

# Attachment 7: Review of Submissions Received May/June 2019.

DA0117/2017 | 266 Longueville Road Lane Cove

A total of 182 submissions were received in response to the notification period from 1 May to 3 June 2019. The submissions include individual letters, many pro-forma letters and two submissions from planning consultants on behalf of residents. One of the submissions supports the development. Also, a petition with 17 names was received with an attached proforma submission.

The matters raised in the submissions are summarised in the following table with relevant comments. It is noted that some of matters of concern are repeated in the various forms of submissions.

Individual Submissions by or on behalf of Adjoining Resident Total 10 submissions including 2 from town planning consultants		
Matters Raised	Comments	New Matter?
1. Suggested DA has lapsed as SNPP granted extension to 29 March 2019 only	There are no statutory provisions which would cause the DA to lapse.	Yes
2. Suggested notification period too short and did not follow correct procedures.	Notification was initially for 14 days which was extended by Council for a further 14 days. Late submissions were accepted and are included in this review. The application was notified in accordance with the Lane Cove Development Control Plan. In addition, efforts were made to contact previous submitters.	Yes
3. Reject both Bitzios and Varga traffic assessment. Claim that the fully independent traffic study commissioned by Timbertops should be relied upon.	At the request of the Panel, Council engaged Bitzios to peer review the applicant's traffic report. This engagement was completely independent of the applicant.	Yes
4. Peer review of traffic report raised concerns with swept path analysis and SIDRA modelling. Have these matters been resolved?	The applicant's traffic report was amended in response to the peer review. The revised report of the peer reviewer states:  <i>"Bitzios Consulting deems Varga's revised traffic report and SIDRA models fit for purpose and suitable for review by the Panel."</i>	Yes

5. Development application does not comply with Site compatibility certificate conditions.	Submission claims that bulk and scale has not been resolved in relation to northern and southern neighbours.  This is a matter for the Panel's consideration.	Yes
6. Insufficient deep soil planting on southern driveway to prevent noise and headlight glare.	Revised landscape plans submitted, including additional planting width along driveway as requested by the Panel.	Yes
7. The site compatibility certificate for the development expired on 6 July 2019. Unless renewed, the Panel cannot approve the development application.	A new site compatibility certificate was issued on 28 May 2020. This certificate is current until 28 May 2022.	Yes
8. Does not accept Dr Lamb's assessment of visual impact.	Dr Lamb's report is provided to the Panel for consideration (as requested by the Panel)	Yes
9. Does not accept that the amended plans have not met the requirements of the SNPP.	The information and amendments requested by the Panel have been provided.	Yes
10. Environmental assessment is not clear in respect of mitigation measures and impacts of overshadowing and drainage on bushland	Council's ecologists have reviewed the assessment  A number of consent conditions are proposed to ensure the protection and enhancement of the bushland. In particular, a detailed Biodiversity and Vegetation Management Plan (BVMP) is to be prepared to manage vegetation removal pre-construction and to address protection of native vegetation, weed control and rehabilitation of any disturbed areas post-construction.	Yes
11. Visual impact has been assessed as requested by the Panel.	The applicant has provided further visual analysis as requested by the Panel.	Yes
12. Applicant has not demonstrated that bulk and scale has been reduced to comply with site compatibility certificate conditions, as FSR and height is not reduced.	This is a matter for Panel assessment.	Yes
13. Applicant's response fails to provide calculation of GFA and	Council sought legal advice from its solicitors. This advice refutes the advice provided by the applicant. Calculation of GFA and FSR in	Yes

FSR in accordance with SEPP. Does not accept applicant's legal advice.	accordance with the SEPP is provided in the supplementary report to the panel.	
14. Acknowledge additional setback and landscaping near southern boundary, but questions ability of 2m wide landscaping to support large mature trees.	The landscaping is satisfactory subject to appropriate conditions of consent.	Yes
15. Challenges the shadow diagrams in respect of apartment 13 at Timbertops. It is alleged that this unit will not receive sunlight between 9-10am and 2-3pm.	<p>The submitter does not provide alternate shadow diagrams.</p> <p>The ADG recommends a minimum of 2 hours direct sunlight to living rooms between the hours of 9am and 3pm.</p> <p>It is noted that apartment 13 will receive 4 hours of sunlight between the hours of 9am and 3pm on 22 June.</p>	Yes
16. There is no agreement between the applicant and Timbertops for work on Timbertops land.	The development application proposes no works on Timbertops land.	No
17. SNPP identified need for creation of a legal easement in favour of Timbertops. Asserts that Timbertops has been excluded from any negotiations. Need additional time to consult with lawyer.	Council acknowledges the need for creation of legal access over the site to accommodate the informal access enjoyed by Timbertops residents. This matter can be required as a condition of consent. There is no requirement to create any easement prior to issue of consent.	No
18. 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.	No
19. RMS recommendation to move driveway to north should not be rejected. SNPPs position re this was premature.	RMS previously confirmed that Longueville road is a local road under care control and management of Council. RMS advised: "Roads and Maritime plays an advisory role given that the development application will not have a significant traffic impact on the classified road network."	No
20. Assertion that argument for breach of height control is erroneous. Claims that Timbertop	<p>The submitter claims that access constraints do not require building height to be exceeded.</p> <p>The application does not propose any works on Timbertops land.</p>	No

