

INDEPENDENT ASSESSMENT OF DEVELOPMENT APPLICATION No. 64/2021

Construction of a Sport and Recreation Facility

Property:

**Various Lots
No. 180 River Road, Lane Cove**

Applicant:

Lane Cove Council

Date:

November 2021

Prepared by:

tim shelley planning

REPORT TO SYDNEY NORTH PLANNING PANEL – DA 64/2021

180 RIVER ROAD, LANE COVE

APPLICATION DETAILS

Proposed Development:	Demolition of existing structures and construction of a two-storey/part three-storey sports and recreational facility
Address:	No. 180 River Road, Lane Cove
Properties:	Various lots (see table below)
DA No:	64/2021
Date Lodged:	3 rd June, 2021
Cost of Work:	\$51,968,392

Cadastral and Ownership Details:

LOT DESCRIPTION	No. of Lots	OWNER
Lots 1 – 6 DP 8423	6	Lane Cove Council
Lots 1-12 DP 21129	12	Lane Cove Council
Lots 3-5 DP 858170	3	Lane Cove Council
Lots 1, 2, 4 & 6 DP 20230	4	Lane Cove Council
Lot 26 DP 4454	1	Lane Cove Council
Lot A DP 380914	1	Lane Cove Council
Part McMahons Road (unformed)	1	Lane Cove Council
Part Osbourne Road (unformed)	1	Lane Cove Council

Applicant: Lane Cove Council

ZONE	RE1 – Public Recreation (some peripheral parts of the above lots partly zoned E2 but proposed development wholly contained within RE1 zone)
IS THE PROPOSAL PERMISSIBLE WITHIN THE ZONE?	Yes Site of proposed development wholly contained within RE1 zone
IS THE PROPERTY A HERITAGE ITEM?	No. The site is not listed as a heritage item in Lane Cove Local Environmental Plan 2009.
IS THE PROPERTY WITHIN A CONSERVATION AREA?	No
IS THE PROPERTY ADJACENT TO BUSHLAND?	Yes
BCA CLASSIFICATION	Class 9b (Multipurpose Hall, Multifunction Room & Associated Facilities) Class 10a (Structure) Class 7a (Carpark)
STOP THE CLOCK USED?	Yes
NOTIFICATION	Original period notification was between 3 rd and 30 th June 2021 This was extended until 14 th July 2021 following a number of requests from the public to provide additional time

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REASON FOR REFERRAL TO SYDNEY NORTH PLANNING PANEL

In accordance with the provisions of Clause 20 of State Environmental Planning Policy (State and Regional Development) 2011 (as cross referenced), the development application is being referred to the Sydney North Planning Panel (“SNPP”) for determination as regionally significant development under Schedule 7 due to it comprising “*development that has a capital investment value of more \$30 million*”, as well as “*Council related development over \$5 million*”. In this regard, the development has a value of \$51,968,392 and Council is the proponent, land owner and the applicant.

EXECUTIVE SUMMARY

- DA No. 64/2021 was lodged with Council on 3rd June 2021 and seeks approval for the following development:
 - Demolition of all structures, tree removal and site preparation works;
 - Lot consolidation;
 - Construction of a two and part three-storey multi-purpose sport facility comprising the following components/uses:
 - indoor sports hall;
 - bistro and associated outdoor seating area;
 - multipurpose space shared between 6 rooms;
 - function space and meeting rooms; and
 - amenities, staff facilities and administration;
 - Bulk excavation and construction of a basement/lower-ground parking level with 233 parking spaces, 6 accessible parking spaces, 12 bicycle parking spaces and 17 motorbike parking spaces;
 - Construction of an at-grade arrival plaza (**Note:** to facilitate access to and from the site via Stevenson Street, Council is constructing a new roundabout and reconstructing/realigning Stevenson Street under a separate project. This project is discussed separately later in the report under “Details of the Proposed Development” on page 9);
 - Construction of four (4) new outdoor multi-purpose courts; and
 - Associated landscaping works and tree planting.
- Due to the fact that Lane Cove Council is both the applicant and land owner, Council has determined that it is appropriate that the assessment of the development application be undertaken by an external independent consultant. Tim Shelley Planning has been engaged to assess the application.
- The applicant and its team attended a pre-lodgement meeting with Council and Tim Shelley Planning on 9th April, wherein Council identified the information required to be submitted and a range of issues needing to be addressed as part of the development application. The applicant has indicated that the matters raised in the meeting have been addressed via the submission of information and further refinements to the design of the development since this time, with each item identified and discussed in Section 1.2 of the SoEE lodged with the DA.

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- Approximately 113 submissions were received in relation to the proposal during the notification period, of which around 100 raised objections to the proposed development (including 34 pro-forma letters requesting an extension of the notification period). The remaining submissions were either not opposed to or in support of the proposed development. The main issues raised in the objections can be grouped under the following main headings:
 - tree removal/tree loss/impact on bushland
 - accuracy/veracity of Biodiversity Development Assessment Report (BDAR) and impact on flora and fauna
 - contamination
 - impact on views/height and bulk of building
 - noise impact/noise pollution
 - parking and traffic
 - privacy and amenity impacts
 - design issues
 - notification process
 - open space/golf course issues
 - financial/probity issues
- Overall, it is considered that the issues raised in the public submissions do not warrant refusal of the application or any further modification of the proposed development. Rather, the relevant issues raised have generally been addressed either in the design of the development; the documentation submitted with the application; the additional information submitted following lodgement; in comments provided by Council assessing officers; or via proposed conditions of consent where necessary.
- During the course of the assessment, the applicant was sent a *Request for Further Information* (RFI) on two (2) occasions as follows:
 1. On 2nd August 2021 following exhibition of the DA – wherein the applicant was requested to address issues raised in submissions and in internal Council officer's comments and some minor issues raised by TfNSW; and
 2. On 15th September 2021 following a briefing of the SNPP on 25th August – wherein the applicant was requested to provide additional information in relation to contamination, tree canopy removal and special event parking.
- On 31st August 2021 the applicant submitted a package of additional information in response to the first RFI consisting of a range of new reports (e.g. Visual Impact Assessment), updated reports or addendums to existing reports where appropriate:
- On 21st September, the applicant submitted a letter in response to the second RFI providing further information in relation to SEPP 55 and contamination issues, tree canopy removal issues and car parking (special event details).
- Both sets of additional items were then referred back to a number of Council officers to enable them to update and finalise their assessments.
- With particular respect to the contamination issue and the concern raised by objectors, Council's Environmental Health Officer and the SNPP in relation to the need to undertake a Detailed Site Investigation (DSI) prior to the development being undertaken, the applicant confirmed that they were willing to accept a staged approval for the development as follows:

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- *Stage 1 – demolition of existing buildings and preparation of the Detailed Site Investigation (DSI) and Remedial Action Plan (RAP): and*
- *Stage 2 – construction of the multi-purpose sports and recreational facility.*

On this basis, the DA is now deemed to be a staged development with separate draft conditions identified for both stages which preclude Stage 2 being commenced until the DSI has been completed; a RAP prepared to address any required remediation works identified by the DSI; and any such works subsequently being undertaken to ensure the site is suitable for the proposed land use.

- With respect to the issue in relation tree loss and canopy removal raised by the SNPP (and further to the same issue raised in submissions and in the response from Council's Bushland and Tree Preservation Officers), the applicant provided additional information and responses which can be summarised as follows:

"The proposed building has been purposely designed directly atop the existing carpark, tennis courts and country club to minimise the loss of trees. The proposed configuration is considered the best option to ensure the conservation of high value trees and given the site is significantly constrained by the golf course to the north and the existing sandstone escarpment to the south.

Further the location of the proposed facility was strategically chosen to prevent limiting the golf course opportunity and retaining as many existing trees as possible

Regardless, the proposal results in a net gain of 90 trees by adopting a 2:1 replacement ratio. Further, the proposed replacement of trees will result in an overall greater tree canopy at a 1:1 ratio. Therefore, the 2:1 ratio will result in more than double the tree canopy at full maturity.

A total of 180 replacement trees are proposed to be planted, resulting in a 2:1 ratio. Therefore, the proposed tree removal will not result in a net loss to the tree canopy and maintain Lane Cove's position in achieving the 40% tree canopy target as set in the Greater Sydney Region Plan – A Metropolis of Three Cities.

The Arborist report prepared by Seasoned Tree Consulting appended to the SEE notes that several of the trees proposed for removal are of poor quality, including trees identified as dead, three trees identified as noxious weeds and trees considered in poor health and structural condition."

- Overall, the provision of the two (2) suites of additional information submitted by the applicant identified above has satisfactorily addressed all outstanding items with respect to the application.
- Due in part to the detailed nature of submissions raised in relation to the BDAR and as part of the independent assessment of this application, an independent third-party ecologist (Cardno) was engaged to review the BDAR.
- Following their review, Cardno found that the methodology used in the BDAR was sound and adequately addressed the applicable legislative requirements. As a result, the recommendations and findings of the BDAR – as well the additional information and responses submitted following exhibition – were supported (or deemed appropriate) by Cardno. There were some minor gaps in information in the identified the review that Cardno, which have since been addressed by the applicant's ecologist (Eco Logical) via submission an of updated BDAR report.

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- The proposal as submitted complies with all relevant requirements of Lane Cove Local Environmental Plan 2009.
- The proposal also complies with the relevant requirements of Parts B, F, H, J, O, Q and R of Lane Cove Development Control Plan 2010.
- Accordingly, it is recommended that a staged consent be granted to DA 64/2021 subject to the draft conditions listed in Attachment 1.

THE SITE

The site is located on the northern side of River Road at Lane Cove just to the east of its intersection with Northwood Road, approximately 3km south from Chatswood CBD and 4km north-west of North Sydney CBD. The site comprises the Lane Cove Golf Course and is formally known as Lane Cove Country Club. A plan showing the location of the site and its context to the surrounding area is provided as Figure 1 below.

