

21 February 2023

Attn: Rajiv Shankar – Manager, Development Assessment

The General Manager  
Lane Cove Council,  
48 Longueville Rd,  
Lane Cove, NSW 2066.

Dear Mr Shankar,

### RESPONSE TO APPLICATION SUBMISSIONS

#### S4.55(2) MODIFICATION TO DA117/2017 - 266 LONGUEVILLE ROAD, LANE COVE

GYDE Consulting act on behalf of Longueville The Village Pty Ltd, the applicant regarding a current Section 4.55(2) Modification Application under Part 4 of the EPA Act 1979 to modify Development Consent DA117/2017.

This consent was granted for the construction of a new senior's housing development with basement car parking, site, and landscape works, including a new public park and facilities with a landscaped through-site link on land at Lot 1 in DP 321353, Lot 1 in DP 1227921 and Lot 2 in DP 1227921, No. 266 Longueville Road, Lane Cove.

Council placed the application on exhibition for an extended period of 49 days (28 days less the Christmas / New Year exclusion period) between 5 December 2022 and 23 January 2023. From our review it appears that 61 unique submissions (multiple letters from the same author have been calculated as one submission) were received by Council at the conclusion of the public exhibition period. Of the submissions received, it should be noted that 20 were unique individual submissions from community members, 3 submissions were from Community Action Groups and 38 submissions were from community members generally using a proforma template.

To assist the consent authority in its reasonable consideration of the matters raised within the submissions in the context of the applicable planning controls, we provide a response to key matters in the table below.

SUBMISSION ISSUE	APPLICANT RESPONSE
SNPP has reversed its previous decision with respect to the DA117/17	<ul style="list-style-type: none"><li>The application to modify the consent has been lodged and is currently under assessment in accordance with the Environmental Planning and Assessment Act 1979.</li><li>No determination on the subject application has been made by the Sydney North District Planning Panel regarding development since Development Consent to DA117/2017 was issued in late 2021.</li></ul>
Application should be subject to an open, comprehensive process.	<ul style="list-style-type: none"><li>The application has been lodged on the NSW Planning Portal</li><li>Application details and documents have been made publicly available on Council's DA tracking system.</li><li>Council placed the application on exhibition for an extended period of 49 days (28 days less the Christmas / New Year exclusion period) between 5 December 2022 and 23 January 2023.</li><li>In accordance with SEPP (Planning Systems), the application is identified as Regionally Significant Development, as such the Sydney North District Planning Panel is the consent authority for the application and will proceed with publicly available information to independent determination.</li></ul>

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Full inquiry into recent activities of Council to determine if they have been involved in corrupt practices	<ul style="list-style-type: none"> <li>• Submission issue is beyond the scope of the application.</li> <li>• Sydney North District Planning Panel is the consent authority for the application and will undertake and independent review and determination of the proposed application.</li> <li>• The consent authority must consider the merits of the proposed development in the context of the EPA Act 1979 requirements.</li> <li>• Any person with concerns regarding corrupt practices should refer the matter via the appropriate process to the relevant oversight agency such as the NSW Ombudsman or ICAC.</li> </ul>
Request for new independent assessor	<ul style="list-style-type: none"> <li>• Submission issue relates to process and governance matter for Council to review and determine.</li> <li>• Notwithstanding, it is important to note that irrespective of the Council's appointed assessor; in accordance with SEPP (Planning Systems), the application is identified as Regionally Significant Development, as such the Sydney North District Planning Panel is the consent authority for the application and will undertake and independent review and determination of the proposed application.</li> </ul>
Regional building regulations and Council's own building guidelines have been consistently modified through numerous development applications by this project's developers.	<ul style="list-style-type: none"> <li>• Submission issue is beyond the scope of the application.</li> <li>• The consent authority must consider the merits of the proposed development in the context of the EPA Act 1979 requirements not the merits of previously determined applications at the site or application on other sites.</li> </ul>
Application was notified through the Christmas holiday period, disenfranchising the Lane Cove residents by attempting to have these approved unnoticed and preventing access to professional advice.	<ul style="list-style-type: none"> <li>• Development Applications and Modification follow a process.</li> <li>• The application has been lodged on the NSW Planning Portal</li> <li>• Application details and documents have been made publicly available on Council's DA tracking system.</li> <li>• Council placed the application on exhibition for an extended period of 49 days (28 days less the Christmas / New Year exclusion period) between 5 December 2022 and 23 January 2023.</li> <li>• The adopted Council's Community Participation Plan 2019 anticipates that applications will continue to be lodged throughout the year. To cater for concerns around the Christmas new year period, additional time is included in the public exhibition process.</li> <li>• In accordance with SEPP (Planning Systems), the application is identified as Regionally Significant Development, as such the Sydney North District Planning Panel is the consent authority for the application and will proceed with publicly available information to independent determination.</li> </ul>
The "substantially the same development" test	<ul style="list-style-type: none"> <li>• The "substantially the same development" test is an element of s4.55(2) of the EPAA which must be met.</li> <li>• There is extensive LEC case law which guides the tests application.</li> <li>• The submitted Planning Statement prepared by GYDE and supplementary Legal Advice prepared by Mills Oakley provide extensive consideration and assessment of the proposal in relation to the test.</li> <li>• Both the Planning Statement and Legal Advice conclude that in the context of the EPAA requirements and the guiding case law, the application as proposed meets the Substantially the Same test.</li> <li>• By way of a brief explanation, the 'Substantially the same' test: <ul style="list-style-type: none"> <li>○ Relates to how the 'development' as modified relates to the development as originally approved.</li> <li>○ The modified development is required to be 'essentially' or 'materially' the same essence as the approved development.</li> <li>○ To identify if the proposal as modified is 'essentially' or 'materially'</li> </ul> </li> </ul>

