic Engineering, dated 01/12/2020 (*Annexure 7 – Panel Briefing Paper, dated 19/03/2021*)

Note: The Panel Secretariat has advised that these documents are not required to be annexed to this Report as they have been previously provided to the Panel with the Panel Briefing Paper, dated 19/03/2021.

4.2. Consideration of Amended DA Package

An *Unsatisfactory DA* letter was issued to the Applicant on **25 March 2021** (**Annexure 2**) outlining the remaining unresolved issues following Council's assessment of the amended DA package, as follows:

Commercial FSR

- Confirmation of the hydrotherapy pool and gym for public use is to be confirmed in the DA Package in order for these to be included as commercial GFA.

- Commercial component of the building is required to be 0.35:1, as required by Clause 6.9(3) of LCLEP 2009.

Building height – overall

- Inclusion of the parapet in the building design is considered to achieve a better urban design outcome.
- Council will undertake a separate view assessment of the sight lines of the top of the stair overrun.
- The height non-compliance is not acceptable, particularly in light of the non-compliant upper-level setback.

Built form – height at street frontage

- Amended plans provide an increased setback at the upper level – 3m from the lower levels and 6m to the street boundary.
- The amended plans do not comply with the site-specific DCP controls which require a recessed upper level of 5m from the levels and 8m setback from the boundary below.
- The amended building still reads as 3-storeys.

Setbacks – front and side

- Amended plans have been submitted to achieve compliance with the site-specific DCP 3m front setback control (ground and first floor levels). Concerns are raised regarding the resultant lack of articulation and perceived bulk and scale at the pedestrian scale.
- The side setback to the southern boundary remains non-compliant with the 12m setback requirement to the upper levels.

Bulk and scale – transition to adjacent low density residential development

- The amended proposal does not provide an appropriate transition in height, and bulk and scale to adjacent low density residential development.

Desired future character

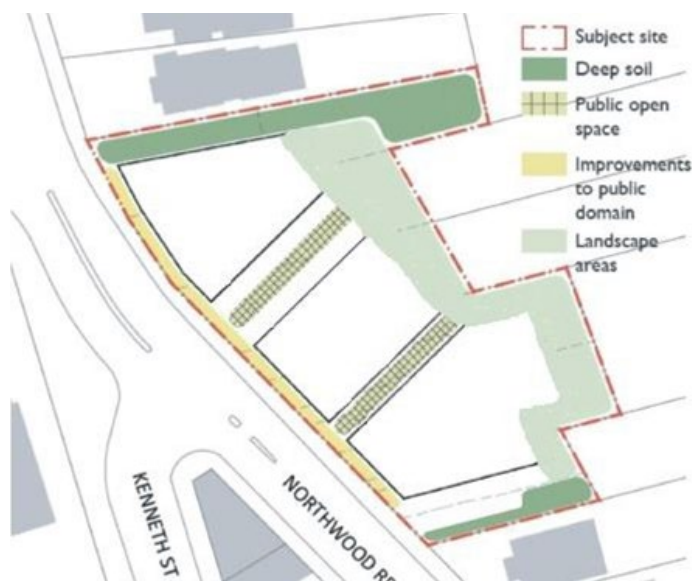
- Inconsistency with the desired future character for the site as expressed in the site-specific built-form controls for the site.
- The amended proposal has not addressed the requirement for adequate articulation to create visual interest in the facades.

Traffic and parking

- A preliminary assessment by Council's Traffic Section indicates that the traffic issues have been resolved. This is to be confirmed at the meeting to be held with Council staff on 26 March 2021.
- Parking allocation to be detailed on plans. Applicant to address inconsistency in DA package regarding intended use of 1 x commercial tenancy as a 'hair and beauty salon'.

Bushland – bushland buffer and impact on threatened species

- The proposed rear setback has not been amended.
- 10m bushland buffer still not indicated on all boundary lines that it occurs. Built form still encroaching on bushland buffer areas. Refer DCP Part D extract below:



- Impact on threatened species not addressed – require updated ecological report. This request was supported by the Panel at yesterday’s briefing.
- The amended package remains non-compliant with the 10m bushland buffer requirement.
- Stormwater impact on adjoining bushland not addressed – require detailed plans of design and tree survey.