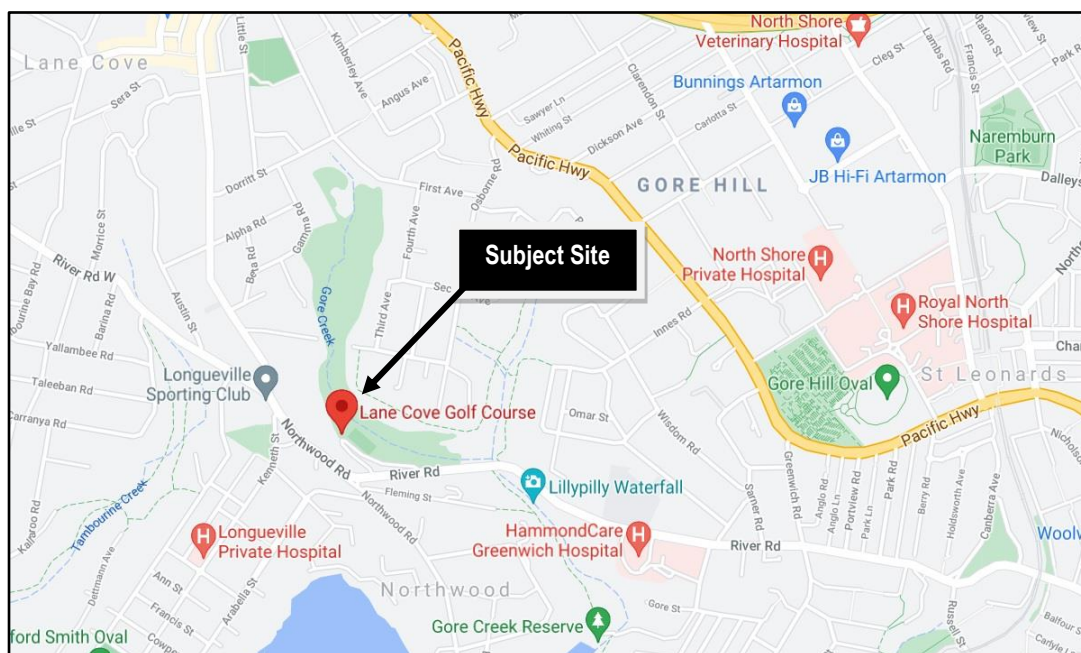


Figure 1 – Locality Plan (Google Maps)

The site comprises various allotments, all owned by Lane Cove Council, which have a combined area of approximately 48,304m² or 4.83ha (the site of the actual development is around 20,767m² or 2.077ha). The site is irregularly shaped and surrounded by the golf course to the north, west and east. The site adjoins bushland and residential properties fronting Stevenson Street and Northwood Road to the south-west and has direct frontage to River Road to the south-east.

The site is located within and forms part of the Lane Cove Golf Course, which has an area of approximately 12.8ha. The site is bounded by bushland in Osborne Park to the north and bushland to the east and by low-density residential precincts to the west and south-west.

The site is currently occupied by the Lane Cove Country Club and contains a range of buildings and facilities including:

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- a single-storey club building comprising a restaurant and bar, gaming area, coffee shop, club rooms and player amenities, a function room and associated facilities;
- five (5) floodlit synthetic tennis courts and a practice putting green;
- maintenance outbuildings and a greenkeeper's cottage; and
- carparking for 87 vehicles.

The site is located on River Road which is classified as a regional road under the jurisdiction of Transport for NSW (TfNSW) that provides a connection between St Leonards in the east and Lane Cove in the west. Access into the site is currently gained from a driveway into the site further to the east down River Road.

A number of mature trees comprising predominantly endemic species are located around the perimeter of the golf club building and adjacent carpark and tennis courts, and on the slope /embankment between the golf club and Stevenson Street to the south-west and River Road to the south and south-east.

An aerial photograph identifying the location of the subject site in the context of the surrounding area and nature of surrounding land uses is provided as Figure 2 below.



Figure 2 – Aerial Photograph
(Source: Applicant's SoEE)

Surrounding land Uses

The following land-uses surround the site:

- **North** – directly north of the site beyond the existing golf course is the Lane Cove Bushland Park and Gore Creek, which is zoned E2 Environmental Conservation. Further to the north is a residential neighbourhood zoned R2 Low Density, as well as the KJ Osborne Park Preschool.
- **East** – the Lane Cove Bushland Park also adjoins the golf course to the east. Further to the east is a low-density residential development located in the suburb of Greenwich.

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- **South** – a number of R2-zoned properties fronting Northwood Road are located immediately south of the site. Many of the properties – particularly those at the eastern end – gain rear access off Stevenson Street. Additional residential properties are located further to the south on the opposite side of the intersection between Northwood and River Roads.
- **West** – to the immediate west is land zoned both R2 containing residential properties fronting Northwood Road and some B4-zoned land containing a number of small one and two-storey shops and commercial premises which also front Northwood Road.

PROPOSED DEVELOPMENT

The proposed development comprises the following:

- Demolition of existing structures, removal of trees and site preparation works;
- Consolidation of the site into three (3) lots as per the submitted consolidation plan, with lot 1 containing the proposed development and associated carparking areas; lot 2 containing the road into the site and the surrounding bushland; and lot 3 containing part of the golf course;
- Construction of a two and part three-storey multi-purpose sport facility comprising 6,800m² of gross floor area consisting of the following components:
 - 4,020m² of indoor sports hall;
 - a 249m² bistro (including additional 115m² for outdoor seating);
 - 774.9m² of multipurpose space shared between 6 rooms;
 - 108m² of function space and 58m² meeting rooms; and
 - 479m² of centre amenities, staff facilities and administration.
- Bulk excavation and construction of lower ground parking level with 233 parking spaces, 6 accessible parking spaces, 12 bicycle parking spaces and 17 motorbike parking spaces;
- Construction of an at-grade arrival plaza (*Note: access into the site will be from Stevenson Street via a new roundabout and access road which is not part of this DA but will be undertaken by Council as a separate project as a pre-cursor to this development – see details on page 9*);
- Construction of four (4) new outdoor multi-purpose courts with an area of 3,158m²;
- Installation of protective fencing along the facade of the building facing the golf course;
- Landscaping works and tree planting; and
- Use of the facility for sports and recreational activities.

As part of – or to facilitate – the proposed development, the existing 1st hole of the golf course will be shortened and the existing practice green repositioned.

BREAKDOWN OF BUILDING FLOORS

Level 1 (Ground)

Proposed level 1 would comprise the following:

- a carpark on a split upper and lower level accommodating 233 car parking spaces, including 6 accessible spaces, 12 bicycle parks and 17 motorbike parks;
- vehicular access to the basement via a single lane two-way ramp at the south western corner leading from the arrival plaza;
- lifts and stairs to upper floors;
- male and female changing rooms and bathrooms (including an accessible changing room);
- two (2) multi-purpose rooms for potential uses such as a gym and minor retail (which would be subject to a separate development application or Complying Development Certificate except where considered to be “Exempt Development” under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008);
- storerooms, bin room, plant rooms, communications and switch rooms;
- a loading dock at the southern/eastern end of the carpark;
- a relocated practice green; and
- pathways and stairs to the existing golf course.

Level 2

Proposed level 2 would comprise the following:

- five (5) indoor multi-purpose courts within two large halls;
- a bistro and associated kitchen with outdoor seating fronting the arrival plaza;
- a function room and three (3) multipurpose rooms, inclusive of retractable walls to accommodate flexible use arrangements;
- a lift to provide access for patrons and to transport large bulk and goods from the loading dock;
- reception, staff amenities and a staff meeting room;
- female and male changing rooms and bathrooms (located between the two halls);
- an arrival plaza providing vehicular access for private vehicles and buses into the site, and passenger and patron drop-off and pick-up areas, linked to River Road via an upgraded Stevenson Street as part of a separate external road project being undertaken by Council as a pre-requisite/pre-cursor to the proposed development (as described below); and
- four (4) outdoor courts constructed on top of the carpark accessed via ramps and stairs from the arrival plaza.

Level 3 (Mezzanine)

Proposed level 3, which is essentially just a small mezzanine located between the multipurpose hall and sports hall above the multipurpose indoor courts, will comprise the following:

- a multipurpose room; and
- storerooms and a lift and stairs to the level below.

PROPOSED HOURS OF OPERATION

The applicant has advised the following hours of operation are proposed for the various components of the proposed development:

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- Tennis use/outdoor multi-courts:
 - Monday to Friday: 6am to 10pm
 - Saturday and Sunday: 6am to 5pm
- Restaurant and café
 - Liquor License 7 days a week: 10am and 12am
 - Café offering within Restaurant:
 - Thursday to Friday: 12pm to 3pm
 - Saturday and Sunday: 10am to 4pm
- Multipurpose sports hall
 - General operating 7 days a week: 6am to 10pm
 - Function rooms 7 days a week: 6am to 12am

PROPOSED CAPACITY AND STAFFING

The applicant has advised that the precinct can accommodate and operate at the following capacity:

- 260 visitors (daily) weekdays
- 650 on weekends (80% occupancy rate)

Staff numbers are proposed as follows:

- Facility staff: 5
- Bistro/restaurant staff: 4
- Groundskeeping staff: 4
- Security personnel: 1

NORTHWOOD ROAD/RIVER ROAD INTERSECTION UPGRADE

Separate to this application, a Review of Environmental Factors (REF) is currently being prepared by Council under Part 5 of the Environmental Planning and Assessment Act 1979 for the upgrade of the intersection of Northwood Road, River Road and Fleming Street to a four-leg roundabout and the reconstruction/realignment of the southern end of Stevenson Street and associated infrastructure and roadworks. An extract of the concept plan for this work (as provided by Council's Traffic and Transport Co-ordinator) is shown as Figure 3 on the following page.

The works include the re-alignment of the top section of Stevenson Street and a connection to the new roundabout to comply with TfNSW roundabout design standards. The project includes the reconstruction and widening of Stevenson Street down to the boundary of the golf course site, including the maintaining and upgrading of the accesses to the properties who currently gain access from Stevenson Street as necessary. This road will then be extended into/within the golf course site as part of the works covered by this application, via connection from the upgraded Stevenson Street where it meets the site boundary to the arrival court.

In relation to staging and timing of the project, Council's Traffic and Transport Co-ordinator has advised as follows:

"The Roadway and roundabout are separate projects from the development of the Sports and Rec Centre. The roadway and roundabout are not part of the DA.

The timing for the construction of the roundabout is over two financial years and is anticipated to commence in January 2022.

