

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSNH-353
DA Number	117/2017 S4.55(2)
LGA	Lane Cove Council
Proposed Development (Original Description)	Construction of a seniors housing development comprising 70-bed residential aged care facility, 82 independent living units/self-contained dwellings, with basement car parking for 122 vehicles, new public park and facilities and landscaped through-site link.
Proposed Modification S4.55(2) Description	Construction of seniors housing development comprising 92 independent living units, basement car parking for 181 vehicles, new public park and facilities and landscaped through-site link.
Street Address	266 Longueville Road Lane Cove
Applicant/Owner	Longueville The Village Pty Ltd / Lane Cove Council
Date of S4.55(2)lodgement	29 November 2022
Number of Submissions	65
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Total Cost of the Development is \$81,345,000.00
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (Resilience and Hazards) 2021; • State Environmental Planning Policy (Biodiversity and Conservation) 2021; • State Environmental Planning Policy (Transport and Infrastructure) 2021; • State Environmental Planning Policy (SEPP) No. 65 Design Quality of Residential Flat Development; • State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004; • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004; • Lane Cove Local Environmental Plan 2009 • Lane Cove Development Control Plan 2009
List all documents submitted with this report for the Panel's consideration	Attachment 1 – Architectural Plans Attachment 2 – Draft Conditions Attachment 3 - Comparison Table (approved development vs proposed) Attachment 4 - Applicant's response to Submissions Attachment 5 SNPP Original Determination Attachment 6 - Legal Advice (under separate cover)
Report prepared by	Robert Montgomery, Principal Montgomery Planning Solutions (Independent Consultant)
Report date	17 May 2023

Summary of s4.15 matters

Yes

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

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?

Yes

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

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?

No

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

Not Applicable

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment?

Yes

Declaration by Author

This Assessment Report was prepared by Robert Montgomery, Principal, Montgomery Planning Solutions.

Other than being engaged as an independent consultant by Lane Cove Council, I have no association with the applicant or their professional consultants. Also, I do not carry out any private consultancy work within the Lane Cove local government area.

I am an expert member of the Lane Cove Local Planning Panel

I hereby state that I have no conflict of interest in the preparation of this Assessment Report.



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May 2023

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1. Executive Summary

Montgomery Planning Solutions has been engaged by Lane Cove Council to provide an independent assessment of a section 4.55(2) modification application to Development Consent 0117/2017.

The land is owned by Lane Cove Council, which proposes to lease the land to the applicant, subject to development consent being issued.

Approved by the Sydney North Planning Panel on 6 September 2021, the development is described as:

“Construction of a seniors housing development comprising 70 bed residential aged care facility, 82 independent living units/self-contained dwellings, with basement car parking for 122 vehicles, new public park and facilities and landscaped through-site link.”

The application proposes the following modifications:

- Removing the residential aged care and commercial tenancy components. **Now 92 Independent Living Units only.**
- Provision of an additional basement level. **Carparking now for 181 vehicles.**
- Reconfiguration of floor plan layouts at all levels
- Minor adjustments to building envelope and upgrade of materials and finishes to developments external building elevations
- Upgrade of plantings and finishes to the communal open space and landscaped areas.
- Availability of on-site support services to enable residents to ‘age in place’ for the entire facility including three meals a day provided on a communal basis or to a resident’s dwelling, personal care, home nursing visits, assistance with housework and laundry as required

The application retains the following key features of the original consent:

- The primary categorisation of the land use as a Seniors Housing development
- Maintenance of affordable housing places through a new Affordable Housing Policy
- Maintenance of a foyer and services concierge
- Provision of activity spaces and outdoor recreation areas
- Materially the same built form envelopes including building height, FSR and Setbacks
- Site access including waste collection points and vehicle loading and unloading
- Stormwater management
- Provision of the landscaped through-site link
- Provision of the public park and facilities
- No additional Tree Removal or encroachment toward the bushland at the rear of the site.

Attachment 2 is a detailed comparison of the development statistics as approved and as proposed.

The main issues for this assessment are:

- Whether the application is substantially the same development as that approved;
- Correct calculation of FSR and car parking.
- A number of objections from members of the community.

The following table summarises the recommendations in relation to the relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act, 1979*.

Table 1: Summary of Relevant Matters for Consideration and Legislative Requirements

Provisions	Matters for consideration	Comment	Recommendation
SEPP (Planning Systems) 2021	The development is listed as regionally significant development.	The consent authority is the Sydney North Planning Panel	Approval recommended.
SEPP (Resilience and Hazards) 2021	Consent authority must be satisfied that the land is suitable for the proposed development, either in its contaminated state or following remediation.	This matter was properly dealt with in the original development application and consent.	No changes are proposed to conditions relating to site contamination.
SEPP (Biodiversity and Conservation) 2021	Chapter 2 (Vegetation in Non-Rural Areas) provides that vegetation must not be cleared without approval. The SEP refers to the requirements of the Biodiversity Conservation Act, 2016	This matter was properly dealt with in the original application and consent.	No changes are proposed which would increase removal of vegetation.
SEPP 65 - Apartment Design Guide	Consent authority must consider the design quality of the development in accordance with the design quality principles, and the Apartment Design Guide.	A design verification statement is provided by the project architect. The modifications do not detract from the design quality or compromise the intent of the original development.	Approval recommended.
SEPP (Housing for Seniors or People with a Disability) 2004	Relevant definitions. Location & facilities Access requirements. Affordable housing 10% component Site compatibility certificate conditions re amenity impacts affordable	The proposal is defined as seniors housing. Complies Specialist access report submitted which confirms compliance. 10% provided as affordable places as per SEPP.	Condition to be modified to reflect changes. Draft condition recommended

