

Attachment 7: Review of Submissions

DA0117/2017 | 266 Longueville Road Lane Cove

A total of 283 submissions were received over two notification periods, comprising 186 .in response to the initial notification and 97 in response to notification of amended plans. The submissions include individual letters, many pro-forma letters and two submissions from planning consultants on behalf of residents. Two of the submissions support the development.

The matters raised in the submissions are summarised in the following table with appropriate comments.

Concerns Raised	Comments
1. Timbertops have an unregistered right of way over 12 feet of the Council's land which is going to be used for the development. No consent has been sought from Timbertops owners.	The proposed development provides the opportunity to actually provide a legal right of way on the title of the land (which currently does not exist). Draft condition 2 of the consent requires the applicant to create a right of way on the title of the land. Physical access will be maintained and Timbertops will be provided with the legal protection that they currently do not enjoy.
2. Driveway construction will impact on Timbertops land. No permission has been sought.	Draft condition 14 covers this matter.
3. The development should not use timbertops driveway. The shared arrangement will cause loss of amenity.	The driveway for the development is located wholly within the development site. The proposal retains and formalises the long standing informal use of the subject land by Timbertops residents. Amenity is considered satisfactory with amendments proposed by deferred commencement condition II.
4. RMS advice for driveway to be located to the north should not be ignored.	The status of the RMS submission is a matter for the consent authority to take into consideration only. The assessment of the access location in terms of traffic impacts finds that the location is acceptable and there is no necessity to relocate the driveway.
5. Proposed left in left out restriction is a significant imposition on Timbertops.	The left in left out treatment is an essential traffic management measure to improve safety for vehicles entering and leaving the site and for vehicles travelling along Longueville Road.
6. The applicant fails to demonstrate compliance with the site compatibility in terms of bulk and scale.	The assessment concludes that appropriate measures have been incorporated to achieve compliance with the site compatibility certificate.
7. Amenity impacts on Timbertops are devastating due to location of driveway and building height exceedance. It is suggested that the building should be redesigned and driveway relocated to the north.	As detailed in the assessment report, the site is constrained by the need to provide access to the Timbertops building from Longueville Road. Notwithstanding compliance with building separation and minimal setback provided by Timbertops amenity is considered satisfactory with amendments proposed by deferred commencement condition II.

8. The public park is too small. Need for more community green space	The size of the public park is acceptable to the Council. Also, public access is provided through the landscaped/bushland area along the northern boundary for the full length of the property.
9. Parking provisions need to be reviewed so that public, staff and visitor spaces are guaranteed.	Parking is provided in excess of the minimum requirements of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.
10. Further investigation is needed to determine the extent of contamination on Timbertops land and right of way.	Deferred commencement condition (I) is proposed to satisfy the requirements of State Environmental Planning Policy 55 – Remediation of Land.
11. Request that DA be rejected.	In my assessment, the proposal is suitable for the site and satisfies all statutory requirements.
12. Location of electricity kiosk to bottom of driveway is not acceptable.	It is agreed that this location is not acceptable. Draft condition 15 requires the kiosk to be located at the Longueville Road frontage of the property.
13. Concern that construction management plan not provided and does not deal with safety fencing, truck shaker grid, dust minimisation, hours of work, stormwater and dilapidation survey.	All of these matters are addressed in proposed conditions of consent.
14. Bushfire risk has not been assessed.	The land is not identified as bushfire prone land. An assessment of surrounding facilities and relevant land uses was carried out by the applicant as required by Clause 27 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
15. Concerns about previous process of rezoning and re-classifying the land to facilitate the development and Council conflict of interest.	<p>The previous rezoning and reclassification was carried out in accordance with the relevant provisions of the Environmental Planning and Assessment Act and Local Government Act. These processes, which included public consultation, were completed in 2015 and are not relevant to the assessment of the development application, other than to consider the development controls within Lane Cove LEP 2009.</p> <p>The Council as the owner of the land would have a conflict of interest if it were to assess the application or provide recommendations in relation to its determination as a town planning regulator. Hence the application has been assessed independently of the Council.</p>
16. The development is too large for the site based on bulk, scale, height FSR and impact on amenity.	These matters have been assessed and found to be satisfactory. A floor space bonus of 0.5:1 was granted by the Secretary of NSW Planning and Environment in a site compatibility certificate and the development complies with this. The building has a relatively small footprint with significant setbacks from property boundaries. The additional height of the building is assessed and considered to be justified in the circumstances. The impact on the amenity of adjoining properties is considered to be acceptable.