Stormwater

- Amended plans have been submitted to Council. Please refer Annexure 1 for the existing Council pipe system at the rear of the site and approximate location of the new pipe system from the site to the Council pipe system at Golf course.
- Since there is a proposal for a tennis court and basement car park as shown in attached document at the Golf course, the proposed pipe system shall be relocated away from this proposal. The pipe system through bush land must satisfy the requirements of Council’s Manager Open space.
- Annexure 10 shows a sketch for the approximate location for the new pipe system.
- A plan with longitudinal section of the proposed pipe system from the site to the existing Council pipe system at Golf Course with relevant calculations are required for further assessment and/or approval. This plan should show pipe sizes, invert levels and existing surface levels to confirm that the pipe system satisfies Council’s DCP. This new pipe network satisfies part O of the Council’s stormwater DCP.

Tree removal

- The amended package has partially addressed tree removal concerns.
- Amended landscape plans show the retention of Trees 1 and 2 and a total of 20 canopy trees (10 on site and 10 in adjoining bush reserve).
- 3:1 replacement tree ratio achieved.
- Although the Landscape Architect has changed the drawings to be more of an accurate representation of the wall, the landscape drawings refer to the engineer’s drawings for additional details. The Engineers drawings currently only show one typical retaining wall type and therefore does not show any more the detail on the retaining wall material or construction in the sunken terrace area.
- The Landscape Architect has still not provided the required demolition/excavation

- plans and has only changed the answer on the check list from ‘N/A’ to ‘No’
- The Landscape Architect has copied and pasted the Landscape Calculation Plans from the Architects drawings to their own drawings and signed off with their name. Once again this is not acceptable, and the Landscape Architect must draw their own landscape calculations plans.
- No seating, paved BBQ areas etc. shown in the drawings have been detailed other than one raised planter.
- Trees 10 and 11 are still not being proposed to be retained.
- Telecommunications tower
- Evidence of timing for lease termination requirements to be provided.

5. Additional Documents Submitted – 25/03/2021 & 08/04/2021

The following additional documents have been submitted by the Applicant following the Panel Briefing on 24 March 2020 and *Unsatisfactory DA* letter issued by Council on 25 March 2021:

25 March 2021

- Ecology Letter*, prepared by Cumberland Ecology, dated 25/03/2021 - **Annexure 3**
- Cover Letter*, prepared by City Plan, dated 25/03/2021 - **Annexure 4**
- Letter Re: Telecommunications Leases*, prepared by McCabe Curwood, dated 02/12/2020 – **Annexure 5**
- Response to Council*, dated 25-03-2021, prepared by City Plan – **Annexure 6**

08 April 2021

- Addendum Ecology Letter*, prepared by Cumberland Ecology, dated 08/04/2021 – **Annexure 7**
- Tree Protection Measures – Tree 11*, undated, prepared by Stuart Pittendrigh – **Annexure 8**

6. Meeting with the Applicant – 31/03/2021

At the Panel Chair’s request at the Panel Briefing on 24/03/2021, a meeting was held between Council and the Applicant with a view to resolving the outstanding matters. The table below provides a summary of the matters that have been resolved:

Issue	Comments	Resolved
Commercial FSR	<ul style="list-style-type: none"> Applicant confirmed that the hydrotherapy pool and gym will be open to the public Commercial floorspace requirement satisfied 	✓ Conditioned (Condition 10)
Building height	<ul style="list-style-type: none"> Parapet supported Revised Clause 4.6 written request supported 	✓
Upper-level setback	<ul style="list-style-type: none"> An increased upper-level setback of 3m from the lower levels and 6m to the street boundary is proposed An additional 2m setback is required to comply with the site-specific front setback controls The amended proposal still reads as 3-storeys as depicted in the submitted view analysis 	Unresolved – Conditioned (Condition 1)
Setbacks – front	<ul style="list-style-type: none"> Amended plans submitted to achieve compliance with the 3m front setback requirement. 	✓