The timing for the construction of the roadway will be at the same time as the construction of the development".

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This piece of infrastructure is a critical part of – and indeed forms a necessary pre-requisite to – the proposed development, as it provides the main access into the site. As such, the roundabout and upgraded section of Stevenson Street will be required to be completed and operational prior to the operation of the proposed development. To this end, a condition has been included in the draft conditions in Appendix 1 to satisfactorily cover this aspect and the correct timing for the works. In this regard, the roundabout and all associated works are to be constructed and operational prior to the issue of the occupation certificate (OC) for the sports and recreation facility (i.e. now stage 2 of the DA), which in itself would include the internal access road on the golf course site which would also have to be completed prior to the issue of the OC.

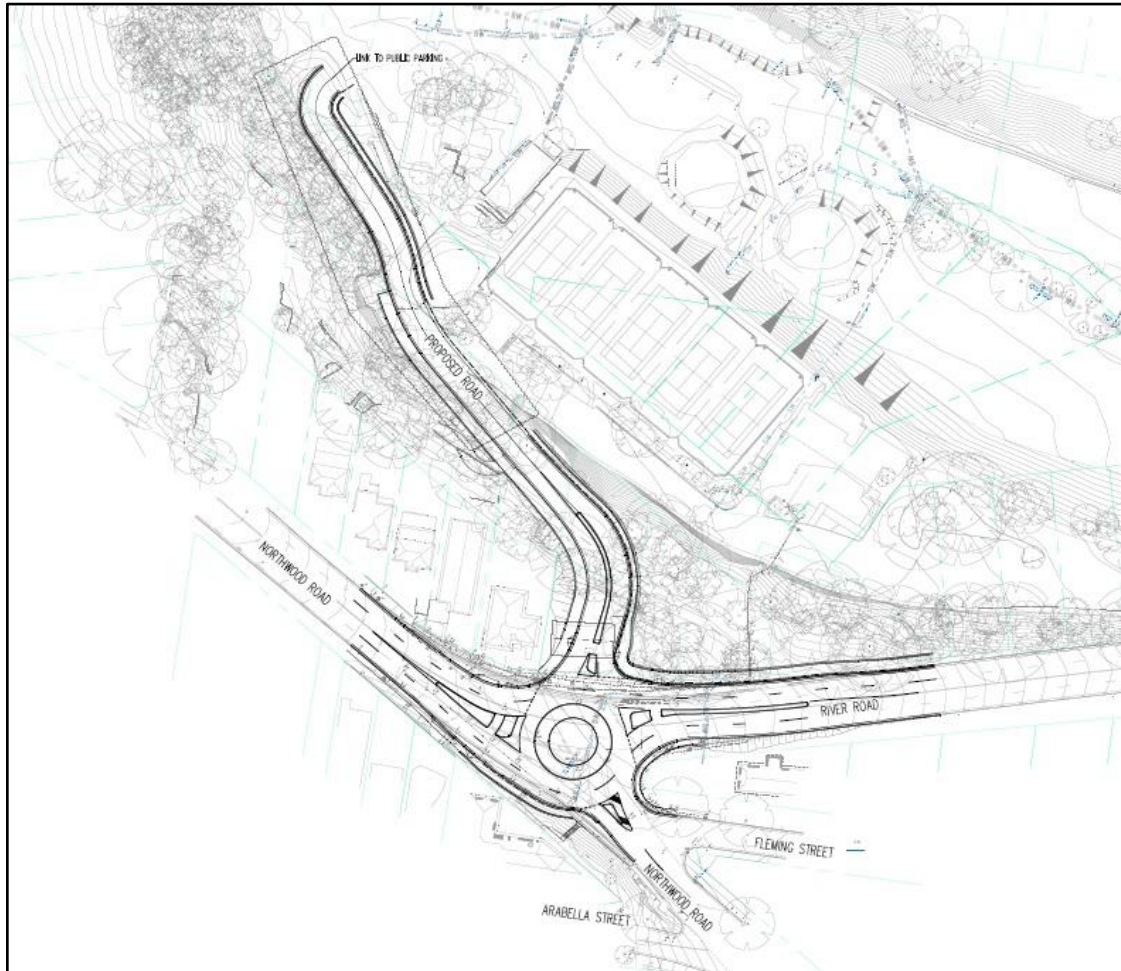


Figure 3 – Extract of River Road/Northwood Road Intersection Upgrade Concept

PRE-LODGE MENT LIAISON

The applicant and its team held a pre-lodgement meeting via Microsoft Teams with Council and Tim Shelley Planning on 9th April 2021, wherein a range of matters in relation to the design and the likely impacts of the development were discussed, and a list of information required to be submitted with the DA identified. The key concerns and matters needing to be addressed as part of the DA raised during the pre-lodgement consultation and meeting were generally as follows:

- environmental protection and native vegetation
- riparian land
- aboriginal heritage
- light spill and noise

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- traffic and transport
- parking and vehicle access
- pedestrian and cycling access
- water management
- public infrastructure and restoration work
- landscaping and tree management
- bushland and bushfire protection
- health and environment
- waste management
- flood impacts
- contamination and geotechnical issues
- land classification and plan of management

The applicant has indicated that they have addressed the matters raised in the meeting via the submission of information and subsequent refinements to the design of the development, with each item identified and discussed in Section 1.2 of the SoEE lodged with the application.

PROPOSAL DATA/POLICY COMPLIANCE

LANE COVE LOCAL ENVIRONMENTAL PLAN 2009 (Section 4.15(1)(a)(i))

LEP 2009	Provision	Proposed	Complies/Comment
ZONING	RE1 Public Recreation	Sports and recreation facility	YES Permissible with consent
MAXIMUM PERMITTED BUILDING HEIGHT UNDER BUILDING HEIGHT MAP	No height limit	16.3m at highest point above ground level (@RL 44.8m above RL 28.5m)	YES
MAXIMUM PERMITTED FSR UNDER FSR MAP	No FSR limit	0.14:1 (i.e. 6,800m ² compared to site area of 20,767m ²)	YES

From the above table, it is apparent that the proposed development is permissible and complies with all development standards of the LEP. Discussion in relation to the requirements of other relevant clauses of the LEP is provided later in the report, wherein full compliance is demonstrated.

LANE COVE DEVELOPMENT CONTROL PLAN 2010 (Section 4.15(1)(a)(iii))

The following sections of Lane Cove DCP 2010 (the DCP) are relevant to the proposed development.

- Part B – General Controls
- Part F – Access and Mobility
- Part H – Bushland Protection
- Part J – Landscaping
- Part O – Stormwater Management
- Part Q – Waste Management and Minimisation
- Part R – Traffic, Transport and Parking

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A review of the applicant's SoEE (which includes a detailed DCP compliance table identifying the relevant controls) indicates the proposal is (or can be) generally compliant with the relevant parts of the DCP. Furthermore, the application has been accompanied by generally sufficient documentation or specific reports and plans to address each section of the DCP as necessary, other than where additional information or clarification was requested in the two RFIs as discussed earlier in this paper.

With respect to Part H – Bushland Protection and Part J – Landscaping, Council's Bushland Officer initially raised some concerns in relation to the extent of tree removal, canopy loss and replenishment and the amount, type and location of compensatory tree replanting. This issue was subsequently addressed by the submission of additional information by the applicant as discussed below under the "Internal Referrals" section.

With respect to Part R – Traffic, Transport and Parking, there is no specific amount of parking identified for all components of the proposed development and hence no total amount of parking able to be specifically calculated under the DCP. As such, the applicant engaged a traffic consultant to prepare a detailed parking assessment based on the cumulative impact and parking demand generated by all aspects and use of the proposed development over different times of the day and under a range of usage patterns and scenarios. The consultant concluded that the 233 car parking spaces to be provided for the proposed development is expected to comfortably accommodate the parking demands of typical weekday morning activity (Scenario 1), which is estimated at 103 vehicles. The proposed car park would also accommodate the Saturday lunchtime demands (Scenario 2), which is approximately 224 vehicles, with some additional spare capacity for a buffer and an allowance for changeover between games.

In special event operations (Scenario 3), the formal capacity of the car park would be exceeded slightly by the demand (total 245 vehicles). It is proposed that in these scenarios, the loading dock area (which would not need to be utilised at these times and/or would be coordinated to be used prior to main guest arrivals) could accommodate overflow parking. It is estimated that the additional capacity would be at least 20 spaces and would occur under a managed operation.

At the SNPP briefing held on 25th August 2021, the Panel requested further information in relation to Scenario 3. In particular, the Panel requested clarification of how often Scenario 3 "special events" were likely to occur annually. In response, the applicant's traffic consultant advised as follows:

"Scenario 3 'special events' relates to instances where the facility may be used for award ceremonies, club events and other large gathering situations. It is considered that these events are likely to occur afterhours or off-peak times. Such events will mean the facility will only be used for the special event at any one time, and thus no other facilities can be used (i.e. outdoor courts). Further, such special events will be managed by Council and/or the operator under a Management Plan for the site with alternative options available such as shuttle services. It is highlighted that this scenario at most will only occur 3-4 times a year."

Additional parking will also be provided at the proposed loading dock for such events. The Traffic Impact Assessment prepared by TTW appended to the SEE (Appendix L) notes that: "In special event operations (Scenario 3) the formal capacity of the car park would be exceed slightly by the demand (total 245 vehicles). It is proposed that in these scenarios, the loading dock area which would not need to be utilised at these times and/or would be coordinated to be used prior to main guest arrivals) could accommodate overflow parking. It is estimated that the additional capacity would be at least 20 spaces and would occur under a managed operation."

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This demand analysis and the parking provision in response has been deemed to be satisfactory by Council's Traffic and Transport Co-ordinator.

LANE COVE COUNCIL SECTION 7.11 CONTRIBUTIONS PLAN

Due to the non-residential and community nature of the use and facility, no contributions under Lane Cove Section 7.11 (formerly Section 94) Contributions Plan apply to the proposed development.

LANE COVE COMMUNITY STRATEGIC PLANS AND POLICIES

The proposal is deemed to be consistent with the *Liveable Lane Cove Community Strategic Plan 2035* (formerly *Lane Cove 2025*) and its goal for an inclusive, interconnected and active community, as well as the underlying *Lane Cove Recreation Action Plan* by providing additional accessible recreational facilities that accommodate all ages, including the older population and people with disabilities.