17. Land is currently use as playing fields by local children.	The land is zoned R4 High Density Residential as a result of the public planning proposal and reclassification process. The proposal is permissible on the land.
18. Gradient of land unsuitable for seniors.	The building complies with the access requirements of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.
19. Concern that the site is located near two dangerous intersections.	The application was referred to RMS for comment as in accordance with State Environmental Planning Policy (Infrastructure) 2007. RMS raised no objection to the development.
20. Concern about need for residents to cross Longueville Road to access public transport may be unsafe.	It is noted that a signalised pedestrian crossing is located some 35 metres from the site at the intersection of Longueville Road and Rover Road West.
21. Non-compliance with Lane Cove DCP 2010.	The application has been assessed against the objectives and the numerical controls and is considered to be an appropriate response to the DCP
22. Concern about privacy impacts on residences in Richardson Street West due to height of building.	In relation to adjoining properties to the north it is noted that proposed buildings A and B are setback 12 metres from the boundary up to level 6 and 13-14 metres on level 7. Building C is setback some 25 metres from the northern boundary. The area between the buildings and the northern boundary is proposed to be densely landscaped to provide the west to east pedestrian connection from Longueville Road to the adjoining golf course. The assessment concludes that appropriate amenity for residents adjoining to the north of the site is maintained.
23. Concern about dangerous traffic movements in and out of the development.	Access to the development is limited to left in left out only. The traffic generation has been modelled through the nearby intersections and found to have no impact on those intersections
24. Concern that public land is being used for private development.	The previous rezoning and reclassification was carried out in accordance with the relevant provisions of the Environmental Planning and Assessment Act and Local Government Act. These processes, including public consultation, were completed in 2015. This matter is not relevant to the assessment of the development application.
25. Concern about tree removal.	The development will retain a significant number of existing mature native trees on the site. Additional planting of mature trees is also required to complement the existing vegetation. This will be enforced through conditions of consent.
26. Concern about buffer to bushland at rear.	The setback from the bushland reserve at the rear has been assessed and is considered to be adequate for the protection of the vegetation.

27. The proposal is overdevelopment and there should be more public open space	The proposal has been assessed as being of appropriate scale. A public park is provided, as is public access to bushland along the northern boundary. The land is zoned R4 High Density Residential.
28. Development should have separate access to Longueville Road rather than a shared driveway with Timbertops.	The shared driveway with Timbertops is an historical situation which was created by Council in 1969. This proposal presents the opportunity to formalise the arrangement with a right of way registered on title in favour of Timbertops. It is considered unreasonable to require this development to provide an exclusive use driveway for Timbertops on its land. It is also noted that the left in left out treatment of this driveway will improve safety for existing and future residents.
29. Site compatibility certificate gives the development a floor space bonus not a height bonus.	The applicant is entitled to make a submission for exception to the height standard under Clause 4.6 of Lane Cove LEP 2009. The request has been considered and the impacts of the height non-compliance have been assessed. The Clause 4.6 request is supported.
30. Documentation submitted with the application does not adequately address the issue of overshadowing which is solely related to height non-compliance.	Amended plans have relocated the partial seventh level of the building and revised shadow diagrams demonstrate that there is no additional shadow impact as a consequence of the height exception. Assessment of the shadow diagrams show that there will be minor shadow impacts to some windows of some apartments adjoining to the south. This is considered acceptable.
31. The shared driveway means that there is no opportunity for meaningful deep soil areas between Timbertops and the proposed building.	This has been addressed by proposed deferred commencement condition II which requires the driveway to be narrowed and the building moved to the north to create deep soil planting areas.
32. The partial seventh storey should be set back further from the southern boundary.	This matter is resolved in the amended plans. The partial seventh storey is setback 21 metres from the southern boundary with a building separation to Timbertops in excess of 25 metres.
33. Loss of informal parking spaces for Timbertops.	Timbertops provides on-site parking as required by its 1969 development consent. There is some informal parking on the subject land by residents of Timbertops, which is no doubt convenient for them. However, there is no requirement to provide parking on the subject land for the adjoining development.
34. Turning area for service vehicles is insufficient.	This matter has been satisfactorily resolved with additional information and amended plans submitted by the applicant.
35. Concern about construction impacts on Timbertops land.	A construction management plan will be required to the satisfaction of Council.
36. The land is used as a recreation facility for the nearby Currambeena primary school.	The land is zoned R4 High Density Residential. The rezoning and reclassification process has been completed for the land. This is not a matter for consideration for this development application.