	<ul style="list-style-type: none"> Concerns raised regarding the resultant loss of articulation in the front façade are not being pursued by Council in the interest of limiting the unresolved matters to those key issues to Council – upper-level setback and bushland buffer. 	
Setbacks – Side	<ul style="list-style-type: none"> The encroachments into the side setback areas and relationship to adjoining low scale residential development area are not being pursued by Council in the interest of limiting the unresolved matters to those key issues to Council – upper-level setback and bushland buffer. 	✓
Traffic/Parking	<ul style="list-style-type: none"> Outstanding matters resolved 	✓
Stormwater	<ul style="list-style-type: none"> Outstanding matters resolved 	✓
Telecommunications Tower	<ul style="list-style-type: none"> Council raises no further concerns 	✓
Tree removal	<ul style="list-style-type: none"> Trees 1, 2, and 11 to be retained Council conceded on removal of Trees 5 and 6 Council seeks the retention of Tree 10 	Partially resolved – Conditioned <i>(Condition 15)</i>
Bushland buffer	<ul style="list-style-type: none"> The proposed rear setback has not been amended to comply with the 10m bushland buffer requirement. The area of non-compliance relates to a small section of the development, when considering the development in its entirety. The setback, as proposed would adversely impact on the bushland setting in terms of overshadowing, fauna, and threatened species. These issues are discussed in more detail below. 	Unresolved - Conditioned <i>(Condition 1)</i>

7. Consideration of Unresolved Contentions

7.1. Upper-level front setback

Part D Commercial Development and Mixed Use Localities – Locality 2 – Northwood Neighbourhood Centre - 4-18 Northwood Road & 274-274A Longueville Road of Lane Cove DCP 2010 establishes site specific planning controls for the site under Clause 10. This prescribes the following:

Site Planning:

- a) *A maximum wall height of 2-storeys along Northwood Road, with a recessed 3rd floor.*

Setbacks

- a) *Building setbacks shall include the following:*
- i. *Front setback: 3m (1-2 floors); 8m (3rd floor).*

The amended plans have increased the upper-level setback to 6m (street boundary) however, it is recommended that the 8m setback is adhered to for the following reasons:

- The amended proposal would still read as 3-storeys, as depicted in the pedestrian views at **Figures 1-3** below:

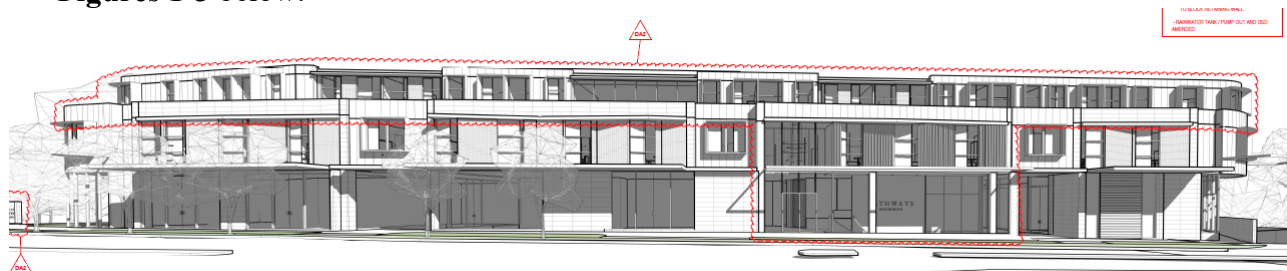


Figure 1. Pedestrian view – Kenneth Street looking east (Source: Drawing DA503, Revision DA2, MDP Architects)