The proposal is also consistent with planning priority 6 of the draft "*Lane Cove Local Strategic Planning Statement 2020*" to create and renew public spaces and facilities to improve our community's quality of life. To this end, the proposal will contribute to increasing accessibility to recreational facilities and support a number of sporting needs for all ages which is highly demanded as forecasts identify a need to increase the capacity of sportsgrounds over 40% to support the existing and future demand. The proposal also achieves the specific short-term action to **"develop and implement a recreational precinct at Lane Cove Golf Course"**.

The provision of new multipurpose courts and surfaces as proposed is also consistent with the objective of Council's *Open Space Plan 2016-2026* to optimise the use of existing open spaces through multi-use to increase carrying capacity.

STATE GOVERNMENT POLICIES AND PLANS

The proposal is considered to be broadly consistent with *A Metropolis of Three Cities* (the Greater Sydney Region Plan) as it will:

- contribute to improving access to recreational opportunities and encouraging healthy lifestyles;
- revitalise the existing golf course and create a vibrant hub of activity; and
- contribute and strengthen the accessibility to sporting facilities and activities.

The proposal is also consistent with the sub-ordinate North District Plan as it will:

- contribute to meeting the demand for sporting facilities as existing sport and recreation facilities are nearing capacity;
- facilitate opportunities for social connection and promote physical activity; and
- accommodate daily sporting needs and make better use of the existing Lane Cove golf course.

EXTERNAL REFERRALS

The application was referred to the four (4) external authorities identified in the table below and a response subsequently received by each. A summary of their response is provided in this table, with discussion provided after the table in relation to any further action required to address these comments.

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EXTERNAL REFERRALS	COMMENTS
Transport for NSW (TfNSW)	Raised no objection to the development. Provided comments that can be addressed by conditions of consent and via additional info (see below).
Rural Fire Service (RFS)	Raised no objection to the development. Provided bushfire requirements that can be covered by conditions of consent.
Aboriginal Heritage Office (AHO)	Advised that there are no Aboriginal heritage issues for the proposed development. Asked that a standard condition be attached to the consent requiring cessation of works should any site be found and subsequent protection and reporting of site to NPWS. Such a condition is included in the draft conditions in Appendix 1.
NSW Police	Raised no objection from a crime risk point of view. Provided a set of draft conditions.

Of the above referrals, the only issues requiring further information that couldn't be addressed by conditions were minor issues raised by TfNSW requesting an additional plan addressing the swept path of the longest vehicle entering, exiting and manoeuvring through the site and clarification that All buildings and structures and any improvements are to be wholly within site.

These issues were identified in a *Request for Further Information* (RFI) letter sent to the applicant by Tim Shelley Planning dated 2nd August, 2021 which also included a range of additional issues and items and needing to be addressed following the exhibition period and receipt of comments from internal Council officers (see below). These issues were satisfactorily addressed via additional detail submitted by the applicant on 31st August as part of a larger package of information and additional documentation responding to the RFI (as discussed further below).

INTERNAL REFERRALS

Following lodgement of the DA, the plans and supporting documents were referred to the eight (8) internal Council Officers identified in the table below and a response subsequently received by each. A summary of their response is provided in this table, with discussion provided after the table in relation to any further action required to address these responses.

INTERNAL REFERRALS	COMMENTS
Bushland Officer	Raised some concerns in relation to the extent of tree removal, canopy loss and replenishment and the amount, type and location of tree replanting and the ability to retain or relocate certain trees. Also raised some issues in relation to bushfire issues.
Tree Preservation Officer	Covered by Bushland Officer comments above
Landscape Officer	Raised some of the same issues raised by Bushland Officer above and provided draft conditions of consent.
Building Surveyor	Raised no objections and provided conditions of consent.
Development Engineer	Raised no objections and provided conditions of consent.
Accessibility Officer	Raised no objections and provided conditions of consent.
Environmental Health Officer	<u>Noise:</u> Advised that the submitted acoustic report needed to be amended to address the following: <ul style="list-style-type: none"> • additional potential noise sources including basketball courts, the increased night-time traffic/patron movements

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	<p>(i.e. 7pm to 12 midnight) and the impact of the use of the restaurant/eatery/bar; and</p> <ul style="list-style-type: none"> any impacts from the proposed development on the existing residential premises in the immediate vicinity (i.e. on River Road and Stevenson Street/Northwood Road) and the soon-to-be constructed retirement village at 274 and 274a Longueville Road. <p>Also requested that a peer review of the acoustic report submitted on behalf of an objector be reviewed and responded to by the applicant's acoustic consultant and additional acoustic modelling be undertaken if required.</p> <p><u>Contamination:</u> Advised that a DSI needed to be undertaken and a RAP prepared following demolition and before the construction stage.</p>
Traffic Engineer	Raised no objections and provided conditions of consent. Also raised some minor issues requiring submission of additional information. in relation to small car parking spaces and ground clearance for level 1 carpark.

Following a meeting with a number of the above Council officers to discuss their comments in more detail, a RFI was sent to the applicant on 2nd August, 2021 requesting further information be submitted to address the outstanding issues identified above as well as those identified in objections where necessary (as discussed later in the report under the heading "Public Notification"). The only issue not identified in the letter was that raised by Council's Environmental Health Officer ("EHO") in relation to the need for the DSI. Rather, this issue was further discussed at the SNPP Briefing, following which an additional RFI was sent to the applicant requesting an appropriate option be identified to ensure the requirements of Clause 7 of SEPP 55 were satisfied. The response to this issue – which has been addressed via a staged consent – is discussed further under the heading "SEPP 55".

The applicant submitted a comprehensive package of additional information in response to this RFI consisting of the following range of new or updated reports or addendums to existing reports where appropriate:

- Addendum Arborist letter
- Addendum Landscape letter and schedule;
- Addendum Traffic and Transport letter;
- Addendum Acoustic letter;
- Revised Noise Impact Assessment;
- Addendum Bushfire letter;
- Addendum Ecological letter;
- Visual Impact Assessment; and
- Addendum Light Design Statement.

These additional items – as well as the further information responding to the second RFI following the SNPP briefing meeting in relation to tree removal, contamination and special event parking – adequately addressed the outstanding issues of each of the officers, with draft conditions provided by each for the proposed development which are included in the draft conditions in Appendix 1.

PLANNING CONTROLS

LANE COVE LOCAL ENVIRONMENTAL PLAN 2009 (Section 4.15(1)(a))

Zoning and Permissibility

The actual site of the proposed development (as approximately marked in black) is wholly zoned RE1 – Public Recreation as shown on Figure 4 below.

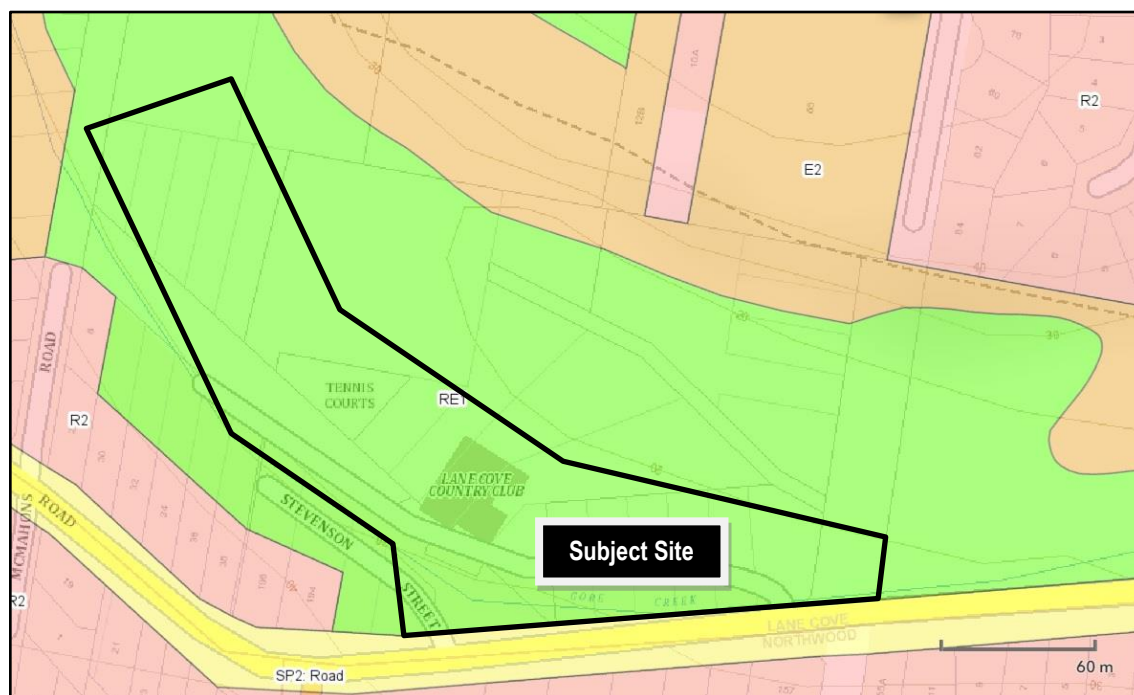


Figure 4 – Extract from Lane Cove LEP 2009 Zoning Map

The proposed development is defined as both “Recreation facilities (indoor)” and “Recreation facilities (outdoor)”, as follows:

recreation facility (indoor) means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

recreation facility (outdoor) means a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major).

Both “Recreation facilities (indoor)” and “Recreation facilities (outdoor)” are permissible uses within the RE1 zone with consent.

Clause 2.3(2) – Zone Objectives

In accordance with Clause 2.3(2), a consent authority must have regard to the objectives for the development in a zone when determining a development application in respect of land within the zone. the objectives of the RE1 zone are as follows:

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.
- To make provision for rights of public access to more foreshore land and to link existing open space areas.

In providing additional and more accessible sporting and recreational facilities on the site, the proposed development is considered to be consistent with the above zone objectives. With particular respect to objective 3, whilst it is apparent that the proposed development requires the removal of 84 trees, it is noted that some of these trees are identified as dead, or as noxious weeds or of poor health and structural condition. In addition, a total of 180 replacement trees are to be replanted at a 2:1 replacement ratio to compensate for the loss of the 84 trees, resulting in a net gain of over 90 trees and a doubling of the tree canopy at full maturity. As such, it is considered that on a long-term basis, the proposal will result in an enhancement of the natural environment consistent with this objective of the RE1 zone.