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	<p>the same, a qualitative and quantitative comparative analysis of the development elements (not the circumstances of the giving of the development consent) or the resulting impacts is to be undertaken.</p> <ul style="list-style-type: none"> <li>○ Even if elements of the modifications are significant in their own way, the proposed modified development may still be substantially the same.</li> <li>○ A modification to alter land use may satisfy the 'substantially the same' test if it merely changes the detailed activities, transactions or processes which will take place.</li> </ul> <p>In summary, and as detailed in the submitted Planning Statement, the proposal satisfies the test as:</p> <ul style="list-style-type: none"> <li>a) Development Consent DA117/2017 is primarily a consent for a 'seniors housing' land use as per the former State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, this aspect of the approved development will not change in terms of how the development is viewed or interpreted in terms of the built form and operation of the premises.</li> <li>b) Affordable housing places pursuant to Clause 45(6) of SEPP HSPD is maintained. In this regard the operator will make available through a new Affordable Housing Policy which provides: <ul style="list-style-type: none"> <li>• 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: and</li> <li>• 10 Units (10.8%) of the inventory at its 266 Longueville Road Seniors precinct to be eligible for affordable housing residents.</li> </ul> </li> <li>a) The consent approved 82 ILUs as seniors housing in a residential flat development form. The expansion of the number independent living units to 92 and removal of the residential aged care facility and minor commercial tenancy components in the same built form merely reflects a change to the scale of activities, transactions or processes that are already approved, rather than the introduction of any activities, transactions or processes which differ in kind from the originally approved use. It is noted that the floor spaces associated with the approved residential aged care facility and minor commercial is proportionately low in GFA compared to the GFA for the development as a whole.</li> <li>b) Activity spaces and outdoor recreation areas will be maintained, the provision of more specified activities is minor change to the scale of activities, transactions or processes that are already approved, rather than the introduction of any activities, transactions or processes which differ in kind from the originally approved use.</li> <li>c) Provision of the landscaped through-site link is maintained.</li> <li>d) Provision of the public park and facilities is maintained.</li> </ul> <p><b>Built Form</b></p> <ul style="list-style-type: none"> <li>a) The development maintains with no material difference the building footprint, height, GFA, and setbacks as approved and therefore make no significant changes to the streetscape of relationship to neighboring properties</li> <li>b) Provision of the landscaped through-site link is maintained.</li> <li>c) Provision of the public park and facilities is maintained.</li> <li>d) The development maintains the relationship to neighboring properties with respect to bulk and scale</li> <li>e) The additional basement level will not be visible from the public domain.</li> <li>f) There are quantitative changes to development to accommodate the facility, but these will not cause any additional unreasonable environmental impacts such as overshadowing, visual, and acoustic privacy, traffic generation, or</li> </ul>