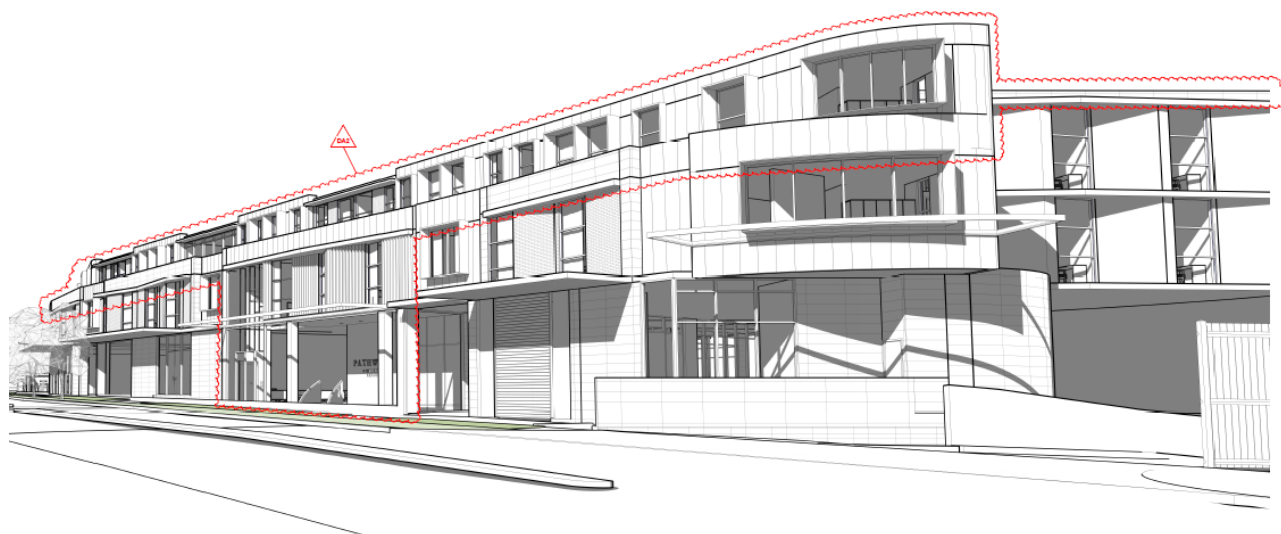


Figure 2. Pedestrian view – opposite Northwood Road looking north (Source: Drawing DA505, Revision DA2, MDP Architects).

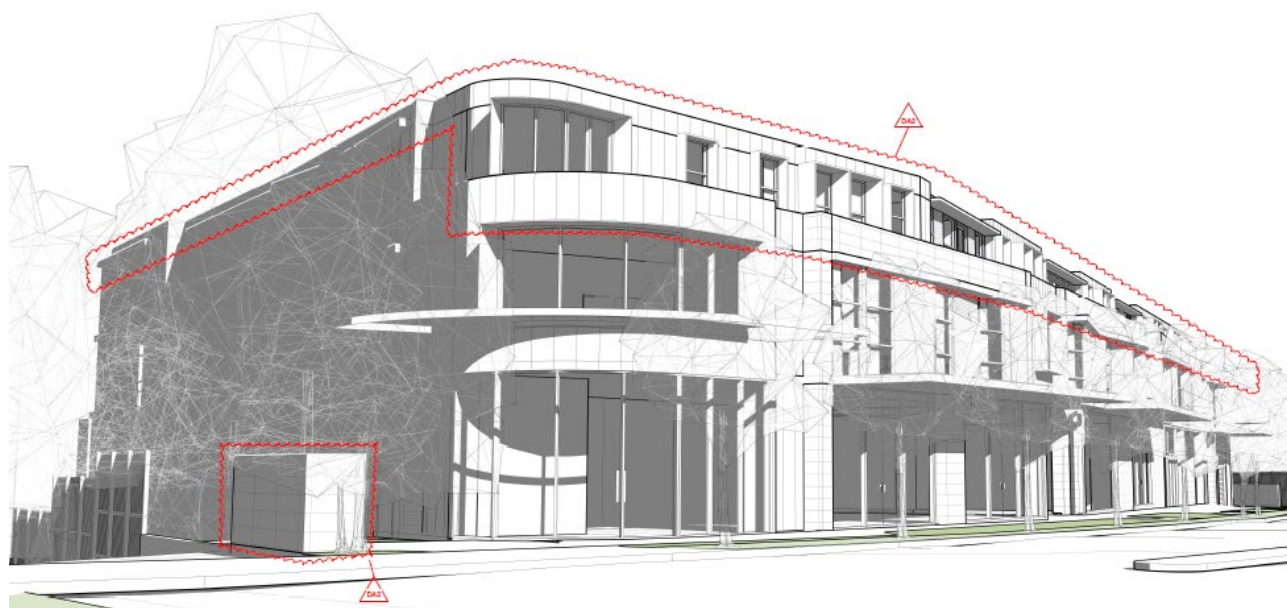


Figure 3. River Road – looking south (Source: Drawing DA505, Revision DA2, MDP Architects).