Clause 4.3 – Height of Buildings

Under Clause 4.3 of the LEP, a maximum height has been adopted for a range of zones and specific sites within the Lane Cove LGA. However, under the relevant map shown as Figure 5 below, the site is not to any maximum height limit.

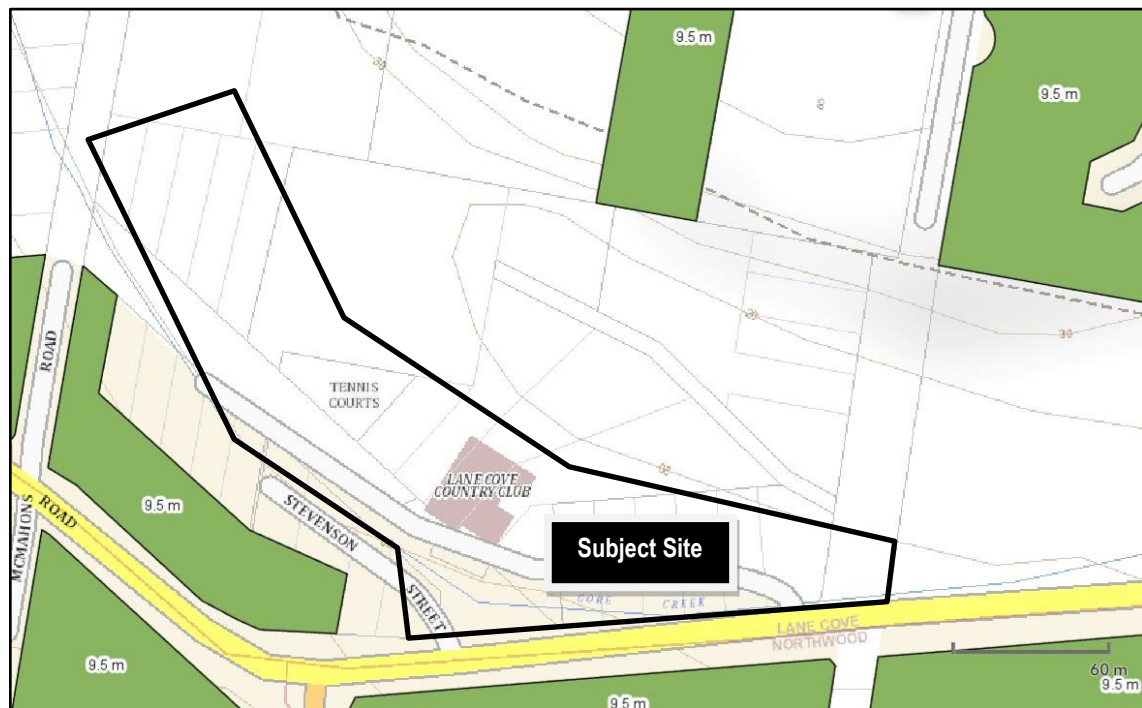


Figure 5 – Extract from Lane Cove LEP 2009 Height of Buildings Map

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The proposed development has a height of 16.3 metres at its highest point, which is at the tip of the roof on the northern side of the building where the roof extends out over the northern concourse facing the golf course. The merits of the height of the building and its potential impact on surrounding properties has been discussed in a Visual Impact Assessment (VIA), which was requested from the applicant in response to a number of submissions that raised height and impact on views from surrounding properties – particularly in Stevenson Street – as in issue of concern.

The VIA considers the proposal's potential visual impact and potential obstruction of views, particularly when viewed from residences in Stevenson Street and was prepared in accordance with the land and Environmental Court planning principle for “views – general principles” articulated by Roseth SC in *Tenacity Consulting v Warringah Council* (Tenacity). In summary, the VIA found as follows:

- Visual impacts have been considered with respect to residents fronting Northwood Road which back onto Council land parallel to Stevenson Street. Based on findings, only two properties may experience some visual impacts, these being located to the south of the proposed development which have a boundary to Council land parallel to Stevenson Street.*
- Views obtained from these properties largely have a narrow depth, being heavily truncated by dense, established trees along rear and side property boundaries.*
- The value of these views is the boundary vegetation. This provides for a natural setting, as well as a sense of enclosure and privacy. There are no clear views to elements in the landscape identified in Tenacity as being of high value.*
- The proposed removal of trees to facilitate the development will not result in the loss of views for the Stevenson Street residences. It is highlighted, that all trees between the proposed development and residences are proposed to be retained.*
- While the introduction of new elements in the landscape between the viewer and this vegetation has the potential for significant impact, due to its screening nature, new elements in mid ground and background will have substantially less visual impact. On this basis, where available, filtered glimpses of the proposal will be visible in the mid-ground of views at a distance of greater than 45m. The proposal does not constitute the introduction of a foreign element, as the existing Lane Cove Country Club Tennis Courts and associated public structures currently occupy the site. While the proposed development may be intensified, it is not dissimilar to the existing development.*
- In terms of more specific impacts, from upper levels of these properties the roof of the proposal will be visible in the midground. Where visible, the background of the vegetated northern embankment of the Gore Creek valley and its silhouette against a backdrop of the sky will remain visible. From lower levels, including ground level communal open space, where visible the proposal will be seen at, below and above typical line of sight. This will obstruct views to the vegetated northern embankment of the Gore Creek valley. However, this is based on factors eliminating the existing rear boundary fencing. Should the boundary fencing be reinstated to the rear of the subject residences, this may not alter typical sight lines at these lower levels.*
- On this basis, the proposal is not considered to block significant existing views or unacceptably change the character of views. It does not give rise to significant, unacceptable visual impact on the private domain. While a change to the existing nature of views, the overall visual impact of the proposal is assessed as being minor on the Tenacity scale.*

Given the drop in the level of the land from behind the affected residences in Stevenson Street, the position of the building on the site and the extent of views retained by surrounding or nearby residences across the golf course and valley, it is considered that, on balance, the findings of the VIA are sound and the height of the proposed development satisfactory.

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Clause 4.4 – Floor Space Ratio

Under the relevant floor space ratio (FSR) map adopted under Clause 4.4 of the LEP as shown as Figure 6 below, the site is not subject to a maximum FSR.

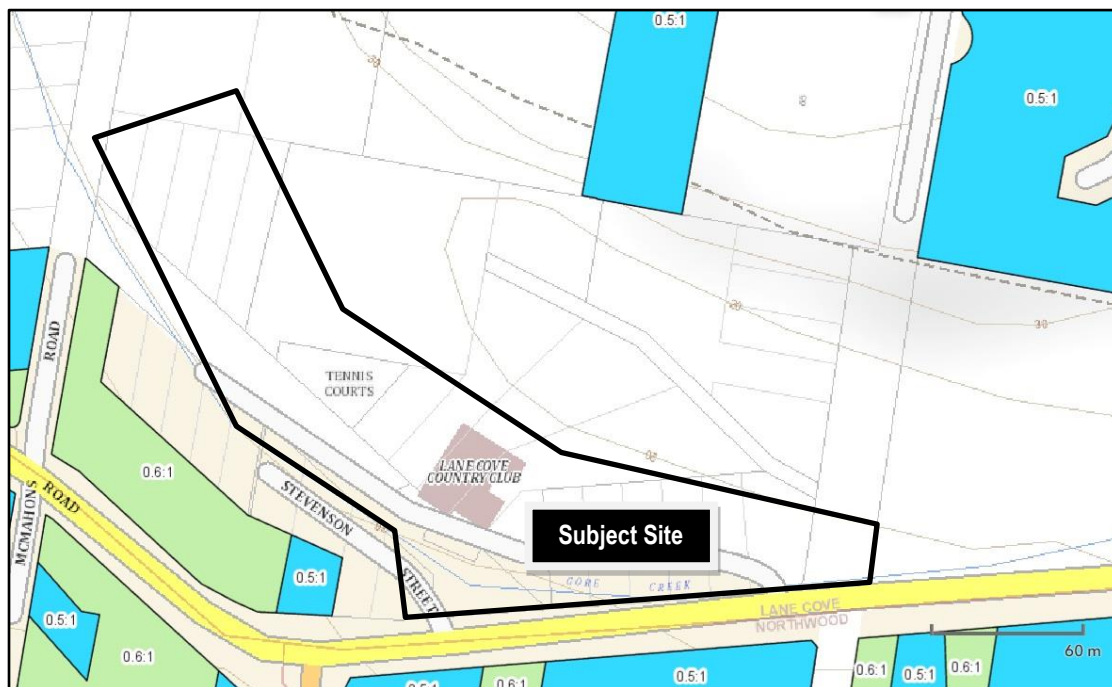


Figure 6 – Extract from Lane Cove LEP 2009 Floor Space Ratio Map

Other Mapping Layers

Under the LEP, the subject site – or the proposed development as the case may be – is not affected by the following remaining mapping layers:

- Acid Sulphate Soils – the site is not identified as containing any potential acid sulphate soils;
- Heritage Map – the site is not located in a Conservation Area nor contains any heritage items;
- Environmental Protection Land Map/Foreshore Building Line Map – no part of the land is identified as environmental protection or affected by the foreshore building line;
- Land Reclassification Map – the site is not identified for reclassification;
- Land Reservation Acquisition Map – no part of the site is identified for acquisition for any purpose; and
- Lot Size Map – the development does not include subdivision (consolidation is not deemed to be subdivision and the land is not affected by any minimum allotment size anyway).

Clause 5.2 – Classification and reclassification of public land

The objective of clause 5.2 is to enable the Council to classify or reclassify public land as “operational land” or “community land” in accordance with Part 2 of Chapter 6 of the Local Government Act (LGA) and relates to the public land listed in Schedule 4 of the LEP. None of the land comprising the subject site is listed in Schedule 4. Rather, the land will remain classified as “community land” for public purposes under the LGA, with no intention or need to change this classification (which is a separate process similar to a rezoning would require public exhibition and a Council resolution).

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Being community land, a Plan of Management (PoM) has been adopted for the subject site under the LGA. In this regard, the site is covered by the “*Plan of Management for the Lane Cove Golf Course*”. This plan sets out a number of core objectives and strategies and actions to achieve same.