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	<p>changes to stormwater patterns. In fact, it is noted, that the modifications:</p> <ul style="list-style-type: none"> <li>• Reduces vehicle movements from originally approved development (see Traffic Report)</li> <li>• Reduces unit density and privacy impacts to adjacent property at 268 Longueville Road because of the reduction in the number of units to the southern elevation from 29 to 14.</li> </ul> <p>g) The development maintains the level of amenity previously consented to.</p> <p>h) The foyer and services concierge are maintained.</p> <p>i) Provision of activity spaces and outdoor recreation areas is maintained.</p> <p>j) Site access including waste collection points and vehicle loading and unloading is maintained.</p> <p>k) Stormwater management is maintained.</p> <p>l) No additional Tree Removal or encroachment toward the bushland at the rear of the site.</p>
Independent living units differ to residential aged care beds	<ul style="list-style-type: none"> <li>• Development Consent DA117/2017 is primarily a consent for a 'seniors housing' land use as per the former State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. Both ILU's and residential aged care beds developments are a form Seniors Housing.</li> <li>• Affordable housing places pursuant to Clause 45(6) of SEPP HSPD is maintained. In this regard the operator will make available through a new Affordable Housing Policy which provides: <ul style="list-style-type: none"> <li>○ 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: and</li> <li>○ 10 Units (10.8%) of the inventory at its 266 Longueville Road Seniors precinct to be eligible for affordable housing residents</li> </ul> </li> </ul>
The existing DA was granted after amendment to gain consideration by a requirement for over 55 accommodation plus an aged care facility	<ul style="list-style-type: none"> <li>• Seniors Housing land use is not changing.</li> <li>• Under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 persons permitted to occupy the development include: <ul style="list-style-type: none"> <li>(a) <i>seniors or people who have a disability,</i></li> <li>(b) <i>people who live within the same household with seniors or people who have a disability,</i></li> <li>(c) <i>staff employed to assist in the administration of and provision of services to housing provided under this Policy.</i></li> </ul> </li> </ul> <p>Under the SEPP, Seniors and People with a Disability are defined below:</p> <p><b>seniors</b> are any of the following—</p> <ul style="list-style-type: none"> <li>(a) <i>people aged 55 or more years,</i></li> <li>(b) <i>people who are resident at a facility at which residential care (within the meaning of the Aged Care Act 1997 of the Commonwealth) is provided,</i></li> <li>(c) <i>people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider.</i></li> </ul> <p><b>People with a disability</b> are people of any age who have, either permanently or for an extended period, one or more impairments, limitations or activity restrictions that substantially affect their capacity to participate in everyday life.</p>