	<p>dwelling & on-site support services.</p> <p>Rural Fire Service referral due to proximity to bushfire prone land. Comments to be considered.</p>	<p>Not Integrated referral. RFS role is for comments only. Relevant clause of SEPP is satisfied.</p>	
SEPP (Transport and Infrastructure) 2021	<p>Traffic generating development referral to Transport for NSW (TfNSW)</p> <p>Consent authority must consider comments received.</p>	<p>Not Integrated referral. TfNSW role is for comments only.</p>	<p>TfNSW raises no objections to the modification, as it will unlikely have a detrimental impact to the surrounding classified road network.</p>
Lane Cove LEP 2009	<p>CI 4.3 Height of buildings</p> <p>CI 4.4 FSR</p> <p>CI 4.6 Exceptions to development standards</p> <p>CI 5.10 Land in vicinity of a heritage item</p>	<p>Non compliance with building height standard is considered reasonable and justified in the circumstances</p> <p>FSR compliant with permitted 1.6:1 (1.1:1 in LEP plus additional 0.5:1 in Seniors SEPP vertical villages)</p> <p>Considered that there is no heritage impact</p>	<p>The clause 4.6 request was considered and the DA approved by the SNPP.</p>
Lane Cove DCP 2010	<p>Objectives and numerical requirements</p>	<p>Proposal is satisfactory. Minor changes only to some controls/compliance.</p>	<p>Approval Recommended</p>
Whether the development is substantially the same as that originally approved.	<p>EP&A Act requirement s4.55 (2)(a). Consent authority must be satisfied.</p>	<p>Applicant provided detailed submission and legal advice. Council obtained independent legal advice from Senior Counsel, which confirms that the development satisfies the "substantially the same" test.</p>	<p>It is considered that the development as proposed to be modified is substantially the same as the original development.</p>
Likely Impacts	<p>Refer to Section 5.5 of report</p>	<p>Likely impacts have been adequately addressed</p>	<p>Acceptable</p>
Suitability of the Site	<p>Contamination</p> <p>Location & constraints</p>	<p>This matter was considered in the assessment of the original Development Application.</p>	<p>The site is suitable for the development</p>
Submissions Received	<p>65 submissions received</p>	<p>Matters are considered in this assessment report.</p>	<p>Approval recommended</p>
Public Interest	<p>Whether approval is in the public interest</p>	<p>There is significant public interest in providing seniors accommodation and services to</p>	<p>Acceptable</p>

		meet growing demands in accessible locations	
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The application was notified to surrounding residents from 5 December 2022 to 23 January 2023, including a 10 day extension. 65 submissions were received, including 38 proforma emails sent via the do-gooder website.

The application has been assessed having regard to the provisions of Sections 4.15 and 4.55 of the Environmental Planning and Assessment Act, 1979 and the provisions of relevant environmental planning instruments as detailed in this report.

It is concluded that the proposal modification satisfies all relevant statutory requirements and represents a high quality design outcome. It is considered that the development as modified will have a positive impact in that it will increase the supply of high quality seniors housing, providing more housing choice and the option for local residents to remain in the area as they continue to age.

The application to modify the development consent is therefore recommended for approval.

2. Background

The land is owned by Lane Cove Council, which proposes to lease the land to Australian Unity Limited for a period of 99 years, subject to development consent being issued.

The land was rezoned from public recreation to R4 High Density Residential in recent years. The rezoning was initiated by the Council, which had identified a need for high density accommodation for seniors in this locality. The land was also reclassified to Operational Land under the provisions of the *Local Government Act 1993*.

The development benefits from a Certificate of Site Compatibility under Clause 25(4)(a) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*. The effect of this Certificate is to increase the maximum permissible floor space ratio from 1.1:1 to 1.6:1.

Approved by the Sydney North Planning Panel on 6 September 2021, the development is described as:

“Construction of a seniors housing development comprising 70 bed residential aged care facility, 82 independent living units/self-contained dwellings, with basement car parking for 122 vehicles, new public park and facilities and landscaped through-site link.”

Since development consent was issued, the site has been secured by construction fencing and site remediation works have commenced.

A modification made under s4.55(1A) was determined by the Lane Cove Local Planning Panel on 30 November 2022. This modification was administrative in nature and involved no physical changes. The effect of the modification was to change the wording of certain conditions to enable multiple construction certificates to be issued for various components of the development.

It is understood that the present modification is lodged in response to the construction and ongoing operation rights being transferred by Council to a different operator and the desire to provide improved “age in place” facilities for future residents.

3. Site and Surroundings

The site comprises three parcels of land described as Lot 1 in DP 321353, Lot 1 in DP 1227921 and Lot 2 in DP 1227921, with a total area of 9,204m². The site is irregular in shape and has a northern boundary of approximately 147m, an eastern frontage to Lane Cove Golf Course of approximately 81m, a southern boundary of approximately 83m and a combined western frontage to Longueville Road of approximately 103m.

The site has a fall from north to south fall 0.85m along Longueville Road, and a fall from west to east of approximately 18m, from 57.83 AHD near the north-western end of the street frontage to 40.00 AHD near the eastern most edge of the development area. Beyond the eastern edge of the development site, there is a further fall to the east of approximately 10-11m to the Lane Cove golf course.

Figure 1: Satellite Image. Source: NSW LPI SIX Maps

Development in the surrounding area comprises a mix of single and two storey free standing dwelling houses, multi storey residential flat buildings, a Buddhist temple and recreational facilities

To the north is a residential flat building at Nos. 250-252 Longueville Road and detached dwelling houses at Nos. 42-58 Richardson Street. To the east is dense bushland on steep topography that leads down towards the Lane Cove Golf Course.

To the south is, a part three and part four storey residential flat building known as 'Timbertops'. This building relies on a long standing informal arrangement with the Council for the use of the driveway within the subject land for vehicular access to Longueville Road. Figure 2 below illustrates this relationship.

Figure 2: Relationship to "Timbertops Building to South.

Development on the western side of Longueville Road comprises the former Masonic Lodge and detached dwellings.

4. Proposed Modification

The application proposes the following modifications:

- Removing the residential aged care and commercial tenancy components. **Now 92 Independent Living Units only.**
- Provision of an additional basement level. **Carparking now for 181 vehicles.**
- Reconfiguration of floor plan layouts at all levels.
- Minor adjustments to building envelope and upgrade of materials and finishes to developments external building elevations.
- Upgrade of plantings and finishes to the communal open space and landscaped areas.
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The application retains the following key features of the original consent:

- The primary categorisation of the land use as a Seniors Housing development
- Maintenance of affordable housing places through a new Affordable Housing Policy
- Maintenance of a foyer and services concierge
- Provision of activity spaces and outdoor recreation areas
- Materially the same built form envelopes including building height, FSR and Setbacks
- Site access including waste collection points and vehicle loading and unloading
- Stormwater management
- Provision of the landscaped through-site link
- Provision of the public park and facilities
- No additional Tree Removal or encroachment toward the bushland at the rear of the site.

Attachment 3 is a detailed comparison of the modification and the approved development.