- The submitted view analysis does not depict the proposed building in its setting and prominence of this gateway intersection. The proposed upper-level front setback does not respect the prevailing context, which is characterised by single storey and 2-storey development. This is demonstrated in the contextual analysis provided at **Figures 4-6**:



Figure 4. Residential flat buildings to the north of the site with 2-storey frontage to Longueville Road.



Figure 5. R2 Low Density Residential zoned land to the south



Figure 6. Existing single storey commercial development to the west of the site on the corner of River Road and Kenneth Street, Longueville.

- Landscaping to the level 5 roof area fronting Northwood/Longueville Roads would soften the visual impact of the recessed upper level as depicted in the perspective drawing below (**Figure 7**). However, provision for the planter boxes is not shown in the revised architectural or landscape package. An additional setback of 2m of the upper level and landscaping as depicted would enable the development to be read as 2-storeys and to maintain a more compatible scale in the surrounding context which is characterised by 1 and 2-storeys to the street alignment. These unresolved issues can be resolved through the imposition of **Condition 1 (Annexure 10)**.



Figure 7. Longueville Road Perspective (Source: Drawing DA500, Revision DA1, MDP Architects)

Note: Refer **Section 9** of the original Assessment Report (**Annexure 1**) for a detailed assessment of the proposal against Clause 10 of Part D – Locality 2 of Lane Cove DCP.

7.2. 10m bushland buffer

The curtilage to the proposed south-eastern section of the proposed building at the rear comprised of a 2.75m setback on the southern side and 3m setback on the northern side would not comply with the 10m buffer zone requirement, which seeks to ensure that the adjoining bushland is maintained and protected (**Figure 8**).

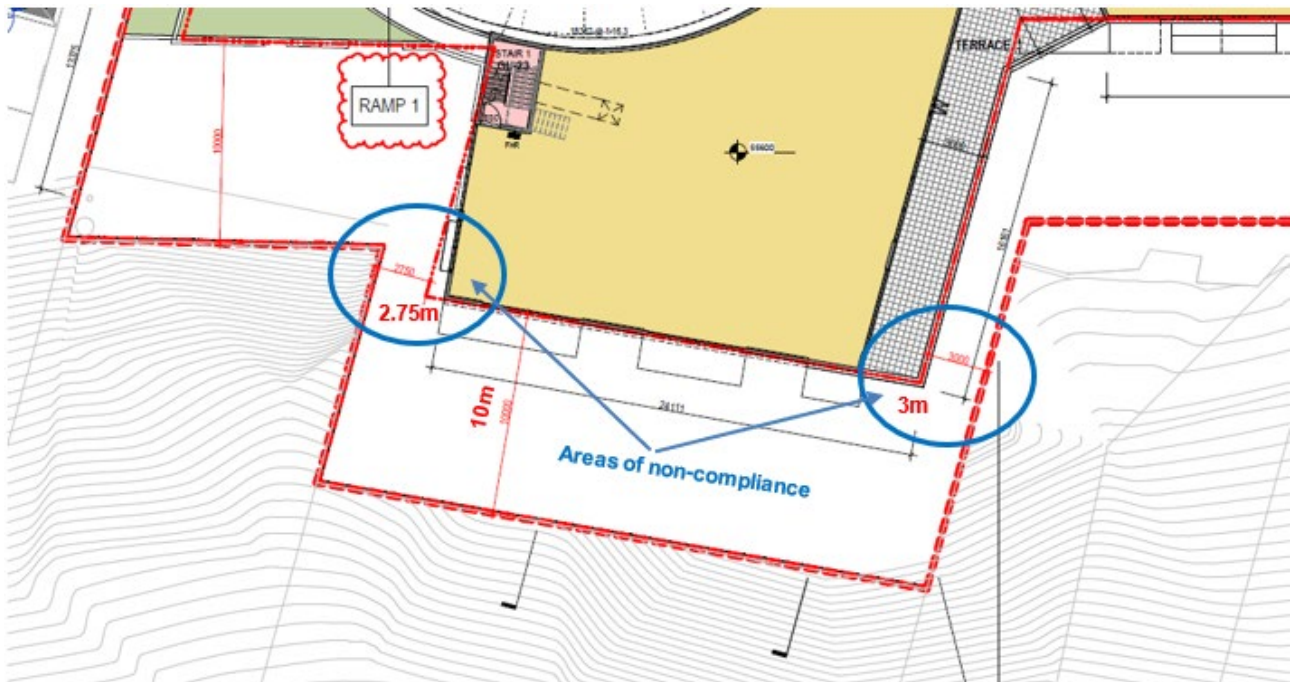


Figure 8. Non-compliant rear setback of 2.75m (southern side) and 3m (northern side) for the curtilage to the south-eastern section of the development.