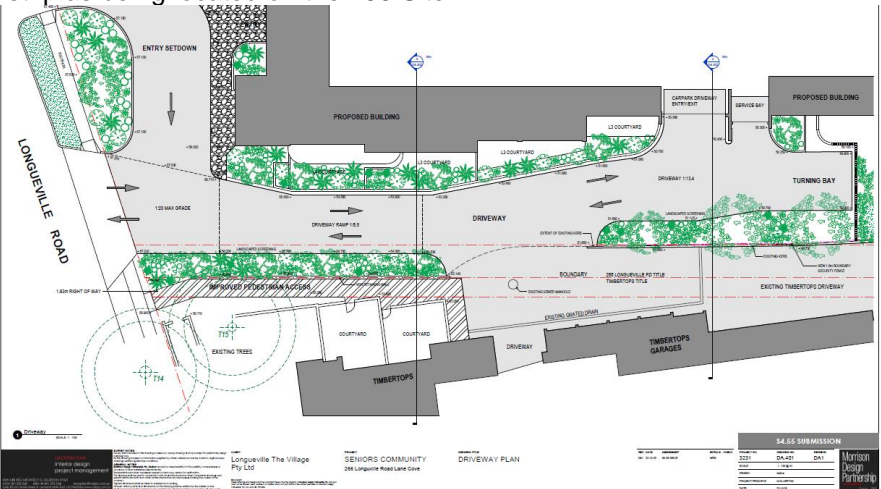
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Height increase, exacerbates concern over privacy and streetscape.	<ul style="list-style-type: none"><li>Overall building height is reduced. Approved: Building varies between RL 62.6 and RL67.76 Proposed: Building varies between RL 63.3 and RL66.90</li><li>In relation to Privacy, as outlined in the Planning Statement:  <i>The proposed modifications maintain appropriate levels of privacy to occupants and adjoining lands. The development is appropriate as:</i><ul style="list-style-type: none"><li><i>The proposal does not provide any privacy concerns to the east and west of the Development as the eastern elevation overlooks a bushland area and the western elevation fronts Longueville Road</i></li><li><i>The side setbacks to the building are provided with substantive setbacks interspersed with landscaping, and therefore provides privacy through distance / separation.</i></li><li><i>The proposed substantive landscaping the assist with providing obscured view lines.</i></li><li><i>The proposal complies with SEPP 65 ADG requirements for building setback.</i></li><li><i>It reduces unit density and privacy impacts to adjacent property at 268 Longueville Road because of the reduction in the number of units to the southern elevation from 29 to 14</i></li><li><i>The privacy associated with the development is reasonable in the context of the permitted land use and the existing built forms on surrounding lands</i></li></ul></li></ul>																								
I object to the building envelope and external building elevations.	<ul style="list-style-type: none"><li>The built form envelope of the development as proposed to be modified remains unchanged. This is demonstrated through a comparison table detailed in the Planning Statement as follows:<table><tr><th>ELEMENT</th><th>APPROVED</th><th>PROPOSED</th><th>VARIANCE</th></tr><tr><td>Site Area</td><td>9,204sqm</td><td>9,204sqm</td><td>No Change</td></tr><tr><td>Gross Floor Area</td><td>Total: GFA 14,625sqm</td><td>Total: GFA 14,615sqm</td><td>10sqm</td></tr><tr><td>FSR</td><td>1.589:1</td><td>1.587:1</td><td>No Change</td></tr><tr><td>Maximum Height (RL provision)</td><td>Building varies between RL 62.6 and RL67.76  Including: Building A:<ul style="list-style-type: none"><li>Roof: RL 63.7</li><li>Lift Overrun RL64.9</li></ul>Building B:<ul style="list-style-type: none"><li>Roof: RL 67.0</li><li>Lift Overrun RL67.7</li></ul>Building C:<ul style="list-style-type: none"><li>Roof: RL 63.4</li><li>Lift Overrun RL66.8</li></ul></td><td>Building varies between RL 63.3 and RL66.90  Including: Building A:<ul style="list-style-type: none"><li>Roof: RL 63.3</li><li>Lift Overrun RL 66.0</li></ul>Building B:<ul style="list-style-type: none"><li>Roof: RL 66.9</li><li>Lift Overrun RL66.9</li></ul>Building C:<ul style="list-style-type: none"><li>Roof: RL 65.4</li><li>Lift Overrun RL66.9</li></ul></td><td>Maximum Building Height RL reduction by 0.86m</td></tr><tr><td>No. of</td><td>Up to 7 Storeys</td><td>Up to 7 Storeys</td><td>No Change</td></tr></table></li></ul>	ELEMENT	APPROVED	PROPOSED	VARIANCE	Site Area	9,204sqm	9,204sqm	No Change	Gross Floor Area	Total: GFA 14,625sqm	Total: GFA 14,615sqm	10sqm	FSR	1.589:1	1.587:1	No Change	Maximum Height (RL provision)	Building varies between RL 62.6 and RL67.76  Including: Building A: <ul style="list-style-type: none"><li>Roof: RL 63.7</li><li>Lift Overrun RL64.9</li></ul> Building B: <ul style="list-style-type: none"><li>Roof: RL 67.0</li><li>Lift Overrun RL67.7</li></ul> Building C: <ul style="list-style-type: none"><li>Roof: RL 63.4</li><li>Lift Overrun RL66.8</li></ul>	Building varies between RL 63.3 and RL66.90  Including: Building A: <ul style="list-style-type: none"><li>Roof: RL 63.3</li><li>Lift Overrun RL 66.0</li></ul> Building B: <ul style="list-style-type: none"><li>Roof: RL 66.9</li><li>Lift Overrun RL66.9</li></ul> Building C: <ul style="list-style-type: none"><li>Roof: RL 65.4</li><li>Lift Overrun RL66.9</li></ul>	Maximum Building Height RL reduction by 0.86m	No. of	Up to 7 Storeys	Up to 7 Storeys	No Change
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	Storeys			
	No. of Basement levels	2 levels	3 levels	Additional Part Level for provision of parking to service development need.
	Built Form Setbacks	North Boundary: 12.1m East Boundary: 3.9m South Boundary: 10.7m West Boundary: 8.3m	North Boundary: 12.1m East Boundary: 3.8m South Boundary: 12.7m West Boundary: 8.3m	No change  10mm variation  2m increase.  No change
	Total Parking	122 onsite carparking spaces.	181 onsite car spaces	59 Additional Spaces
	Deep Soil	2662sqm of deep soil landscaping (28.9% of site area)	2,731sqm of deep soil landscaping (29.6% of site area)	69sqm increase in Deep Soil Landscape.
	<ul style="list-style-type: none"><li>The proposed modifications update the approved exterior building façade with increased modulation and a change in building materials, result in the development being less 'bulky'.</li></ul>			
	Building height variation was approved for different land use and should now be reduced.	<ul style="list-style-type: none"><li>A variation to the building height was granted to the Development under cl4.6 of the LCLEP as it met the requisite test thresholds.</li><li>The approved building height now forms the built form envelope for the onsite development.</li><li>As previously outlined the proposal is substantially the same development to which consent was originally granted; noting that the Senior Housing land use with onsite support services with the predominant built form envelope and associated impacts being maintained.</li></ul>		
Loss of outlook from Timbertops	<ul style="list-style-type: none"><li>The land is zoned R4 High Density Residential under LCLEP</li><li>The R4 Zone is primarily for urban purposes.</li><li>Residential flat buildings and Seniors Housing are permitted in the zone.</li><li>The site is zoned Operational Council land.</li><li>There is a current Development Consent applying to the land where the built form, use and site operations were deemed to be acceptable</li><li>The approved and proposed changes are a built form envisaged for the site under the planning framework</li><li>As previously outlined the proposal is substantially the same development to which consent was originally granted; noting that the Senior Housing land use with onsite support services with the predominant built form envelope and associated impacts being maintained.</li><li>The consent authority must consider the proposal based on current planning provisions and current consent, not historical zonings, use of the land or previously available outlooks.</li></ul>			