Whilst no specific mention of the proposed development is made in the PoM – as the PoM essentially just relates to and addresses the impacts of the current golf course use – it is generally considered to meet the objectives of the PoM, particularly those pertaining to economic sustainability; community benefit; course quality and recreational enjoyment and appeal; improved pedestrian and vehicle access; and public interaction and safety.

However, to ensure that the PoM specifically reflects or relates to the proposed development and the different usage patterns, increased traffic and additional and ongoing management of impacts of same, it is understood and recommended that the PoM be revised during the construction and/or operation of the proposed development.

Clause 6.1A – Earthworks

Under Clause 6.1 of the LEP, development consent is required for earthworks unless the earthworks are exempt or ancillary to other development already approved. Accordingly, consent is sought under this clause for all excavation and earthworks required for the proposed development as part of the subject application.

Clause 6.3 – Riparian Land

As shown on Figure 7 below, part of the land included under the application is identified as riparian land or watercourse.

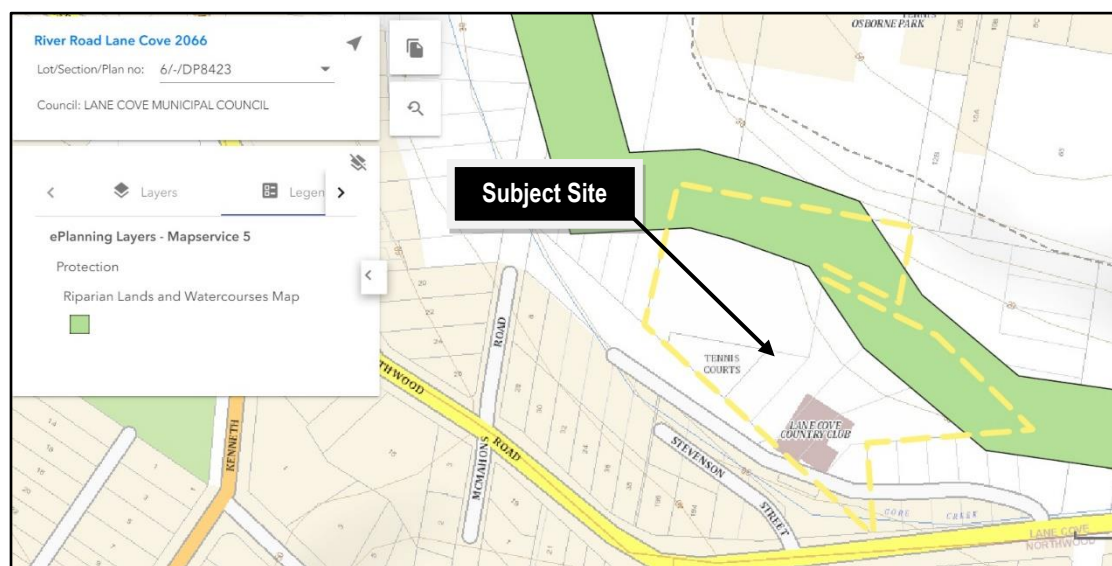


Figure 7 –Extract from Lane Cove LEP 2009 Riparian Land Map

Under Clause 6.3(3) of the LEP, consent must not be granted to development unless the consent authority has considered the impact of the proposed development on the land and any opportunities for rehabilitation of aquatic and riparian vegetation and habitat on that land. In response, the applicant has submitted a riparian assessment with the application, which has concluded that the identified watercourse located within the site does not meet the definition of a river under the Water Management Act.

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In addition, the proposed building footprint runs over a piped watercourse and therefore will not result in any detrimental impact on the land or prevent any opportunities for rehabilitation of aquatic and riparian vegetation to inhabit the land. Council's Bushland Officer has reviewed the report and is satisfied with its findings, such that consent is not precluded from being granted under clause 6.3(3) of the LEP.

INTEGRATED DEVELOPMENT

The proposed development does not require the approval of any other body specified under Section 4.46 of the Environmental Planning and Assessment Act, 1979 (the Act) and hence does not constitute "Integrated Development".

With particular respect to bushfire, whilst the site is identified as bushfire prone land, a sport and recreation facility does not fall under the definition of a "Special Fire Protection Purpose" (SFPP) under S.100B of the Rural Fires Act 1997 (as cross referenced under the Act). In turn, such a use does not trigger the Integrated Development provisions of the Act nor technically require referral of the application to the Rural Fire Service (RFS). Rather, the proposal is listed as "other works" which are normally captured under the provisions of Section 4.14 of the Act, under which the consent authority needs to be satisfied that the development conforms to the specifications and requirements of the document entitled *Planning for Bush Fire Protection 2019* (PFBP) prepared by the RFS. To this end, a Bushfire Assessment has been prepared for the proposed development by Australian Bushfire Assessment Consultants (ABAC) in accordance with the requirements of PFBP.

This Report advised that whilst not being classified as a SFPP, the proposed development does include a building that is to be used for public assembly with a floor space of greater than 500m². Therefore, under the provisions of part 8.3.11 of PFBP, such a development is to be treated as a SFPP. As such, ABAC undertook their assessment as if the development was a SFPP and identified a range of bushfire protection measures required to protect the development on this basis. The application and this assessment were also referred to the RFS as if it was Integrated Development, with the RFS reviewing the report and providing correspondence back to Council in which they advised that they had reviewed the information and in turn, provided a number of recommended conditions to adequately protect the development from the threat of bushfire. In summary, these conditions require the following:

- ongoing maintenance of Asset Protection Zones;
- construction of the building to BAL 12.5 under AS3959-2018 *Construction of buildings in bush fire-prone areas*;
- the provision of water, electricity and gas in accordance with Table 6.8c of PFBP;
- landscaping in accordance with Appendix 4 of PFBP; and
- preparation of Bush Fire Emergency Management and Evacuation Plan in accordance with the NSW RFS document: *A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan*.

These conditions have been included in draft conditions of consent in Appendix 1.

With respect to the need for approval from NRAR for any works within 40 metres of the watercourse, Council's Bushland Officer has noted as follows:

As Lane Cove Council is the land-owner and proponent and is deemed to a public authority under the Water Management Act, there is no need for a Controlled Activity Approval to be acquired prior to any proposed development taking place within 40 m of this waterway. In any event, the watercourse located within the site does not meet the definition of a river and is as bed and banks.

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Therefore, no further consultation with NRAR or permits from DPI Fisheries is required. Furthermore, as the proposed building remains primarily within the existing building footprint no adverse impact will impact any identified riparian land.

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPS)

SEPP (State and Regional Development) 2011

The proposed development does not constitute State Significant Development under this SEPP and hence the provisions relating to same are not relevant.

Of more relevance, Clause 20 of this policy (via cross-reference to Schedule 7) identifies a range of developments that – either due to their nature, scale, value, impact or location – are deemed to be “regionally significant development” and which as a result require that the SNPP become the consent authority. In this regard, Items 2 and 3 under Schedule 7 identify the following applications:

2 General development over \$30 million

Development that has a capital investment value of more than \$30 million.

3 Council related development over \$5 million.

Development that has a capital investment value of more than \$5 million if—

- (a) a council for the area in which the development is to be carried out is the applicant for development consent, or*
- (b) the council is the owner of any land on which the development is to be carried out, or*
- (c) the development is to be carried out by the council, or*
- (d) the council is a party to any agreement or arrangement relating to the development (other than any agreement or arrangement entered into under the Act or for the purposes of the payment of contributions by a person other than the council).*

The proposed development is deemed to be regionally significant development under Item 2 as it has a value of \$51,968,392 and Item 3, as it to be undertaken by Council (i.e. the proponent) and Council is both the applicant and land owner. As such, the consent authority for the application is the SNPP.

SEPP (Infrastructure) 2007

Schedule 3 of SEPP Infrastructure 2007 (iSEPP) identifies those developments that, due to either their scale or location (on or near an arterial road), require referral to Transport for NSW (TfNSW) as “traffic generating developments”. In accordance with clause 104 of iSEPP, the application was referred to the RMS as it triggered two items under Schedule 3 as it includes a car park with more than 50 parking spaces with access to a classified road or to a road that connects to a classified road.

In their response, TfNSW advised as follows:

“TfNSW has reviewed the submitted documents and has the following comments for Council’s consideration in the determination of the application:

- 1. It is noted main access to the site is proposed via future roundabout at the intersection of River Road/Northwood Road which will be delivered by Council under separate planning pathway. TfNSW requests that the development should not be operational without the roundabout in*

- place.
2. *It is noted additional access is proposed via existing driveway at the eastern end of the site on River Road for service and loading vehicles. TfNSW has concerns regarding the proposed right turn movements at this driveway. TfNSW recommends Council to consider restricting this access to left in/left out movement only on roads safety and network efficiency grounds.*
 3. *The required sight lines as per AUSTROADS should not be compromised at this driveway. The access should cater for the swept path of the longest vehicle entering and exiting the subject site. The swept path of the longest vehicle entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval which shows that the proposed development complies with this requirement.*
 4. *All buildings and structures, together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the River Road boundary*
 5. *The redundant driveway(s) on River Road should be removed to Council's satisfaction.*

As indicated earlier in the report, items 3 and 4 were addressed via the submission of additional plans and information by the applicant following the first RFI.

In relation to item 1 and as discussed under the "Note" earlier in the report, a condition is included in draft conditions in Appendix 1 to require the roundabout and all associated works (including the external road link being the roundabout and the boundary of the golf club site) to be constructed and operational prior to the issue of the occupation certificate (OC) for the sports and recreation facility (i.e. stage 2 of the DA).

Likewise, items 2 and 5 have also been covered by conditions.

The application is also affected by the provisions of Clause 101 of iSEPP, which relates to developments with frontages to classified roads. In this regard, under section 101, the consent authority must not grant consent to development on land that has a frontage to a classified road (River Road) unless it is satisfied that:

- (a) *where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
- (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of —*
 - (i) *the design of the vehicular access to the land, or*
 - (ii) *the emission of smoke or dust from the development, or*
 - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road*

In response to (a) and (b), the site is being accessed via an upgraded Stevenson Street which connects to River Road via a new roundabout, which is deemed to be the safest and most practicable access for the proposed development by TfNSW and Council's Traffic Engineer based on the traffic likely to be generated. The existing access to River Road further to the east will be retained but is to be converted into a left-in/left-out arrangement as per the requirements of TfNSW to maintain safety and efficiency of the classified road past the site.