As such, the proposal would not adhere to the following:

- 10m bushland buffer to adjacent E2 zoned land under *Part H Bushland Protection* of Lane Cove DCP 2010 (Part H prevails to the extent of any inconsistency); and
- 10m rear setback requirement under Clause 10 of Part D – Locality 2 of Lane Cove DCP 2010.

The 10m bushland buffer is shown in 'red' at **Figure 9**. This was provided to the Applicant during our meeting on 31/03/2021 to clarify Council's position on the portion of the development that would be required to be deleted (**Figure 10**) to reduce the impact on the adjoining bushland and achieve compliance.

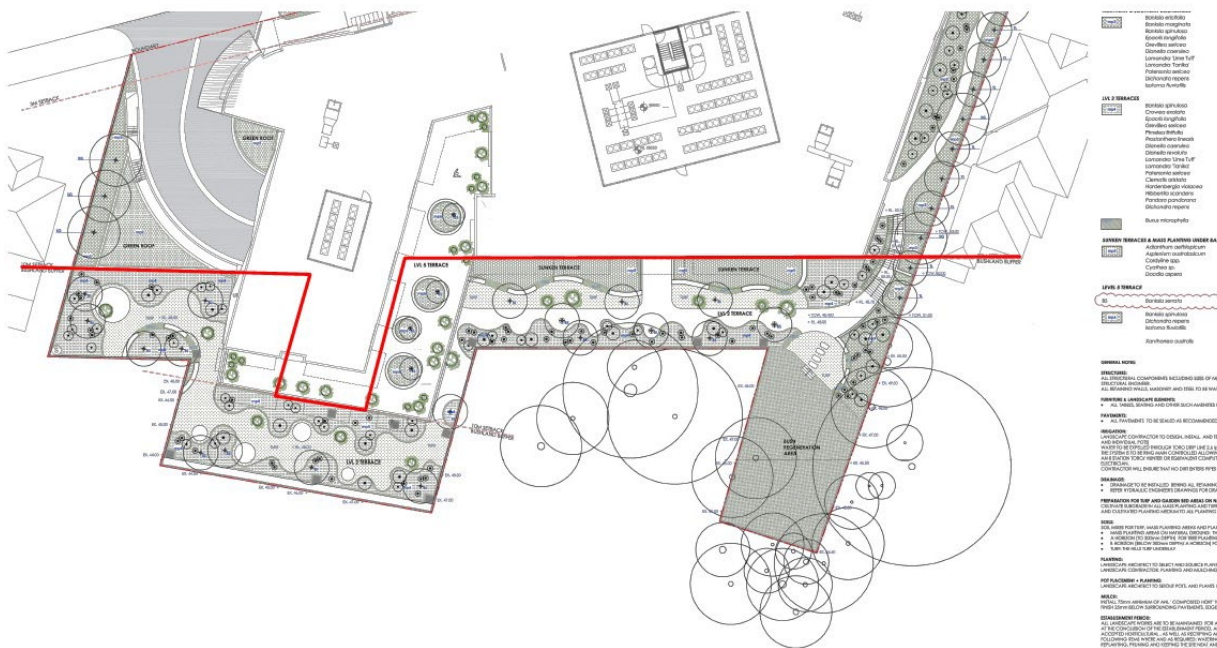


Figure 9. 10m bushland buffer/rear setback requirement indicated by line in 'red'.



Figure 10. Portion of the development required to be deleted to comply with 10m setback requirement.

The *Environmental Assessment* submitted with the amended DA package was found to be deficient. Accordingly, the Panel requested a revised Ecology Report at its Briefing on 24/03/21. In response to this request, a 2-page letter, prepared by Cumberland Ecology, dated 25/03/21 was submitted to Council. Supplementary ecological information was submitted by the Applicant on 8/04/2021. The additional material has not satisfactorily resolved this contention.