driveway should be reconstructed by the applicant.		
21. New plans are non-compliant with height. Should not have been accepted by Council.	The amended plans have responded to the Panel's request for the southern side of the building to move 1m to the north.	No
22. Overdevelopment in the area. Open space should be protected	The development is permissible in the R4 High Density Residential zone. The land was formerly zoned for public recreation prior to rezoning.	No
23. Privacy impacts on Timbertops residents. Bulk and scale too large.	Bulk and scale is a matter for consideration by the Panel.	No
24. Overshadowing of lower level units at Timbertops. Loss of full sunlight is unacceptable. Building should be moved further to north.	The amended plans provide a slight reduction in overshadowing of the building to the south. The separation between the proposed building and the Timbertops building to the south are well in excess of the requirements of the Apartment Design Guide.  The shadow impact is considered acceptable in the circumstances.	No
25. Submitter does not accept that height exceedance is justified by the clause 4.6 submission.	This is a matter for Panel consideration.	No
26. Access, visual impact, noise impact, privacy impact and construction noise impacts on Timbertops residents. Submitter also asserts that building separation does not comply with ADG.	Assessment shows that the building separation exceeds ADG requirements.	No
27. Concern about privacy impacts on residences in Richardson Street West due to height of building.	This matter has been assessed previously.	No
28. Asserts that FSR should be between 1.1:1 and 0.4:1, based on rezoning public hearing. FSR of 1.6:1 is overdevelopment.	The permissible FSR for the site is 1.1:1 pursuant to Lane Cove LEP 2009. Clause 45 Vertical villages of SEPP Seniors provides for a bonus FSR of 0.5:1 for this site with a site compatibility certificate. The maximum permissible FSR for this development is 1:6:1.	No
29. Asserts that SEPP Seniors FSR incentive should not apply	The submitter has misinterpreted SEPP Seniors.	No

because of low density objectives of SEPP.		
30. Application should comply with RFS conditions for bushfire management.	As detailed in the previous assessment report, the site is not classified as bushfire prone. The response from RFS incorrectly assumed that the proposal is Integrated Development. The RFS conditions are not relevant.	No
31. The additional FSR should have been factored into the site-specific planning proposal, rather than using the site compatibility certificate process.	The 1.1:1 FSR applies to any permissible development of the site (eg residential flat buildings). Any application for seniors living would be entitled to apply for a site compatibility certificate under the process detailed in SEPP Seniors.	No
32. Development is not consistent with the character of the area, 7 <sup>th</sup> storey should be removed and bulk and scale is not appropriate.	These matters have been assessed previously.	No
33. The scale of the development is incompatible with predominant single dwelling form in Richardson Street West.	These matters have been assessed previously.	No
34. Visual and privacy impacts on the dwellings on Richardson Street West are not acceptable. Proposed screening devices are an unacceptable solution.	These matters have been assessed previously	No
35. Development is inconsistent with building depth, length, setbacks and topography controls of the DCP.	These matters have been assessed previously	No
36. It is strange to remove the bushfire zone and recreation zone.	These are zoning matters which were dealt with during the planning proposal process.	No
37. Proforma submission which does not raise any specific impacts on their amenity.	Responses contained in following sections.	No

38. Turning area for service vehicles is insufficient.	This matter was satisfactorily resolved during the previous assessment.	No
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<b>Individual Submissions by residents of Lane Cove (not adjoining site), Riverview, Northwood, Longueville</b> <b>Total 41 submissions (mostly based on pro-forma online submissions)</b>		
Matters Raised	Comments	New Matter?
39. Assertion that notification process was defective.	The application was notified in accordance with the Lane Cove Development Control Plan. In addition, efforts were made to contact previous submitters.	Yes
40. No significant changes in response to concerns raised by residents on 11 July 2018.	The applicant has made changes and responded to the matters as requested by the Panel.	Yes
41. Question the independence of assessor selected and paid for by Council.	The independent assessor is not an employee of the Council. The assessor was chosen based on his considerable experience as an independent assessor for other councils and as a local planning panel member and chair Lane Cove, Bayside and Wollongong Councils.	Yes
42. Proposal is an industrial complex which is destructive to the amenity of the area.	The proposal is for a seniors living development, which is permissible in the R2 High Density Residential Zone.	No
43. Rural Fire Service rejected the proposal in 2018 as it is in a bushfire area,	RFS provided general terms of approval in 2018, on the incorrect assumption that the proposal is Integrated Development.  The proposal was not rejected by RFS.	No
44. Topography is unsuitable for seniors.	The proposal satisfies all required access requirements.	No
45. Safety of school children is put at risk	There is no evidence to support this assertion.	No
46. Location is most dangerous junction in Lane Cove – will not handle drop off and pick up times for 3 schools.	The development has no relevance to school drop off and pick up times.	No