5. Assessment under s4.55 of the *Environmental Planning & Assessment Act, 1979*

The application is made under section 4.55(2) of the *Environmental Planning and Assessment Act, 1979*. This section relates to “other modifications” and provides that the consent authority may modify the consent if:

- (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) *it has notified the application in accordance with—*
 - (i) *the regulations, if the regulations so require, or*
 - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

In relation to s4.55(2)(a), the test is whether the development as proposed to be modified is substantially the same development as the development for which consent was originally granted. There is a significant amount of case law relating to this test. The relevant citations are provided below in a brief outline of the principles.

The principles for determining whether a development as proposed to be modified will remain substantially the same may be summarised as follows:

- (a) The comparison to be undertaken is between the proposed development as modified and the original approved development.
- (b) The question of whether a development is substantially the same as that which was originally approved is a question of fact and degree depending on the specific circumstances of each matter which will reasonably admit different conclusions: *Scrap Realty Pty Limited v Botany Bay City Council* (2008) 166 LGERA 342 at [13].
- (c) The meaning of “substantially the same” is “essentially or materially having the same essence”: The question of whether a development is substantially the same as that which was *Vacik Pty Limited v Penrith City Council* [1992] NSWLEC 8, Stein J; supported by Mason P in *North Sydney Council v Michael Standley & Assoc Pty Ltd* (1998) 43 NSWLR 468; 97 LGERA at 440.
- (d) The question of whether the development is substantially the same is not a question which is capable of scientific or mathematical precision, but rather is a judgment based on an overall quantitative and qualitative assessment: *Moto Projects No. 2 Pty Limited v North Sydney Council* (1999) 106 LGERA 298 Bignold J at [56]. This means that it must be a comparison not only of the

- physical changes, but an appreciation of the qualitative impacts of the development as approved.
- (e) However, the exercise is to be considered in the context of a statutory modification power that has been held to be "beneficial" and "facultative": *Houlton v Woollahra MC* (1997) 95 LGERA 201; *Michael Standley & Assoc. Pty Ltd* (supra) at 482; and "free standing": *Michael Standley & Assoc. Pty Ltd* (supra) at 481.
 - (f) It is axiomatic that modifications to a development will result in some change. The term "modify" means "to alter without radical transformation". However, that does not mean that even quite extensive changes will result in the overall development becoming something other than substantially the same. In *Michael Standley & Assoc. Pty Ltd* the scope of the architectural change was significant, but not so as to radically alter the fundamental essence of the development.

As has been raised in submissions, the change of use from part residential care facility and part independent living units (ILU's) to solely ILU's is quite a significant change. However, the test is whether the development as a whole is substantially the same, not whether the change is substantial.

It is relevant to note that both the residential care elements and the ILU element were to be carried out in a building which, to a great extent will present as substantially the same as the original, with a footprint that is substantially the same. The fact that that one of two elements will be carried out in a different way does not mean it is fundamentally different to that which was approved.

In a quantitative sense, more than 50% of the habitable GFA in the original consent was dedicated to ILU's, while less than 50% of the habitable GFA was dedicated to the residential care facility. Given that the deletion of the residential care component does not affect more than 50% of the total, it may be said that substantially, the development is the same. Also, given that residential care will still be provided in the form of home care, an element of residential care will continue in the modified consent.

The second major change is the additional basement excavation for car parking and services. The additional car parking is required to service the ILU's, but it does not mean that the development will operate in a materially different way. The change will not be perceived above the ground and it does not alter the footprint or bulk of the building as perceived from above the ground.

In terms of the qualitative assessment, this is an unusual case where the changes to the development will, on one view, make it less intense than that which was approved. In particular, change to ILU's means that the total population on the site is likely to be less than the approved consent because it can be expected in ILU's that not all bedrooms will be occupied. In contrast in the residential care facility, it can be assumed that the rooms would be fully occupied and serviced by the staff necessary for such a purpose. Staffing levels for ILU's will also be less than anticipated in the original consent. This has the effect of reducing the density.

In addition, there may be other beneficial effects in terms of overlooking from apartments being lessened by occupancy levels being lower compared with care rooms which would be extensively used. The beneficial effects of a modification are important not only in an assessment of the impacts under s 4.15 of the EPA Act, but also in considering the qualitative assessment under s 4.55(3).

Independent advice was obtained from Senior Counsel in relation this matter. The advice concludes that:

“Although two of the changes are of considerable magnitude, they do not result in a development that is not substantially the same as that which was approved. I accept this is a matter on which minds may differ, but in my opinion, considering the beneficial and facultative effect of s 4.55 and the nature of the changes to the built form being within the scope of the modification power, the qualitative and quantitative changes are not so great as to take the matter outside the scope of the power to modify.”

The complete advice is provided to Panel members under separate cover.

In relation to s4.55(2)(b), no conditions were imposed on the original consent by any public authority or approval body in a concurrence role. Therefore, there is no requirement for consultation in respect of the modification .

In relation to section 4.55(2)(c), the application was notified in accordance with the Lane Cove Community Participation Plan 2019.

In relation to section 4.55(2)(d), all submissions received during the prescribed period (notification from 5 December 2022 to 23 January 2023) and up to 12 February 2023 are provided to the panel and considered in this report.

Pursuant to Section 4.55(3) of the Act, the consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified. The reasons for the decision are contained within the:

- Sydney North Planning Panel Determination and Statement of Reasons dated 6 September 2021;
- Assessment Report to SNPP dated 11 July 2018; and
- Supplementary Assessment Report to SNPP dated 4 August 2021.

Copies of these documents are attached as Attachment 5.

Having considered all relevant information, case law and advice from Senior Counsel, it is concluded that the development as proposed to be modified is substantially the same development as the development for which consent was originally granted.

Having reviewed and considered the reasons for the original determination, it is concluded that the proposed modification is not in conflict with any of those reasons.

Accordingly, the Panel can be satisfied in relation to s4.55 of the *Environmental Planning and Assessment Act, 1979*.

6. Section 4.15 Matters for Consideration

In determining an application for modification of a consent under this section 4.55, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The following section 4.15(1) matters have been considered.

6.1 Environmental Planning Instruments

6.1.1 State Environmental Planning Policy (Planning Systems) 2021

In accordance with Schedule 6 of the SEPP, development with a capital value of more than \$30 million, or more than \$5 million where Council is the owner of the land is defined as regionally significant development. The proposal triggers both of these criteria.

The consent authority is therefore the Sydney North Planning Panel.