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Loss of privacy and building bulk to Timbertops residents	<ul style="list-style-type: none"> <li>• The land is zoned R4 High Density Residential under LCLEP</li> <li>• The R4 Zone is primarily for urban purposes.</li> <li>• Residential flat buildings and Seniors Housing are permitted in the zone.</li> <li>• The site is zoned Operational Council land.</li> <li>• There is a current Development Consent applying to the land where the built form, use and site operations were deemed to be acceptable</li> <li>• The approved and proposed changes are a built form envisaged for the site under the planning framework</li> <li>• The proposal is substantially the same development with the built form envelope is not proposed to be changed</li> <li>• The proposed modifications maintain appropriate levels of privacy to occupants and adjoining lands as: <ul style="list-style-type: none"> <li>○ The side setbacks to the building are provided with substantive setbacks interspersed with landscaping, and therefore provides privacy through distance / separation</li> <li>○ The proposal complies with SEPP 65 ADG requirements for building setback</li> <li>○ It reduces unit density and privacy impacts to adjacent property at 268 Longueville Road because of the reduction in the number of units to the southern elevation from 29 to 14</li> <li>○ The privacy associated with the development is reasonable in the context of the permitted land use and the existing built forms on surrounding lands</li> </ul> </li> </ul>						
The building location, height and usage proposals are all aspects of the development that are not required and will do nothing for Lane Cove as a municipality.	<ul style="list-style-type: none"> <li>• The site is zoned to R4 which permits the development form.</li> <li>• There is a current Development Consent applying to the land for Seniors Housing</li> <li>• Councils LSPS identifies the LGA as having an ageing population.</li> <li>• Councils Housing Strategy identifies the need for Seniors Housing</li> <li>• The State Policy for Seniors Housing is a long standing planning policy document which encourages the development of seniors housing development forms to enable people to age in place.</li> </ul>						
The development takes away public open space.	<ul style="list-style-type: none"> <li>• Submission issue is beyond the scope of the application.</li> <li>• The site has been rezoned to R4</li> <li>• The site has been rezoned to Operational Council land</li> <li>• There is a current Development Consent applying to the land</li> <li>• The consent authority must consider the proposal based on current planning provisions and current consent, not historical zonings and use of the land.</li> </ul>						
Environmental impact with a very diminished setback from bushland	<ul style="list-style-type: none"> <li>• Setbacks to bushland are substantially unchanged from original consent</li> <li>• Updated Arborist Report, Ecological Report and Landscape Plans have been submitted.</li> <li>• As detailed in the Planning Statement: <table border="1" data-bbox="568 1720 1481 2114"> <thead> <tr> <th data-bbox="568 1720 879 1771">REFERENCE</th><th data-bbox="879 1720 1481 1771">REPORT CONCLUSIONS</th></tr> </thead> <tbody> <tr> <td data-bbox="568 1771 879 2040"> <b>ARBORIST REPORT</b>  Prepared by Bluegum  Dated September 2022 </td><td data-bbox="879 1771 1481 2040"> An updated Arborist Report has been prepared. The Report brings about several recommendations established for the three stages of the development, from Post Construction, During Construction and Post Construction. The development is capable of complying given the recommendations are followed. </td></tr> <tr> <td data-bbox="568 2040 879 2114"> <b>ECOLOGICAL REPORT</b> </td><td data-bbox="879 2040 1481 2114"> The Ecological Report assessed the development in accordance with Section 5A of </td></tr> </tbody> </table> </li> </ul>	REFERENCE	REPORT CONCLUSIONS	<b>ARBORIST REPORT</b> Prepared by Bluegum Dated September 2022	An updated Arborist Report has been prepared. The Report brings about several recommendations established for the three stages of the development, from Post Construction, During Construction and Post Construction. The development is capable of complying given the recommendations are followed.	<b>ECOLOGICAL REPORT</b>	The Ecological Report assessed the development in accordance with Section 5A of
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<b>LANDSCAPE PLANS</b> Prepared by TaylorBrammer Ref. Job No: 16-162s Plans: DA00-17 Dated 21-10-18	Updated Landscape Plans showcase how the proposal provides for provision of open space for generous flora plantations within the landscaped courtyard area.				
<p>Proposal was rejected by the RMS based on safety and traffic efficiency concerns</p>	<p>As detailed in the submitted Planning Statement, the proposal satisfies the test as:</p> <p><i>“...the Assessment Report and subsequent determination against the former SEPP determined the site was acceptable for a Senior Housing development subject to conditions of consent. Specifically, the original assessment report concluded:</i></p> <p><i>‘Based on the traffic analysis prepared by the applicant, the comments provided by Roads and Maritime Services, and the likely traffic generation, it is considered that the location of the proposed access is acceptable and would not adversely impact the nearby intersections.’</i></p> <p><i>The conclusions originally reached in the original assessment remain unchanged as part of the Modification application. In support of this position is a Traffic and Parking Assessment report prepared by McLaren Traffic Engineering (Ref. Job No: 220515.01FA and dated 21/10/2022) which concludes that the proposed modification:</i></p> <p><i>“...is fully supportable in terms of its traffic and parking impacts”.</i></p> <p><i>“The parking areas of the site have been assessed against the relevant sections of AS2890.1:2004, AS2890.2:2018 and AS2890.6:2009 and have been found to satisfy the objectives of each standard.”</i></p> <p><i>The impacts of the total site traffic generation have been modelled using SIDRA INTERSECTION 9.0, indicating that there will be no detrimental impact to the performance of the intersections as a result of the generated traffic.”</i></p>				
<p>The traffic from this development has also altered. At the time of the original DA the RMS had raised concerns about the traffic then, so this also needs to be ascertained.</p>	<ul style="list-style-type: none"> <li>• An updated Traffic and Parking Assessment report prepared by McLaren Traffic Engineering (Ref. Job No: 220515.01FA and dated 21/10/2022) for the subject application. Updated traffic counts have been included in the appendices of the report which are dated October 2022.</li> <li>• The updated Traffic and Parking Assessment report concludes that the proposed modification:</li> </ul> <p><i>“...is fully supportable in terms of its traffic and parking impacts”.</i></p> <p><i>“The parking areas of the site have been assessed against the relevant sections of AS2890.1:2004, AS2890.2:2018 and AS2890.6:2009 and have been found to satisfy the objectives of each standard.”</i></p>				