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In response to (c), the proposed development is non-habitable in nature and hence is not sensitive to traffic noise or vehicle emissions, nor affected by noise or vehicle emissions from River Road.

On this basis, the SNPP is not precluded from issuing consent to the proposed development by the provisions of Clause 101 of the Infrastructure SEPP.

SEPP No 55 – Contaminated Lands

Clause 7 (1) of SEPP 55 prevents the consent authority from consenting to a development unless:

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

In accordance with Clause 7 and due to the potential for contamination to occur on the site, a Preliminary (Stage 1) Site Investigation was been prepared for the site by Douglas Partners and submitted with the application.

The PSI found that “based on the site history reviewed herein, identified potential sources of contamination at the site include fill (imported fill and waste from unknown origins used to fill former quarry, a former rubbish tip, possible burial of remnants of burned waste, filling to create Fairway 1/10 (golf course) and bowling green / tennis courts, fuel storage (AST and associated pipework and bowsers), a reported panel beater / workshop and possible buried car bodies, former site use as dairy (demolished structures, buried carcasses); current/former buildings and former stockpiles of building materials: current site operations - golf course, trade waste and dangerous goods stores, and off-site sources (e.g. Caltex Service Station, Longueville).”

Based on the results of this PSI, Douglas Partners recommended (in amongst other items) that a Detailed Site Investigation (DSI) be prepared. The DSI needs to be “based on the NSW EPA Sampling Design Guidelines (1995), a minimum of 31 grid-based sampling points are required for a site of ~21,000 m² with no known point sources of contamination. Additional targeted sampling locations will be required to evaluate the potential contamination status of the site in areas of concern and assess the site’s suitability (from a contamination standpoint) for the proposed development. The sampling of surface water and groundwater/soil vapour/ground gases will need to be included in the DSI. In addition, the DSI should provide recommendations on the need for any further targeted investigation(s) and / or site remediation (if deemed necessary).”

Council’s EHO agreed with this finding and indicated that the DSI needed to be undertaken and a Remediation Action Plan (RAP) prepared prior to consent being granted to satisfy the requirements of Clause 7 of SEPP 55 that the site was suitable for the proposed development.

This view was confirmed at the briefing of the SNPP on 25th August, wherein it was agreed that the DSI needed to be undertaken prior to the approval being granted for the construction of the buildings and associated courts and other structure and improvements to ensure the site was suitable for such a use. However, as the buildings need to be removed to allow the DSI – which forms part of the same development and for which consent also needs to be granted to be undertaken – it was agreed that a deferred commencement consent was not appropriate. As such,

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the applicant was requested to consider a staged consent or advise of any other option to adequately this issue.

In response, the applicant confirmed that they were willing to accept a staged approval for the development as follows:

- *Stage 1 – demolition of existing buildings and preparation of the Detailed Site Investigation (DSI) and Remedial Action Plan (RAP); and*
- *Stage 2 – construction of the multi-purpose sports and recreational facility.*

Granting a staged consent in this manner would allow the buildings to be removed as part of Stage 1 and the DSI and RAP to be prepared and any remediation works undertaken before moving onto Stage 2 construction works, thereby satisfying the consent authority that the site is suitable for the proposed development.

There is no expectation that the DSI would identify any issues that cannot be addressed or that contamination cannot be adequately removed or rehabilitated. Rather, it would provide an understanding of the extent, time and cost to undertake the necessary remediation works.

On this basis, the DA is now deemed to be a **staged development** with separate draft conditions identified for both Stages 1 and 2 which preclude Stage 2 being commenced until the DSI has been completed; a RAP prepared to address any required remediation works identified by the DSI; and any such works subsequently being undertaken and validated by an appropriately qualified environmental consultant to ensure the site is suitable for the proposed land use. To this end, the following conditions have been included as part of Stage 1 in the draft conditions in Appendix 1.

- *Upon completion of all demolition works, the applicant is to complete a DSI and RAP in accordance with the provisions SEPP 55. The DSI and RAP are to be reviewed by an NSW EPA Accredited Site Auditor and an Audit statement submitted to Council's Environmental Health Officer for review and approval prior to commencement of remediation works identified under the RAP.*
- *Upon completion of all works identified under the RAP, a Validation Report is to be submitted in accordance with the provisions of SEPP 55 by an appropriately qualified environmental consultant confirming that all works have been satisfactorily completed and the site is suitable for the proposed development. This report is to be submitted to and approved by Council's Environmental Health Officer prior to construction works commencing on Stage 2 of the development as detailed under this consent.*

Therefore, subject to the consent being staged in this manner and the conditions of stage 1 being satisfied, the proposed development would satisfy the requirements of SEPP 55.

SEPP 19 – Bushland in Urban Areas

SEPP 19 relates to land within Lane Cove LGA. Clause 6(1) requires that a person shall not disturb bushland zoned or reserved for public open space purposes without the consent of the Council. To this end, Lane Cove DCP Part H provides a map that clarifies which bushland is affected by SEPP 19, an extract of which is provided on the following page as Figure 8. The bushland identified as SEPP 19 bushland is shown in green shading, with land adjoining the bushland showing in yellow shading. From this figure, it is apparent that it is not proposed to disturb bushland referred to under Clause 6 (the development site/footprint is bound in red). As such, clause 6 is not relevant.

Rather, the application seeks to undertake development on land adjoining the SEPP 19 bushland, such that clause 9 applies, which relates to a public authority which proposes to either “*carry out*

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development on land to which this clause applies, or proposes to grant approval or development consent in relation to development on land to which this clause applies". In this instance, a public authority is proposing to carry out development on such land.

Under clause 9(2), "the public authority shall not carry out that development or grant the approval or development consent unless it has taken into account:

- (c) the need to retain any bushland on the land,
- (d) the effect of the proposed development on bushland zoned or reserved for public open space purposes and, in particular, on the erosion of soils, the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland, and
- (e) any other matters which, in the opinion of the approving or consent authority, are relevant to the protection and preservation of bushland zoned or reserved for public open space purposes.

It is considered that the matters under (c) and (e) have been satisfied by:

- the development being sited as close as possible to the existing development footprint;
- reference to the BDAR and additional ecological information submitted by the applicant, which addresses the impacts of the development on the bushland; and
- the proposed replacement of removed trees at a ratio of 2:1 and other mitigation measures to be adopted as conditions of consent.\

In addition, item (d) will be addressed during both the construction and operational phase of the development as follows:

- during construction via the implementation of sediment and erosion controls; and
- upon operation via:
 - the implementation of a stormwater reuse system collecting runoff from the roof catchment in a rainwater tank to provide the irrigation water usage requirements for the site, thereby limiting run-off to the surrounding bushland area; and
 - installation of a gross pollutant trap (GPT) at the downstream end of the site prior to the discharge point to treat stormwater from the site drainage network as well as the overflow from the proposed rainwater tank.

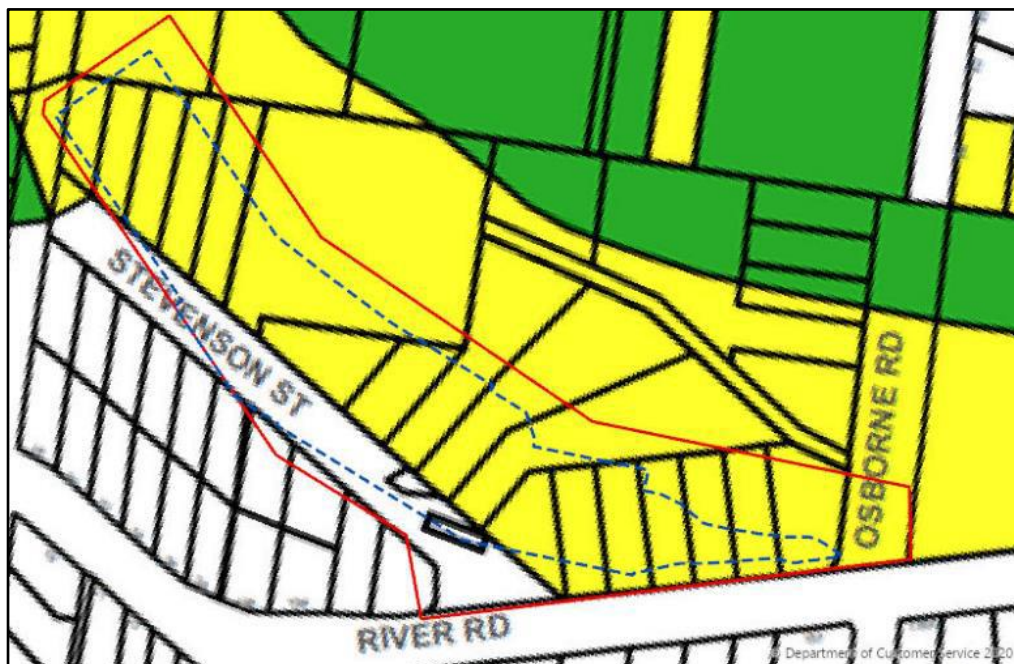


Figure 8 –Extract from Lane Cove DCP 2010 Land Adjoining Bushland Ma

OTHER PLANNING INSTRUMENTS

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The proposed development raises no issues regarding the provisions of policy.

ANY DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS (Section 4.15(1)(a)(ii))

There are no draft environmental planning instruments relevant to the site or application.

ANY MATTERS PRESCRIBED BY THE REGULATIONS (Section 4.15(1)(a)(iv))

Environmental Planning and Assessment Regulation 2000

There are no matters under the Environmental Planning and Assessment Regulation 2000 relevant to the application.

BIODIVERSITY CONSERVATION ACT 2016

Under Section 6.7 of the *NSW Biodiversity Conservation Act 2016* (BC Act), the proposed works trigger the application of the Biodiversity Assessment Method (BAM) due to the proposed clearance of 0.40 ha of native vegetation within the subject land. As this exceeds the clearance threshold of 0.25ha, a Biodiversity Development Assessment Report (BDAR) was required to be prepared for the proposed development. Accordingly, a BDAR prepared by the applicant's ecologist Eco Logical was submitted with the application, which describes the biodiversity values of the site and outlines the measures to be taken to avoid, minimise and mitigate impacts to the vegetation and threatened species habitat present within the development site.