Despite the recommendation of the applicant's Ecological report supplied by Cumberland Ecology suggesting that the impact of the proposed development is unlikely to affect the surrounding fauna and flora in the adjacent bushland, the independent study commissioned by Council from Applied

Ecology dated 18/03/21 (**Annexure 9**) have suggested that there is likely to be significant impact to the flora and fauna in the adjacent bushland.

The main impacts that Applied Ecology have found include:

Existing fauna living in the immediate area will be impacted

- 5 species of threatened species have been recorded within a 1km radius of the subject site:
 - Powerful owl
 - Southern myotis
 - Grey-headed flying-fox
 - White-bellied sea-eagle
 - Grey-headed flying-fox
- Fig. 26 on pg. 35 of the Report states that powerful owls require a minimum 50m buffer zone around roost sites. If the development complies with the 10m bushland buffer this would potentially provide enough distance to not significantly affect the powerful owls residing in the area.
- Strategies to ensure bats are not affected, as some of their habitat is proposed for removal, have not been provided.

Overshadowing

- Overshadowing of the site will change the way fauna use the site, including site avoidance for some species.
- The proposed height of the development will cause 2 hours less direct sunlight followed by total shading by 7pm in mid-summer to the bushland.
- By 7:45pm in mid-summer the new development will be casting shadows across the whole of the golf course and onto the properties on the eastern side, whereas the existing buildings cast a shadow that does not reach the lowest edge of the bushland. This amount of overshadowing will also increase the weed growth compared to native plant growth impacting natural native regeneration.

Lighting impacts

- External lighting impacts on nocturnal fauna.

Changes in hydrology

- Impacts from run off into the bushland causing the soil to oversaturate and cause root rot to trees etc.

The following comments are offered in response to the above:

- Compliance with the 10m bushland buffer as stipulated in DCP part H is the best method to protect the fauna species in the adjacent bushland.
- To address external lighting impacts, a condition is recommended to require timed outside lighting to be dimmed or turned off by certain hours to allow nocturnal fauna to graze.
- The potential for bush regeneration in the buffer zone from a compliant scheme has not been considered by the Applicant, as requested.
- Hydrology impacts resulting from the revised stormwater management system have been resolved.

7.3. Retention of Tree 10

The Applicant has agreed to retain Tree 11 (Conditioned). The Applicant was asked to consider the following to retain Tree 10:

- No evidence of the above has been demonstrated to Council. As such, the retention of Tree 10 remains an unresolved contention. **Condition 15** of the draft (without prejudice) conditions (**Annexure 10**) would satisfactorily resolve this outstanding matter.

It is recommended that the recommendation of refusal in the original assessment report is upheld. The reasons for refusal have been updated to reflect the resolved contentions. The revised reasons for refusal are provided below:

1. The proposed 6m setback to the street boundary for the upper level would still read as 3-storeys to Longueville/Northwood Road and would not adhere to the 8m front setback requirement and 2-storeys to the street alignment requirement under Clause 10 of Part D of Lane Cove DCP 2010.

2. The submitted view analysis does not consider the local context which is characterised by single and two-storey buildings, and prominence of the site at this gateway intersection.
3. An additional front setback of 2m is required to ensure that the bulk of the development is not readily discernible at the pedestrian scale and to ensure that the development reads as 2-storeys.
4. The proposal is therefore inconsistent with the following:

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

- Clause 6.2.1 – Objective (c)
- Clause 29
- Clause 33 – (a), (c)(i)(iii), (d)

Lane Cove Local Environment Plan 2009

- Clause 1.2 – Aims (c)(ii)(iii)

Lane Cove Development Control Plan 2010

- Section B.1 – General objectives regarding neighbourhood character
- Part D, Clause 10 – Objectives 1, 4 and 5 (Indicative building form)
- Part D, Clause 10 – Objectives 2, 3 and 5; and provisions (a)(a.(b.)) (Site planning)
- Part D, Clause 10 – Objectives 1, and 4; and provisions (a)(I)(II), (III)(a)(i.)(ii.)(b), (c) (Setbacks)

Desired future character

5. 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, specifically the 10m rear setback and 8m (to the street boundary for the upper level) controls.
6. The proposal would not achieve objective (4) *to achieve design excellence (Part D, Clause 10, LCDCP 2010 – Desired future character)* in that the 3-storey built form to the street alignment would add unacceptable mass and bulk at the pedestrian level. An additional 2m setback is required.