37. Concern that the development may affect access to the Buddhist Temple located on the western side of Longueville Road opposite the site.	The development will have no impact on existing access arrangements for other properties.
38. Concern about difficulty in accessing public transport as buses are overcrowded in peak times	The residents of the development would be mostly, if not all, retired. There is generally no demand for public transport during peak times by residents of facilities such as that proposed.
39. Lack of public benefit.	In terms of Section 4.15 of the EP&A Act there are considerable social and economic benefits of the development. Overall the assessment concludes that there is significant public interest in providing the facility within this accessible established residential area.
40. Concern about the way the development application has been managed by Council	<p>As an independent assessor engaged by the Council, I have been involved in the process since August 2017. I was in attendance at the community information session in September 2017 where residents were given an open opportunity to discuss matters of concern with the applicant and council staff. The application was notified in accordance with Council's notification policy when the application was first received in August 2017 and again in May/June 2018 following lodgement of amended plans and information. I am aware that both notification periods were extended by the Council at the request of residents. Any late submissions have been registered in Council's records and forwarded to me for review.</p> <p>I have attended two meetings with the adjoining Timbertops residents to discuss their concerns and also had a private meeting with them on 6 June 2018.</p> <p>In my assessment, the development application has been managed appropriately by the Council in accordance with the requirements of the Environmental Planning and Assessment Act, 1979 and the Regulation, 2000. The Council town planners have correctly removed themselves from any assessment of the development application, which has been carried out entirely by me as a consultant town planner independent of the Council.</p>
41. Why hasn't the applicant considered relocating the driveway to the north or the middle of the lot?	This has been suggested to the applicant in meetings with them, however there is no statutory provision to compel the applicant to consider an alternative location. Notwithstanding the consent authority is required to assess the development application which is before it, which in this case has the driveway along the southern boundary. Additional commentary is provided elsewhere in this review.
42. Concern from Timbertops residents that the driveway on their land is subsiding due to failure of maintenance of Council's infrastructure. Remedial action is requested.	This is a civil matter for the residents to take up separately with Council. Any alleged damaged which may have occurred as a consequence of a council action or inaction is not a matter for consideration under Section 4.15 of the EP& A Act. A condition is proposed requiring a dilapidation report etc as is usual practice when excavating close to a boundary, however this would not address any alleged existing damage.

43. Concern that the nursing home rooms have capacity for more than one bed. The submitter questions the future capacity.	The development for which approval is sought is for a “70 bed residential aged care facility” etc. If the development is approved, any proposed change to numbers would need to be the subject of a separate application.
44. Concern that all submissions received in response to notification in 2017 have now been dismissed.	All submissions received in response to both notification periods have been considered in the assessment of this development application.
45. Concern that the development will add to the current congestion in surrounding local roads as a result of three schools being located in close proximity.	The projected average movements are 61 vehicle trips per hour in the commuter peak period (30.5 in and 30.5 out). The additional movements were modelled through the two nearby signalised intersections. The modelling found that there is no change to the level of service of these intersections as a consequence of the traffic from the development. It follows therefore, that the additional traffic is unlikely to have any perceptible impact on the surrounding road network.
46. The amended proposal still does not comply with the Apartment Design Guide (ADG).	The ADG is a guide for the design of apartments. There are some minor non-compliances and also a number of exceedance of the numerical guides. These matters are addressed in the assessment of the application. Overall it is considered that the proposal is an appropriate design response to SEPP 65 and the Apartment Design Guide.
47. Concern about excessive noise and light from vehicles on driveway impacts on Timbertops residents.	As detailed in the assessment report, the site is constrained by the need to provide access to the Timbertops building from Longueville Road. Notwithstanding compliance with building separation and minimal setback provided by Timbertops, amenity is considered satisfactory with amendments proposed by deferred commencement condition II. The amendments will create an additional 2m wide landscaped buffer between the driveway and Timbertops.
48. Concern about dust control during construction.	Conditions are proposed to ensure that dust is controlled.
49. There are already too many aged care facilities in Lane Cove.	No evidence has been provided by submitters to substantiate this claim. In any case this is not a matter for consideration under Section 4.15 of the EP&A Act.
50. Concern that RMS advice was not provided on request to residents.	The information was released by Council under the provisions of the Government Information (Public Access) Act 2009
51. The development will result in loss of property values of surrounding houses.	This is not a matter for statutory consideration.
52. Lane Cove is becoming overdeveloped by flat buildings.	This matter cannot be addressed by a single application.