Following exhibition of the application, additional information was requested from the applicant's ecologist to address specific issues raised in number of submissions in relation to the BDAR, including survey effort and whether it adequately addressed particular species such as the Grey-headed Flying Fox, the Powerful Owl and the Sydney Turpentine Ironbark Forest Endangered Ecological Community. Further information was subsequently submitted by the applicant's ecologist which satisfactorily addressing these issues (as confirmed by independent ecologist Cardno – see below). Further details of the issues raised in the submissions and responses to these issues are provided in the Objection Summary Table in Appendix 2.

In summary, the BDAR found as follows:

- The removal of a 0.40ha of vegetation comprises 0.21 ha of Plant Community Type (PCT) 1776: *Smooth-barked Apple – Red Bloodwood open forest on enriched sandstone slopes around Sydney and the Central Coast* in low-moderate condition, and 0.19 ha of planted native vegetation. The proposed development will require 3 offset credits for the removal of 0.21 ha of PCT 1776.
- The BDAR has documented the loss of vegetation and fauna habitat is required to be offset by the purchase and retirement of 3 biodiversity credits.
- The development does not have any *Serious and Irreversible Impacts* (SAIL) as defined under the Biodiversity Assessment Method 2020 (BAM).
- The development would not result in a significant impact to *Pteropus poliocephalus* (Grey-headed Flying-fox) – listed as vulnerable under the BC Act and *Environment Protection and*

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Biodiversity Conservation Act 1999 (EPBC Act) – following an assessment of the Commonwealth Significant Impact Criteria.

The BDAR identifies a range of mitigation measures to ensure the protection of and management of all retained vegetation and surrounding bushland. These measures have been covered by a condition of consent referencing the BDAR or have been covered by specific conditions prepared by Council's Bushland and Tree Preservation officers.

Due in part to the detailed nature of submissions raised in relation to the BDAR and as part of the independent assessment of this application, an independent third-party ecologist (Cardno) was then engaged to do the following:

- review the BDAR and the additional information responding to submissions; and
- provide comments on its appropriateness and the degree to which it adequately addressed the relevant legislation and the impact of the development on any potential threatened or endangered species on the site.

Following their review, Cardno found that the methodology used in the BDAR was sound and adequately addressed the applicable legislative requirements. As a result, the recommendations and findings of the BDAR – as well the additional information and responses submitted following exhibition – were supported (or deemed appropriate) by Cardno. There were some minor gaps in information identified in the review by Cardno, which have since been addressed by Eco Logical via submission an of updated BDAR report.

RESPONSE TO NOTIFICATION (Section 4.15(1)(d))

The application was originally advertised for 28 days between 3rd and 30th June 2021. Following numerous requests for additional time, the notification period was then extended until 14th July 2021. During (and following) this extended notification period, approximately 113 submissions were received (including a number of late submissions and one submission that had 34 pro-forma submissions attached), of which around 100 raised objections to the proposed development. Within the objectors were a number of groups including the Lane Cove Bushland Society, Longueville Residents Association, Northwood Action Group and Greenwich Community Association. The remaining objectors generally comprised adjoining or nearby residents of the site of the development in Stevenson Street, River Road and Northwood Road, as well as residents from the surrounding locality, elsewhere in the LGA and also from outside of the LGA.

The remaining submissions were either in support of – or not opposed to – the proposed development and/or were merely asking questions in relation to same. This included the Lane Cove Country Club, whose submission as the tenant is listed separately in the table referred to below.

The issues raised in the objections have been summarised in a separate table provided as Appendix 2, with comments provided in response to each. The issues raised in the submissions have been grouped under main headings, with recurring or specific issues raised under these headings listed below each. The number of submissions which make reference to each main issue raised is included in brackets after each heading.

Overall, it is considered that the issues raised in the public submissions do not warrant refusal of the application or any further modification of the proposed development. Rather, the relevant issues raised have generally been addressed in the design of the development; the documentation submitted with the application or following lodgement; in comments provided by external authorities or Council assessing officers; or via proposed conditions of consent where necessary.

Conversely, it is noted that a significant number of objections raised issues in relation to the justification, demand/need and business case for the facility and how it is being funded and generally the purported excessive cost of the facility. However, it is considered that these issues fall outside of the parameters of Section 4.15 and hence the scope of the assessment of the application. In this regard, it is not normal practice for any applicant to have to justify the demand for the particular development to the consent authority, nor confirm that it is viable or how it is being funded.

Rather, it is understood that Council as the land owner, proponent and applicant has done extensive investigation and due diligence and undertaken public consultation on the project prior to and as part of the preparation of the application which presumably was sufficient to satisfy themselves as to the project's viability and ability to be funded. These aspects would've also been discussed and agreed upon at the appropriate levels/delegations of Council (both staff and elected officials) as part of a formal and transparent process and then been subject to a formal resolution of the elected Council to pursue the project, as required under the Local Government Act and as part of Council's charter to provide services and facilities to their ratepayers.

ANY PLANNING AGREEMENT (Section 4.15(1)(iia))

There are no known planning agreements applicable to the subject site or proposed development.

THE LIKELY IMPACTS OF THE DEVELOPMENT (Section 4.15(1)(b))

A thorough assessment of the potential impacts of the proposed development on the both the natural and built environment has been undertaken against the various controls and requirements identified in Lane Cove LEP 2009, Lane Cove DCP 2010 and the various other planning instruments and legislation pertaining to the site and proposed land use.

A range of reports prepared by specialist consultants have also been submitted with the application that have identified the various potential impacts of the proposed development and provided advice and/or recommendations as to how the development has or should be designed to avoid or address any such impacts (e.g. Biodiversity/ecological impact report, traffic impact assessment and Light Spill Report). These reports have been reviewed by external authorities, the relevant Council specialist and/or an independent third party (e.g. ecologist) and deemed to be generally sound and their findings and recommendations with respect to the impact of the development valid and appropriate.

In addition, the Statement of Environmental Effects submitted with the application has provided details of how the height and built form of the development has been designed to limit the impact on neighbouring properties in terms of views, solar access and privacy. This has been achieved by limiting the height to 16.3m and the degree to which the development follows the contours of the site and responds to the natural landscape to ensure that the scale is compatible with its surrounds. In conjunction with the further details provided within the Visual Impact Assessment, it is considered that these impacts have been adequately considered and addressed.

Overall, it is considered that the development has been sited and designed to avoid any unreasonable or significant adverse impacts on the local environment or nearby or surrounding residences. Where potential impacts on either the environment or surrounding properties have been identified, it is considered these have been adequately addressed by the submission of additional information or can be adequately mitigated via the adoption of conditions of consent.

THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT (Section 4.15(1)(c))

The site of the proposed development is zoned RE1 Public Recreation Zone in which the use is permissible and specifically encouraged, whilst the infrastructure and utility services necessary to accommodate the proposed development are available to the subject site or can be readily provided where required.

The subject site is not subject to any significant hazards or constraints that would preclude or unreasonably restrict the development or which cannot be addressed via mitigation measures included as conditions of consent (e.g. construction of the development to BAL 12.5 under AS 3959-2018 and compensatory tree replanting).

Moreover, subject to the consent being staged to ensure the DSI and RAP are completed and any works as identified in the RAP undertaken and validated, the site will be suitable for the proposed development from a contamination point of view. Likewise subject to the undertaking of the necessary lead-in roadworks by Council prior to the occupation of the facility, the site will be provided with satisfactory vehicular access which can adequately accommodate the traffic generated by the proposed development.

In addition, significant documentation has been submitted in support of the application that describes the conditions of the site in detail – including a geotechnical assessment, flood report and riparian report – and which subsequently confirm the suitability of the site for the proposed development.

THE PUBLIC INTEREST (Section 4.15(1)(e))

The proposed development is considered to be in the public interest for the following reasons:

- it will contribute to improving access to recreational opportunities and encouraging healthy lifestyles;
- it will assist in revitalising an existing public asset;
- it will provide additional recreational facilities in the Lane Cove LGA that accommodate all ages, including the older population and persons with disabilities; and
- it is likely to provide generally positive social and economic benefits in terms of health, wellbeing, increased employment and improved and more viable facilities.

CONCLUSION

The development application has been assessed in accordance with the matters for consideration outlined in Section 4.15 of the Environmental Planning and Assessment Act 1979. As a result of this assessment, it is considered that:

- The proposed development is permissible on the land and complies with all relevant provisions of Lane Cove LEP 2009 and all relevant SEPPs.
- The proposed development is consistent with the *Liveable Lane Cove Community Strategic Plan 2035*.
- The proposed development complies with the relevant requirements of Lane Cove Development Control Plan 2010.

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- The site is – or can be made – suitable for the proposed development.
- Upon the undertaking of external roadworks by Council as a pre-requisite to the proposed development, satisfactory vehicular access will be provided into the site.
- The issues raised in submissions against the proposal are not considered to warrant refusal or further modification of the proposal, but rather have been addressed in the design of the development, the documentation submitted with or following lodgement of the application or can be addressed via conditions of consent.
- Subject to the implementation of mitigation measures identified in the submitted documentation and specialist's reports – which are cross-referenced in or covered by conditions of consent where necessary – the proposed development is not considered likely to result in a significant adverse impact upon nearby residences or the surrounding locality.
- The proposed development is in the broader public interest.

On this basis, it is recommended that a staged consent be granted to DA 64/2021 subject to the draft conditions listed in Attachment 1.

RECOMMENDATION

1. That a staged consent be granted to DA No. 64/2021 for the demolition of existing structures and construction of a two-storey/part three-storey sports and recreational facility subject to the draft conditions listed in Attachment 1.
2. That the “*Plan of Management for the Lane Cove Golf Course*” be updated to specifically reflect and include the proposed development. The process for the amendment of the Plan of Management is to be commenced by Council during construction of the proposed development and completed as soon as practicable following completion of the proposed development.
3. That those that made a submission in response to the application be advised of SNPP's decision.

Report Prepared by:

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Attachments:

1. Draft Conditions of Consent
2. Submissions Summary Table