Landscaping

7. The proposal would result in the loss of a high landscape value Native Turpentine Tree (10) that provides extensive canopy coverage and is a habitat and food source for native fauna.
8. Re-design of the north-eastern corner such as the introduction of a curvilinear form, would provide greater *Tree Protection Zone* clearance, mimic the curved form at the front façade, and reduce the bulk and scale of the development without unreasonably compromising bed space.
9. Construction methodology to reduce impacts on the TPZ of the tree have not been investigated to retain the existing bed space provision.

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

- Clause 33 – (f)

SEPP (Vegetation in Non-rural Areas) 2007

- Clause 3 – Aims (1)(a)(b)

Lane Cove Development Control Plan 2010

- Part D, Clause 10 – Objective 4; and provisions (a), (c), (g), (l) (Open space and landscaped areas)
- Part D, Clause 10 – Objectives 3 and 5 (setbacks)
- Part J, Section J.2, Clause 2.2 – Objective 1

Bushland protection

10. 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 building and bushland area so as to reduce impacts of the development upon the bushland.
11. The proposal is likely to have a significant impact on the flora and fauna in the adjacent bushland including the long-term survival of threatened species and/or ecological communities occurring, or that have the potential to occur within the subject site or locality. This includes five (5) species of threatened species within a 1km radius of the subject site, as identified in the independent Ecology Assessment undertaken by *Applied Ecology*, dated 18/03/21, as follows:
 - Powerful owl
 - Southern myotis
 - Grey-headed flying-fox
 - White-bellied sea-eagle
 - Grey-headed flying-fox
12. If the development complies with the 10m bushland buffer this would potentially provide enough distance to not significantly affect the powerful owls residing in the area, which require a minimum 50m buffer zone around roost sites.
13. Strategies to ensure bats are not affected, as some of their habitat is proposed for removal, have not been provided.
14. The proposal is therefore inconsistent with the following:

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

- Clause 33 – (f)

SEPP No. 19 - Bushland in Urban Areas

- Clause 2 – Aims, objectives (1)(b)(c), (2)(b)(c)(d)(e)(f)(g)(i)(n)

Lane Cove Local Environment Plan 2009

- Clause 1.2 – Aims (a), (e), (f)

Lane Cove Development Control Plan 2010

- Section B.1 – General objectives regarding environmental protection
- Part D, Clause 10 – Objective 1; and provision (g) (Bushland protection)

- Part H, Section H.1 – Objectives 1, 2, 3, 4 and 5
- Part H, Clause 5.2 – Objective 1, and provision (f)
- Part H, Clause 6.1 – Provision (a)(ii)
- Part H, Clause 6.2 – Provision (a)
- Part H, Section H.8 – Provisions (a), (b), and (c)

Public Interest

15. Due to the deficiencies detailed above, approval of the proposed development would be contrary to the public interest.
16. 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.

9. Annexures

Annexure	Document
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| 1. | Original Assessment Report – Presented to SNPP on 16/12/2020 |
| 2. | Unsatisfactory DA letter issued by Council on 25 March 2021 |
| 3. | <i>Ecology Letter</i> , prepared by Cumberland Ecology, dated 25/03/2021 |
| 4. | <i>Cover Letter</i> , prepared by City Plan, dated 25/03/2021 |
| 5. | <i>Letter Re: Telecommunications Leases</i> , prepared by McCabe Curwood, dated 02/12/2020 |
| 6. | <i>Response to Council Letter</i> , prepared by City Plan, dated 25-03-2021 |
| 7. | <i>Addendum Ecology Letter</i> , prepared by Cumberland Ecology, dated 08/04/2021 |
| 8. | <i>Tree Protection Measures – Tree 11</i> , undated, prepared by Stuart Pittendrigh |
| 9. | <i>Independent Ecological assessment for Council</i> , prepared by Applied Ecology, dated 18/03/2021 |
| 10. | Revised Draft (without prejudice) Conditions of Consent |