47. Independent commissioner rejected proposal in 2014.	This refers to the site-specific planning proposal which was ultimately supported by Council and the Department of Planning. Notwithstanding, the previous planning proposal and the process is not a relevant consideration for the development application.	No
48. No justification for building units on public land.	The land is zoned to permit multi-unit housing and is classified as operational land following the rezoning process.	No
49. Resident of Alpha Road concerned about additional traffic in Alpha Road.	Traffic matters have been properly assessed.	No
50. The proposal is too high and too large for the site, with unacceptable impacts on surrounding residents and schools.	These matters have been assessed previously	No
51. This is a green canopied quiet area with conservation zones, bushland amenity and low density residential dwellings.	The proposal is for a seniors living development, which is permissible in the R2 High Density Residential Zone	No
52. Concern about construction noise pollution.	Conditions are proposed to ensure that construction hours are limited in accordance with relevant noise guidelines.	No
53. 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.	No
54. The proposal does not comply with FSR limit in the Lane Cove LEP.	The permissible FSR for the site is 1.1:1 pursuant to Lane Cove LEP 2009. Clause 45 Vertical villages of SEPP Seniors provides for a bonus FSR of 0.5:1 for this site with a site compatibility certificate. The site compatibility certificate issued by the NSW Department of Planning confirms that the maximum permissible FSR is 1:6:1.  The development will comply with the maximum permitted FSR subject to proposed condition 2.	No
55. 160 units creates a density which is too high for the area.	The proposed development comprises 82 independent living units and 70 aged care beds, not 160 units as asserted by the submitter.	No
56. Fill on the land has asbestos contamination. Excavation will put	The applicant has now provided a more detailed investigation report. Removal or disturbance of any contaminated soil is subject to the relevant environmental and work safety guidelines. The	No

adjoining residents at risk	applicant will need to provide a remediation action plan prior to any removal of contaminated soil.	
57. Housing 300 seniors in a 7-storey building in a bushfire prone zone which does not comply with fire safety regulations is unconscionable.	<p>The proposed 82 units and 70 aged care beds would have a maximum occupancy of 234 persons assuming 2 persons per residential unit.</p> <p>The land is not classified as bushfire prone.</p> <p>All construction will need to comply with the National Construction Code, which contains additional fire safety measures for this classification of building.</p>	No
58. Objects to impact on golf course and adjoining bushland.	There is no evidence to suggest any adverse impact on the golf course. The updated ecological assessment finds that the development will have no significant impacts on the bushland within the adjoining E2 Environmental Conservation zone.	No
59. Driveway has not been relocated to north	This matter has been assessed previously	No
60. Increased traffic and demand for parking in surrounding streets will affect the amenity of surrounding residents.	This matter has been assessed previously	No
61. Alleged \$33M Council conflict of interest and secrecy over sale of land upon approval of the DA.	<p>The proposed lease of the land by Council to the proponent has been public knowledge for some time. Indeed, the first paragraph on page 5 of the assessment report to SNPP on 11 July 2019 states:</p> <p><i>“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.”</i></p> <p>The application has been assessed by an independent party, as required where Council is the land owner, and will be determined by the Sydney North Planning Panel.</p>	No
<b>Submissions from community groups</b>		
<b>Total 3 submissions (Lane Cove Bushland &amp; Conservation Society Inc, The Northwood Action Group Inc and Greenwich Community Association Inc)</b>		
<b>Matters Raised</b>	<b>Comments</b>	<b>New Matter?</b>
62. Visual impact assessment does not include views from rear yards of Richardson Street West residences.	This is a matter for Panel consideration.	Yes