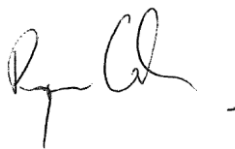
SUBMISSION ISSUE	APPLICANT RESPONSE
	<p><i>The impacts of the total site traffic generation have been modelled using SIDRA INTERSECTION 9.0, indicating that there will be no detrimental impact to the performance of the intersections as a result of the generated traffic.”</i></p>
Location of Driveways and Noise Impact on Timbertops residents from traffic flow, garbage trucks, laundry trucks, food delivery trucks	<ul style="list-style-type: none"> <li>• Submission issue is beyond the scope of the application.</li> <li>• No changes to the consent are proposed with regard to the driveway design or operational use in terms of loading and waste collection vehicles</li> <li>• Notwithstanding the submitted Traffic and Parking Assessment report prepared by McLaren Traffic Engineering (Ref. Job No: 220515.01FA and dated 21/10/2022) provides that: <p><i>Based on the RMS Development Guidelines peak traffic generation rate of 0.4 vehicle trips per hour (vtph), the proposed development is expected to generate some 37 vtph in the evening peak hour.</i></p> <p><i>“This level of traffic is lower than the approved traffic generation of the site being some 61 vehicle trips in the peak hour (as identified in the Vaga Traffic Planning Pty Ltd Traffic Report dated 24 August 2018). Therefore, the subject s4.55 development application results in a net decrease of 24 (61 – 37 = 24) vehicle trips in the peak hour from the approved Development Application (DA117/2017).”</i></p> <p><i>“...is fully supportable in terms of its traffic and parking impacts”.</i></p> </li> </ul>
Arborist report stipulates tree removal, however, yellow markers identified in relation to onsite trees.	<ul style="list-style-type: none"> <li>• An updated arborist report prepared by Bluegum dated September 2022 was submitted with the modification application.</li> <li>• The Report brings about several recommendations established for the three stages of the development, from Post Construction, During Construction and Post Construction. The development is capable of complying given the recommendations are followed.</li> <li>• As detailed throughout the application, no additional Tree Removal or encroachment toward the bushland at the rear of the site beyond that previously granted consent is proposed.</li> <li>• The purpose of the identified yellow markings is unknown.</li> <li>• In undertaking any onsite Development works, the person with the benefit of the consent is required to comply with the Consent and referenced plans / documentation which would include tree removal and arborist recommendations.</li> </ul>
50% of this DA is non-compliant with the built form defined in the DCP and SCC of May 2020.	<ul style="list-style-type: none"> <li>• Submission issue does not provide basis for statement.</li> <li>• The submitted Planning Statement and supporting documentation demonstrated that the proposal satisfies the intent and objectives of the requisite planning controls.</li> </ul>
RFS based on bush fire prone land requiring asset protection zones	<ul style="list-style-type: none"> <li>• Not applicable. Site not identified as Bushfire Prone Land</li> </ul>
This has increased financial benefit to its proponents.	<ul style="list-style-type: none"> <li>• Submission issue is beyond the scope of the application.</li> <li>• The development as approved and as proposed to be modified is consistent with the zoning that applies to the land.</li> </ul>
A directive from the SNPP before the approval of the previous DA was a 1m additional set back and provide 2m screening from Timbertops.	<ul style="list-style-type: none"> <li>• The proposal complies with DCP building setback requirements.</li> <li>• The proposal complies with SEPP 65 ADG requirements for building setback.</li> <li>• Detail landscape plans have been provided.</li> </ul>