6.1.2 State Environmental Planning Policy (Resilience and Hazards) 2021

Clause 4.6 of the SEPP provides:

- (1) *A consent authority must not consent to the carrying out of any development on land 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.*

It is considered that the consent authority can be satisfied in relation to the provisions of clause 4.6 of the SEPP, as these matters were considered in the original development application, with appropriate conditions applied to ensure that the site is remediated and will be suitable for the development.

6.1.3 State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 of the SEPP provides that vegetation must not be cleared without approval. The SEPP refers to the requirements of the *Biodiversity Conservation Act, 2016*.

The modification does not result in the removal of any additional bushland or native vegetation compared to the development as originally approved.

Accordingly, the Panel can be satisfied in relation to the SEPP.

6.1.4 State Environmental Planning Policy (Transport and Infrastructure) 2021

The development is identified as “traffic generating development” under the SEPP and the modification was referred to Transport for NSW for comment as required.

Transport for NSW responded on 19 December 2022, raising no objections.

The consultation requirements of the SEPP are satisfied.

6.1.5 State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development

In determining an application, the consent authority must take into consideration the design quality of the development when evaluated in accordance with the design quality principles and the Apartment Design Guide.

The nine design quality principles are listed below with comments relating to the proposal.

Table 2: SEPP 65 Design Principles

Design Principle	Comments
1. Context and neighbourhood character	The site is located within an R4 high density residential zone. The closest building is an existing 4 storey residential flat building adjoining to the south, which is consistent with the zone. A number of detached dwellings adjoin the site to the north. Generous building setbacks are provided to the northern boundary in recognition of the transition between the high density and low density residential zones.
2. Built form and scale	The site has a significant slope down from Longueville Road. The design presents a two-storey façade to Longueville Road with an active entry and small public park essentially at grade. With excavation, the building then becomes six storeys for the remainder of the site with a partial seventh storey.
3. Density	The density of the proposal is considered to be appropriate for the R4 high density residential zone.
4. Sustainability	Solar access and cross ventilation substantially satisfies the requirements of the SEPP.

Design Principle	Comments
5. Landscape	The proposal includes substantial landscaping around the site, within the public park and parallel to the northern boundary, with some landscaping occurring near the southern boundary. The modification does not change this
6. Amenity	The floor plans demonstrate that internal and external amenity for future residents is acceptable. Sufficient setbacks have been provided to the buildings adjoining the land to the north and south to maintain the amenity of those residents.
7. Safety	The design of the development has considered the provision of safe public and private spaces with clearly defined boundaries. .
8. Housing diversity and social interaction	The development provides 92 independent living units comprising 1 one-bedroom, 13 two-bedroom 15 two plus bedroom, 48 three-bedroom and 15 three plus bedroom apartments. As required by the Seniors Living SEPP, 10 % of these apartments will be set aside for affordable places. Different types of communal spaces are provided within the development including gymnasium, auditorium, activities rooms and swimming pool
9. Aesthetics	The built form responds to the local context and the streetscape in Longueville Road. It is considered that the design has good proportions and a balanced composition of materials and textures.

The applicant has submitted a Design Verification Statement (as required) which states that development meets the design quality principles of the SEPP and the requirements of the Apartment Design Guide

The critical key indicators are as follows:

ADG	Requirements	Compliance
2F Building Separation	Varies depending on height	✓
3D Communal and public open space	Minimum 50% direct sunlight for min 2 hours between 9am and 3pm on 21 June.	✓
3E Deep Soil Zones	Min 7% of site with min dimension of 6m	✓
3F Visual Privacy	Min 6m and 9m (depending on height)	✓
4A Solar Access	At least 70% of units to receive min 2 hours direct sunlight between 9am and 3pm at mid winter	✓

4B Natural Ventilation	At least 60% of units to be naturally cross ventilated	✓
4C Ceiling Heights	Minimum habitable ceiling heights will be 2.7	✓
4D Apartment Size and Layout	Minimum area of apartment depending on number of rooms. Window in external wall required for all habitable rooms	✓
4E Private Open Space	Minimum sizes and dimensions for private balconies	✓
4F Common Circulation and spaces	Max 8 apartments of a circulation core on a single level	✓
4F-2 Common Area Circulation	As described in 4B the creation of spaces for casual social engagement is an important dimension of this project, because of the age profile of the residents who will be mostly over 74 years old.	✓
4G Storage	Each dwelling will have storage space based on number of bedrooms	✓
4K Apartment Mix	Flexible configurations and variety of size	✓
4Q Universal Design	20% of apartments to incorporate Livable Housing Guideline's silver level universal design features	✓

Overall, it is considered that the proposal is an appropriate design response to SEPP 65 and the Apartment Design Guide.

6.1.6 State Environmental Planning Policy (Building Sustainability Index: BASIX)

This SEPP aims to ensure consistency in the implementation of the BASIX scheme throughout the State by overriding provisions of other environmental planning instruments and development control plans that would otherwise add to, subtract from or modify any obligations arising under the BASIX scheme.

A new BASIX certificate for the proposed development was submitted with the modification. Also, a NatHERS certificate was submitted details that the development as modified will achieve an average energy rating of 6.9 stars.

The requirements of the SEPP are satisfied.

6.1.7 State Environmental Planning Policy (Housing) 2021

This SEPP contains general savings provisions in Schedule 7A. Clause 2 of the schedule provides (relevant subclauses highlighted):

2 General savings provision

(1) This Policy does not apply to the following matters—

- (a) a development application made, but not yet determined, on or before the commencement date,
- (b) a concept development application made, but not yet determined, on or before the commencement date,
- (c) a staged development application made subsequent to a concept development application approval granted on or before the commencement date,
- (d) a development consent granted on or before the commencement date,**
- (da) an application to modify a development consent granted after the commencement date, if it relates to a development application made, but not determined, on or before the commencement date,
- (e) an environmental impact statement prepared in compliance with an environmental assessment requirement that is—
 - (i) issued by the Planning Secretary on or before the commencement date, and
 - (ii) in force when the statement is prepared,
- (f) the carrying out of an activity after the commencement date if—
 - (i) notice of the activity has been given to the council under the repealed ARH SEPP, clause 40A(2), and
 - (ii) an approval required under the Act, Part 5 for carrying out the activity is granted by the determining authority before 26 November 2022.

(2) The provisions of a repealed instrument, as in force immediately before the repeal of the repealed instrument, continue to apply to a matter referred to in subsection (1).

SEPP (Housing) 2021 came into force on 26 November 2021. The original development consent was granted on 6 September 2021, ie before the commencement date.