63. Disagree with applicant's interpretation of GFA and FSR	The correct calculation of GFA and FSR in accordance with the SEPP is provided in the supplementary report to the panel.	Yes
64. Initial notification period too short and information was confusing.	Notification was initially for 14 days which was extended by Council for a further 14 days. Late submissions were accepted and are included in this review. The application was notified in accordance with the Lane Cove Development Control Plan. In addition, efforts were made to contact previous submitters.	Yes
65. Questions the credibility of the visual impact report.	The visual impact report is prepared by a recognised expert in visual assessment.	Yes
66. Eastern boundary setback should comply.	This is matter is addressed in the supplemengtary report to the Panel.	Yes
67. Bulk and scale is inappropriate for area	This matter has been assessed previously	No
68. Concern about traffic implications and changes to existing intersection	This matter has been assessed previously	No
69. Upper levels should be setback further from northern boundary	This matter has been assessed previously	No
70. Concern about liveability of aged care rooms and units below ground level.	This matter has been assessed previously	No
71. Affordable units are substandard and inadequate with respect to number, size and amenity.	This is a matter has been addressed previously.	No
72. Loss of open space available to the public.	The development is permissible in the R4 High Density Residential zone. The land was formerly zoned for public recreation prior to rezoning.	No
73. Oppose the height exceedance by the 7 <sup>th</sup> floor.	This matter has been assessed previously	No
74. Proposal is different from that which was expected from the rezoning process.	This is not a matter for consideration. The development application is to be considered and determined in accordance with the Environmental Planning and Assessment Act, the Seniors Living SEPP and the relevant LEP and DCP controls.	No

<b>Proforma Submissions generated by third party campaign website</b>		
<b>Total 127 submissions (address not stated)</b>		
<b>Matters Raised</b>	<b>Comments</b>	<b>New Matter?</b>
75. The supporting analysis documents are biased and highly questionable	The supporting specialist reports are authored by appropriately qualified professionals. This is a matter for consideration by the Panel.	Yes
76. Combined with a separate proposal for 130 seniors units at 274 Longueville Road, the proposal would create a concentration of 500 seniors at this junction.	The subject development application is to be considered on the merits of the proposal. There is no evidence to suggest that there are any adverse cumulative impacts.	Yes
77. Seniors are at risk. Is this a Grenfell tower in the making	The tragic fire at the Greenfell Tower in London in 2017 and the Lacrosse Building fire in Melbourne in 2014 have highlighted public safety risks posed by inappropriate use of certain combustible products on the external areas of buildings.  In relation to new construction, a product use ban on certain types of combustible cladding was recently issued by the NSW Commissioner for Fair Trading. The product use ban is primarily aimed at preventing the use of specific cladding products on buildings in the future.	Yes
78. Proposal is an industrial complex which is destructive to the amenity of the area and exceeds capacity of infrastructure.	The proposal is for a seniors living development, a residential complex which is permissible in the R2 High Density Residential Zone.	No
79. This is a green canopied quiet area with conservation zones, bushland amenity and low density residential dwellings.	The proposal is for a seniors living development, which is permissible in the R2 High Density Residential Zone.	No
80. Location is most dangerous junction in Lane Cove and not designed to cater for high volumes of traffic.	This matter has been assessed previously.	No
81. The proposal does not comply with FSR limit in the Lane Cove LEP.	The permissible FSR for the site is 1.1:1 pursuant to Lane Cove LEP 2009. Clause 45 Vertical villages of SEPP Seniors provides for a bonus FSR of 0.5:1 for this site with a site compatibility certificate. The site compatibility certificate issued	No

	by the NSW Department of Planning confirms that the maximum permissible FSR is 1:6:1.	
82. Safety of school children is put at risk	There is no evidence to support this assertion.	No
83. Loss of open space available to the public.	The land is zoned R4 High Density Residential. The land was formerly zoned for public recreation prior to rezoning.	No
84. Independent commissioner rejected proposal in 2014.	This refers to the site-specific planning proposal which was ultimately supported by Council and the Department of planning. Notwithstanding, the previous planning proposal and the process is not a relevant consideration for the development application.	No
85. Development is not consistent with the character of the area, and bulk and scale is not appropriate.	These matters have been assessed previously.	No
86. Non-compliance with DCP	This matter has been assessed previously.	No
87. Working hours must conform to Lane Cove noise pollution guidelines	Conditions are proposed to ensure that construction hours are limited in accordance with relevant noise guidelines.	No
88. SEPP Seniors FSR incentive should not apply.	The FSR incentive does apply to the site subject to a site compatibility certificate (which has been provided).	No
89. Height non-compliance will set a precedent should not be approved	This matter has been assessed previously.	No
90. RFS require asset protection zones, which are not provided.	As detailed in the previous assessment report, the site is not classified as bushfire prone. The conditions proposed by RFS incorrectly assumed that the proposal is Integrated Development.	No
91. Alleged Council conflict of interest and questionable actions in respect of rezoning.	This is not a matter for consideration of the development application. Any allegations of conflict of interest or inappropriate actions should be made to the relevant authorities.	No
92. There is no demand for seniors accommodation in this locality. One development is enough.	Refers to seniors proposal at 274 Longueville Road Lane Cove. No information is provided in support of this assertion.	No
93. There are insufficient playing fields and	This matter has been assessed previously.	No

recreation areas in Lane Cove.		
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