SUBMISSION ISSUE	APPLICANT RESPONSE
It is immoral to have a DA approved and then modify some significant parts of the DA.	<ul style="list-style-type: none"> <li>The Environmental Planning and Assessment Act 1979 enables development consents to be modified and is common practice across NSW</li> <li>The proposed modifications satisfy the EPA Act 1979 requirements and the development is substantially the same to which consent was granted.</li> </ul>
The DA encompasses the use of the land of Timbertops in order to provide the directive of a 2m landscape strip to provide screening. This should be on the land of 266 Longueville Road, not on the land of Timbertops.	<ul style="list-style-type: none"> <li>Refer to Plan DA401 prepared by MDP Architects.</li> <li>Plan shows boundaries, and location of screen planning references planning strip as being located on the 266 Site.</li> </ul>  <ul style="list-style-type: none"> <li>Works on a neighboring private property do not ordinarily form part of any consent and would be subject to a future CDC/DA to enable those works to occur.</li> </ul>
Development not feasible	<ul style="list-style-type: none"> <li>Submission issue is beyond the scope of the application.</li> </ul>

As noted in the submitted documentation, the proposed development works are of an appropriate scale and mass for the site, being consistent with the desired future character of the area, is well designed and has no adverse amenity impacts. It is considered that the proposal will deliver a suitable and appropriate development for the site and is worthy of approval.

Thank you for the opportunity to provide further information regarding these matters. Should you wish to discuss the detail further, please to not hesitate to contact the undersigned via email [ryanc@gyde.com.au](mailto:ryanc@gyde.com.au).

Regards,



**Ryan Cole**  
Director