State Environmental Planning Policy (Housing) 2021 does not apply. The provisions of the former SEPP (Housing for Seniors or People with a Disability) 2004 apply to the modification.

6.1.8 State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

The relevant clauses of the SEPP were considered in the assessment of the original development application. The relevant matters for consideration of the modification are set out below.

Clause 10 of the Policy defines seniors housing:

10 Seniors housing

*In this Policy, **seniors housing** is residential accommodation that is, or is intended to be, used permanently for seniors or people with a disability consisting of:*

- (a) a residential care facility, or
- (b) a hostel, or
- (c) a group of self-contained dwellings, or
- (d) a combination of these,

but does not include a hospital.

The modified development comprises a group of self-contained dwellings, and therefore satisfies the definition of seniors housing.

32 Design of residential development

A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2.

The design principles are set out in clauses 33 – 39. A detailed review of these principles was included in the assessment report for the original DA. The modification does not substantially alter compliance with these principles.

41 Standards for hostels and self-contained dwellings

- (1) *A consent authority must not consent to a development application made pursuant to this Chapter to carry out development for the purpose of a hostel or self-contained dwelling unless the proposed development complies with the standards specified in Schedule 3 for such development.*

Schedule 3 details 21 standards relating to accessibility and useability and includes matters such as circulation spaces, room design, lifts and storage. The modification is accompanied by a statement of compliance by an access consultant.

45(6) Requirements relating to affordable places and on-site support services

A consent authority may only grant consent to a development application as referred to in subclause (2) if:

- (a) the consent authority is satisfied, on written evidence, that:*
 - (i) the proposed development will deliver on-site support services for its residents, and*
 - (ii) at least 10% of the dwellings for the accommodation of residents in the proposed development will be affordable places, and*
- (b) the applicant identifies, to the satisfaction of the consent authority, which of the dwellings for the accommodation of residents in the proposed development will be set aside as affordable places.*

The applicant states that on-site support services will be available to enable residents to age in place for the entire facility including three meals a day provided on a communal basis or to resident's dwelling, personal care, home nursing visits, assistance with housework and laundry as required.

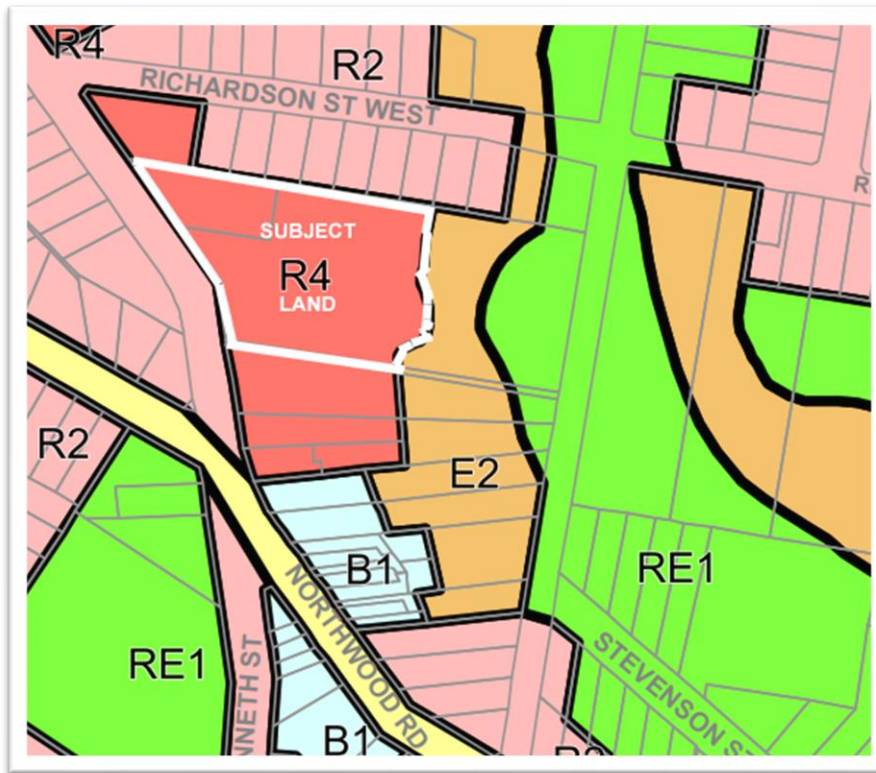
10 units (10.8%) will be allocated to affordable housing in accordance with the requirements of the SEPP and the Operator's affordable housing Policy.

It is considered that the modification satisfies all relevant requirements of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

6.1.8 Lane Cove Local Environmental Plan 2009

The land is zoned R4 High Density Residential under the provisions of Lane Cove LEP 2009.

Figure 5: Extract from Lane Cove LEP 2009 Land Zoning Map LZN_004



Residential flat buildings are permissible within the R4 zone, therefore seniors living is permissible under the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

Clause 2.3(2) provides:

- (1) *The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.*

The objectives of the zone are reproduced below with comments in relation to the development.

- *To provide for the housing needs of the community within a high density residential environment.*

The development as proposed to be modified satisfies this objective.

- *To provide a variety of housing types within a high density residential environment.*

The development as proposed to be modified provides a range of three, two and one bedroom apartments for seniors with availability of on-site support services.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The development as proposed to be modified includes an open space area which is accessible to the public.

- *To provide for a high concentration of housing with good access to transport, services and facilities.*

The land is located some 800 metres from the southern edge of Lane Cove Village. A bus stop is located on Longueville Road at the front of the land. A number of services are also be provided within the development by the operator.

- *To ensure that the existing amenity of residences in the neighbourhood is respected.*

The development is designed to respect and minimise the amenity of adjoining residences. The proposed modification does not create additional impact.

- *To avoid the isolation of sites resulting from site amalgamation.*

The development site is an amalgam of three titles. There is no opportunity for further development of the any of the adjoining sites with an existing residential flat building adjoining to the south and partially to the north, detached dwellings within the R2 low density zone to the north and bushland zoned E2 to the east.

- *To ensure that landscaping is maintained and enhanced as a major element in the residential environment.*

A considerable number of mature trees are to be retained on the land. A comprehensive landscape plan also proposes new plantings and enhancement of existing landscaping. The proposed modification does not alter this situation.

It is concluded that the Panel can be satisfied in relation to the Clause 2.3(2) of Lane Cove LEP 2009.

4.3 Height of buildings

(1) *The objectives of this clause are as follows:*

- to ensure development allows for reasonable solar access to existing buildings and public areas,*
- to ensure that privacy and visual impacts of development on neighbouring properties, particularly where zones meet, are reasonable,*
- to seek alternative design solutions in order to maximise the potential sunlight for the public domain,*
- to relate development to topography.*

(2) *The height of a building on any land is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).*

The Height of Buildings Map provides a maximum height for the subject land of 62.8m AHD. The height of the approved building varies between RL 62.6m and RL67.76m. A written request under Clause 4.6 of Lane Cove LEP 2009 was accepted by the Sydney North Planning Panel in its decision to approve the original development application.

The proposed development as modified ranges in height from RL 63.3m to RL 66.9m. Table 3 below provides a comparison between the approved development and proposed modification.

Table 3: Building Height Comparison

Building	Approved	Proposed Modification
Building A: roof	RL63.7	RL63.3
Building A: lift overrun	RL64.9	RL66:.0
Building B: roof	RL 67.0	RL66.9

Building B: lift overrun	RL 67.7	RL66.9
Building C: roof	RL 63.4	RL 63.4
Building C: lift overrun	RL66.8	RL66.9

Parts of the development as modified remain higher than the maximum building height, however, there is an overall marginal reduction in height of the development as modified compared to the approved development.

Although a formal request under clause 4.6 of Lane LEP 2009 is not required for a modification, the applicant has satisfactorily addressed the matters which would be required for a formal request.

It is considered that the objectives of the height of buildings clause are satisfied by the overall design response to the site. The impacts of the height exceedance of the modification are less than the approved development.

4.4 Floor space ratio

(1) *The objectives of this clause are as follows:*

- (a) *to ensure that the bulk and scale of development is compatible with the character of the locality.*
- (2) *The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the [Floor Space Ratio Map](#).*

The site is identified on the Floor Space Ratio Map as having a maximum floor space of 1.1:1. As a Site Compatibility Certificate which states that the land is suitable for more intensive development, an additional floor space ratio (FSR) bonus of 0.5:1 is applicable pursuant to Clause 45 Vertical villages of the Seniors SEPP. The maximum permissible FSR for the site is therefore 1.6:1.

The development as proposed to be modified achieves an FSR of 1.587:1, which is marginally less than the approved 1.589:1.

The proposed development as modified complies with the maximum permissible FSR of 1.6:1.

10 Heritage conservation

The site is located opposite heritage item No. 1182, at No. 231 Longueville Road, identified as a Masonic Temple and is located in the vicinity of Item No 1194, a house in West Richardson Road.

The original application was accompanied by a Heritage Impact Statement prepared by Cracknell & Lonergan Architects, which concluded that the development would not impact the nearby heritage items.

Council's Heritage Advisor has reviewed the modification details and raises no objection.

It is considered that the development as modified creates no impact in terms of heritage.

6.2 Draft Environmental Planning Instruments

There are no draft environmental planning instruments applying to the land.

6.3 Development Control Plans

Lane Cove Development Control Plan (DCP) 2010 applies to the subject land. The development as originally approved was assessed in detail against the Lane Cove Development Control Plan and it was concluded that the objectives of the DCP were achieved and the development was compatible with the surroundings.

The development as modified is largely unchanged but does introduce some minor changes, which are listed in Table 4 below.

Table 4: Lane Cove DCP as it relates to the modification.

DCP Clause	Approved	Proposed Modification
B.6.3 Energy & Water Efficiency	Identified as compliant	A new BASIX Certificate is provided along with a NatHERS Certificate which achieve compliance
Part C - Locality 7 – 266 Longueville Road Building Separation		
Northern boundary	12.1m – 24.9m	No change
Southern Boundary	12.0m – 15.2m	12.8m – 15.2m
Courtyard 1	12m	12m – 13.2m
Courtyard 2	16.5m	17.7m
Part C - Locality 7 – 266 Longueville Road Setbacks		
West	8.3m	Unchanged
East	3.9m	3.8m
North	12.1m	Unchanged
South	10.7m	Unchanged
Part C - Locality 7 – 266 Longueville Road Car Parking		
Refer to discussion in section 6.5.1 of this report	122	181
Part C Residential Development – C3 Residential flat buildings		
3.10 - Size and mix of dwellings (10% per unit type)	Compliant	1 x one bedroom (not compliant) 28 x two bedroom 63 x three bedroom Refer to discussion below.

In relation to apartment mix, the applicant submits that the minor variation in respect of one bedroom units is based on consultation by the operator which indicates that demand for spacious ILU's within the Lane Cove LGA is high to suit "downsizers" and the ability to age in place. The modified development incorporates consumer expectations and does provide a variety in size and configuration of the ILIU's.

Having reviewed the changes proposed by the modification, it is concluded that the development as modified is acceptable in terms of the Lane Cove Development Control Plan.

5.4 Matters Prescribed by the Regulations

These matters were dealt with in the original development application and are satisfactory.

6.5 Likely Impacts of the Proposed Development

6.5.1 Impacts on the Natural Environment

The impacts were considered in the assessment of the original development application. The development has a critical interface with the bushland reserve adjoining the eastern boundary. The setback to this boundary is reduced by 100mm, however as demonstrated in the architectural plans, this elevation is well articulated on each level. The modification will not result any additional tree or vegetation removal.

A revised geotechnical report was submitted with the modification. In relation to groundwater, the report states that “we do not anticipate that as a result of excavation and dewatering there will be any adverse impact on the neighbouring properties or on the groundwater table, which drains naturally to the Gore Creek valley below the site”.

A revised ecological impact statement was provided with the modification, which concludes that “the development could proceed with adherence to plans that would minimise environmental impacts, both during construction and operation phases”.

The development as modified will substantially occupy the same footprint as the approved development. The height of the building is slightly less than the approved development.

It is considered that the modification does not bring about any different or additional impacts on the natural environment compared to the approved development.

6.5.1 Impacts on the Built Environment

The modification includes changes to materials and finishes. The building occupies substantially the same footprint, and is similar in height, bulk and scale to the development as originally approved. Setbacks to boundaries are essentially maintained.

The development as modified does not create any additional overshadowing to neighbouring properties. While the introduction of private balconies to levels 3 and 4 could potentially provide opportunities for overlooking, it is considered that the setbacks provided to the northern and southern boundaries will be sufficient to retain privacy. It is also noted that the additional balconies are located within the footprint of the building as originally approved, so will be no closer than window locations in the approved development.

It is noted that impacts on amenity, privacy and views were considered in detail in the assessment report for the original development application.

It is considered that the modification does not bring about any additional impacts on the built environment compared to the approved development.

6.5.1 Access, Transport & Traffic

(I) Access,

Longueville Road is a local unclassified road which is owned and managed by Council.

Access to the development is proposed by a one-way vehicle entry from Longueville Road to a street level portico at level 5 located some 30 metres north of the southern boundary, and a two-way driveway located along the southern boundary which accesses the basement car park and service areas. Both driveways are treated with left in-left out restrictions. This southern driveway also provides vehicular access to the adjoining “timbertops” apartment building.

The approved access configuration is not changed by the modification.

(II) Parking

A traffic and parking impact assessment was prepared by McLaren Traffic Engineering & Road Safety Consultants for the modification.

The development as approved provided on-site parking is provided for 122 cars. The development as modified proposes to provide 181 spaces.

Rather than providing a requirement for car parking, SEPP (Housing for Seniors or People with a Disability) 2004 in clause 50(h) provides that an application cannot be refused if parking is provided at least for 0.5 car spaces for each bedroom where the development application is made by a person other than a social housing provider. The modified development will contain 246 beds in 92 units. Therefore, the minimum number to avoid refusal of a DA is 123 spaces. This is generally regarded as a minimum standard for car parking under the SEPP.

Under the provisions of Lane Cove DCP 2010, the minimum number of parking spaces for residential flat buildings is calculated at 1 space per one bedroom unit, 1.5 spaces per 2 bedroom unit and 2 spaces per 3 bedroom or larger, plus 1 visitor space per four units. This calculates to a requirement for 192 spaces. There is no specific requirement in the DCP for seniors living parking rates, however it is open to applicants to provide analysis for the proposed parking rates.

If one uses the parking rate from the SEPP, the proposed modification provides an excess of 58 spaces. Using the Lane Cove DCP, the modification is deficient by 11 spaces. The implication is that parking in excess of that needed to meet any requirements of the SEPP or the Council may be counted as gross floor area, therefore impacting on the FSR for the development.

To obtain some clarity in this regard, advice was sought from Senior Counsel on the correct interpretation. In summary, the provision of the SEPP is ambiguous in several respects. The complete advice is provided to the Panel under separate cover, however it is concluded that it is open to the Panel to apply the DCP standard over the “must not refuse” standard for the purposes of calculating GFA.

The development as modified provides more car parking than the “must not refuse” standard of SEPP Housing for Seniors or People with a Disability) 2004. Therefore, any possible shortfall in numbers in the Lane Cove DCP is not grounds for refusal. The provision of 181 car parking spaces as proposed is considered reasonable having regard to the differing standards and the likely actual demand for parking. There are no GFA implications.

(II) Traffic Generation

McLaren Traffic Engineering & Road Safety Consultants has provided a detailed review of traffic generation for the modification. Traffic generation is based on the RTA Guide to Traffic Generating Developments (2002) and recent technical directions adopted by Transport for NSW. For the proposed 92 independent living units, traffic generation is calculated as 37 AM peak hour trips (7 in, 30 out) and 37 PM peak hour trips (30 in, 7 out).

This level of traffic is lower than the traffic generation associated with the approved development, being some 61 peak hour trips. The modification results in a net decrease of 24 vehicle trips during the peak times. The McLaren report provides trip assignment data and a review of traffic impact using SIDRA analysis of the relevant nearby intersections. The report concludes that the modified development “is fully supportable in terms of its traffic and parking impacts.

Based on the traffic analysis prepared by the applicant, the development as modified is likely to have a lower traffic generation compared to the approved development. Therefore, the impacts are expected to be less than the approved development.

6.5.2 Social Impacts

The applicant submits that the proposed development will have a positive social impact in that it will increase the supply of high quality seniors housing, providing more housing choice and the option for local residents to remain in the area as they continue to age. Other positive impacts include the remediation of the site and the provision of substantial gardens and positive contributions to the public domain.

In my opinion the proposed development as modified will have a positive social impact on the locality and the wider Lane Cove LGA by providing accommodation and services in a suitable location to meet the demands of an aging population.

6.5.3 Economic Impacts

The proposal would provide short term employment opportunities during demolition and construction and long-term employment with some 10 operational staff. In my experience, large developments such as that proposed also provide significant ongoing opportunities for local contractors in servicing the buildings, plant and equipment.

It is considered that the development would have a positive economic impact.

6.5.4 Public Domain

The public domain is well served by this development. A small park is provided in the north-west corner of the site and a public pathway is provided linking Longueville Road with the adjoining golf course to the east. No changes are proposed by the modification.

6.6 Suitability of the Site for the Proposed Development

The suitability of the site was established by the granting of the original development consent.

The site has appropriate physical characteristics to support a development of this scale, while minimising impacts to surrounding properties. The proposed modification does not affect the suitability of the site.

6.7 Submissions Received

The application was notified to surrounding residents from 5 December 2022 to 23 January 2023, including a 10 day extension. 65 submissions were received, objecting to the modification and/or the development, including 38 proforma emails sent via the do-gooder campaign website. The following table provides a summary of the matters raised in the submissions and comments in response. The applicant was invited to respond to the submissions and this response is included as Attachment 4 to this report.

	Matters Raised	Frequency	Comment
1	The development is not substantially the same as that approved and a new DA is required	53	This matter is considered in detail in section 5 of this report and is the subject of independent advice from Senior Counsel which has been provided to Panel members. The Panel has sufficient information to determine the application and has the power to modify the consent as proposed.
2	A new site compatibility certificate should be required	40	The application is to modify the original consent. There is no statutory requirement to obtain a new site compatibility certificate.
3	Additional FSR is not permitted	39	The development as modified complies with the maximum permissible FSR for the site.
4	Panel should obtain legal advice re substantially the same development	38	Advice from Senior Counsel is provided to the Panel under separate cover.
5	50% of DA is not compliant with the built form in the DCP and SCC of May 2020	37	The proposed modification is substantially the same as that originally approved. The built form is similar in height and the building footprint is essentially the same.
6	DA has been rejected by RMS on safety and traffic grounds	39	RMS did not object to the original application. The modification was referred to Transport for NSW, which raised no objection.
7	DA has been rejected by RFS	38	This is incorrect. RFS provided some suggested conditions in response to original DA. The modification was not required to be referred to RFS. The land is not identified as bush fire prone.
8	SNPP consent is unjustly based on a \$32M benefit to Council	37	This is an opinion and is not based on fact. Matter for the Panel.
9	There will be an oversupply of seniors living in Lane Cove due to other developments	37	There is no evidence to suggest that this is the case. Notwithstanding, this is not a matter for consideration under the EP&A Act, 1979.
10	Shortage of green space and need for recreation areas	37	The land is zoned R4 High Density Residential. The development is consistent with this zone.
11	LCC held back notification over holiday	38	This is incorrect. The modification was lodged on 29 November 2022. Notification commenced on 5 December 2022.

	break when application was lodged in October		
12	Insufficient time for community to respond	1	The application was notified from 5 December 2022 to 23 January 2023, including a 10 day extension. Submissions received to 12 February 2023 are included in this assessment.
13	50% increase in parking will create a substantial increase in traffic	1	The traffic report submitted with the modification demonstrates that traffic generation will be lower than the approved development.
14	Community land should not be used for private purposes	2	The land is classified as operational land under the provisions of the Local Government Act, 1993.
15	Removal of aged care places is not acceptable	4	A mix of independent living unit sizes is proposed to facilitate different circumstances. All facilities will be provided to allow aging in place.
16	Increased traffic in Austin Street		The traffic report submitted with the modification demonstrates that traffic generation will be lower than the approved development.
17	Entry price will be higher due to all being independent units	1	This is not a relevant matter for consideration under the EP&A Act, 1979.
18	Traffic and parking surveys are flawed	1	The submitter provides no basis for this claim.
19	Request inquiry by Governor of NSW	2	This is not a matter for consideration by the Panel.
20	DA should go through unfettered DA acceptance process	37	The modification was lodged on the NSW planning portal, which is accessible to the public. The assessment is prepared by an independent town planner, legal advice has been provided by an independent Senior Barrister and the Sydney North Planning Panel, as an independent Panel, is the consent authority which operates in a public environment.
21	Assignment of the lease to a different operator is invalid	1	This is not a relevant matter for consideration under the EP&A Act, 1979.
22	The independent assessor, Council, SNPP Chair and have a conflict of interest	2	This report includes a declaration of interest, which confirms that there is no conflict. All members of the SNPP will publicly declare whether they have any conflict of interest.
23	Uplift in value of site – Additional value should be paid to council	1	This is not a relevant matter for consideration under the EP&A Act, 1979
24	Vegetation and wildlife corridor will be impacted by additional basement, swimming pool and auditorium	1	The modification was accompanied by a geotechnical report which concluded that there will be no impacts.

25	Light spill from additional balconies will impact bushland	2	It is understood that the additional balconies proposed in the modification do not directly face the bushland reserve. Molino Stewart completed an updated flora and fauna assessment which concludes that the development can proceed
26	Insufficient information re environmental impacts	1	The modification was accompanied by a number of updated environmental reports and detailed comparison plans.
27	Affordable housing should be provided	1	10% of the independent living units will be available for affordable housing in perpetuity. Only change is the range of units provided generally.

6.8 The Public Interest

The proposal as modified, will have no additional adverse impacts compared to the development as originally approved. Indeed, the overall building height is reduced and the number of car parking spaces is increased, while traffic generation is reduced. The applicant has demonstrated that the environmental impacts of the proposal are minimised and are acceptable.

Although some 65 objections were received, it is considered that there is a greater public interest in this compliant development proceeding, so as to meet increasing demand for seniors housing and services in accessible locations.

7. Conclusion

The proposal modification satisfies all relevant statutory requirements and represents a high quality design outcome. It is considered that the development as modified will have a positive impact in that it will increase the supply of high quality seniors housing, providing more housing choice and the option for local residents to remain in the area as they continue to age.

The application has been assessed having regard to the provisions of Sections 4.15 and 4.55 of the Environmental Planning and Assessment Act, 1979 and the provisions of relevant environmental planning instruments as detailed in this report.

In my opinion, the development as modified will result in lower impacts when compared to the approved development.

It is concluded that the proposed modification satisfies the required “substantially the same development” test and the development as modified will not result in adverse impacts when compared the approved development.

Approval is therefore recommended.

8. Recommendation

That:

- A.
1. The Panel is satisfied that the proposed modification:
 - is substantially the same development as the development for which consent was originally granted and before that consent was modified;
 - has been notified in accordance with the Lane Cove Community Participation Plan 2019; and
 - has been assessed having regard to the relevant matters in s4.15(1) EP&A Act.
 2. The Panel has considered all submissions made concerning the proposed modification within the period provided by Lane Cove Community Participation Plan 2019.
 3. The Panel has taken into account the reasons of the consent authority that granted the consent that is sought to be modified.
- B.
- Pursuant to the provisions of Section 4.55 of the Environmental Planning and Assessment Act, 1979, the Sydney North Planning Panel, as the relevant consent authority, approve the modification to Development Consent DA117/2017 for a seniors living development at 266 Longueville Road Lane Cove, subject to the following updated conditions (changes are bolded):
1. The description of the development is amended to read:

Construction of a seniors housing development comprising 92 independent living units/self-contained dwellings, with basement car parking, new public park and facilities and landscaped through site link.
 2. Condition 1 is amended to reflect the following amended documentation:
 - *Access Report*
 - *Acoustic Report*
 - *Arborist Report*
 - *Affordable Housing Policy*
 - *Architectural Plans*
 - *Basix Certificate*
 - *BCA Report*
 - *Fire Safety Schedule*
 - *Bus Stop Relocation Letter*
 - *Construction Traffic Management Plan*
 - *Ecological Report*
 - *Geotechnical Report*
 - *Landscape Plans*
 - *Operational Plan of Management*
 - *Remedial Action Plan*
 - *Stormwater Management Report*
 - *Traffic Report*
 - *Waste Report*

3. Delete conditions 2.1 and 2.2

Note: These conditions relate to compliance with FSR, which is resolved in the modification

4. Condition 3.1 is amended to reflect that Morrison Design Partnership Architect as the new Design Architect.
5. Condition 5 is amended to make reference to the updated Landscape Plan.
6. Condition 11.1 & 11.3 to be updated to ensure that developer contributions are amended to reflect the revised apartment numbers and mix.
7. Condition 62 is amended to reflect the location as shown in the architectural plans, or as otherwise directed by the electricity service provider.
8. Condition 149 is amended to reflect the recommendations contained in the updated Arborist Report.
9. Condition 154 is amended to require that 10 independent living units are to be made available as affordable housing in accordance with the Operator's affordable housing policy.