

Agenda
Lane Cove Local Planning Panel Meeting
21 February 2024



Lane Cove Council

Notice of Meeting

Dear Panel Members,

Notice is given of the Lane Cove Local Planning Panel Meeting, to be held in the Council Chambers on Wednesday 21 February 2024 commencing at 5pm. The business to be transacted at the meeting is included in this business paper.

Yours faithfully



Craig Wrightson
General Manager

Lane Cove Local Planning Panel Meeting Procedures

The Lane Cove Local Planning Panel (LCLPP) meeting is chaired by The Hon David Lloyd KC or alternate Chairs. The meetings and other procedures of the Panel will be undertaken in accordance with the Lane Cove Lane Cove Local Planning Panel Charter and any guidelines issued by the General Manager.

The order of business is listed in the Agenda on the next page. That order will be followed unless the Panel resolves to modify the order at the meeting. This may occur for example where the members of the public in attendance are interested in specific items on the agenda.

Members of the public may address the Panel for a maximum of 3 minutes. All persons wishing to address the Panel must register prior to the meeting by contacting Council's Office Manager – Environmental Services on 9911 3611. Where there are a large number of objectors with a common interest, the Panel may, in its absolute discretion, hear a representative of those persons.

Minutes of LCLPP meetings are published on Council's website www.lanecove.nsw.gov.au as soon as possible following the meeting. If you have any enquiries or wish to obtain information in relation to LCLPP, please contact Council's Office Manager – Environmental Services on 9911 3611.

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The audio from these meetings is also recorded for the purposes of verifying the accuracy of the minutes and the recordings are not disclosed to any third party under the Government Information (Public Access) Act 2009, except as allowed under section 18(1) or section 19(1) of the PPIP Act, or where Council is compelled to do so by court order, warrant or subpoena or by any other legislation.

DECLARATIONS OF INTEREST

APOLOGIES

NOTICE OF WEBCASTING OF MEETING

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**Lane Cove Local Planning Panel Meeting 21 February 2024
62 CLIFF ROAD NORTHWOOD**

Subject: 62 Cliff Road Northwood
Record No: DA23/100-01 - 3038/24
Division: Planning and Sustainability Division
Author(s): Christopher Shortt

DA Number	DA 100/2023
Proposed Development	Part demolition of an existing heritage dwelling house including site remediation
Street Address	No. 62 Cliff Road, Northwood
Applicant/Owner	Applicant: Nicole Zaruba – NEM Consulting P/L Owner: Mr Yi Fei Chen
Date of DA Lodgment	8 September 2023
Development Cost	\$250,000.00
Public Notification Period	Notification Period: 11 September 2023 to 27 September 2023
Submissions Received	Three submissions received including a submission from the Lane Cove Historical Society
Recommendation	Refusal
Local Planning Panel Referral Criteria (Schedule 1 of Planning Direction)	Sensitive development: Development involving the demolition of a heritage item
List of relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • relevant environmental planning instruments <ul style="list-style-type: none"> - State Environmental Planning Policy (Biodiversity and Conservation) 2021 - State Environmental Planning Policy (Resilience and Hazards) 2021 - Lane Cove Local Environmental Plan 2009 • proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority <ul style="list-style-type: none"> - Nil • relevant development control plan <ul style="list-style-type: none"> - Lane Cove Development Control Plan 2009 • relevant planning agreement that has been entered into under Section 7.4, or any draft planning agreement that a developer has offered to enter into under Section 7.4 <ul style="list-style-type: none"> - Nil • relevant regulations e.g. Regs 92, 93, 94, 94A, 288 <ul style="list-style-type: none"> - Considered and addressed • coastal zone management plan <ul style="list-style-type: none"> - Nil • other relevant plans

	- Nil
Clause 4.6 requests	N/A
Summary of key submissions	<ul style="list-style-type: none"> Retention or protection of relevant heritage values present on site where possible.
Report prepared by	Chris Shortt
Report date	21 February 2024

1. EXECUTIVE SUMMARY

The subject Development Application is for the part demolition of an existing heritage dwelling house including site remediation from contaminants. The dwelling house is listed as a local heritage item being a federation dwelling under Schedule 5 of Lane Cove Local Environmental Plan 2009. The dwelling had subsequently been damaged by a fire event on 3 September 2022 and it is proposed to retain some heritage elements such as the sandstone rear wall structure which had not been severely affected by the fire.

The Development Application was notified in accordance with Council policy and three submissions were received. The submission concerns include, but are not limited to, ensuring that the retention or protection of the relevant heritage values present on the site where possible. The submissions are addressed in the report in more detail. The Development Application is reported to Lane Cove Local Planning Panel (LPP) with a recommendation for refusal as the applicant has not adequately demonstrated that the proposal as submitted would ensure that the relevant heritage values of the site would be retained or protected should approval be granted to the subject application. This is primarily due to the inadequate or unclear nature of the information being proposed.

There is no clear roadmap being provided for how the site would evolve from this point on with respect to heritage and the future development potential of the site moving forward. One option that the applicant has completely dismissed is the potential for a genuine rebuild or replica of the existing dwelling house. Whilst it may not be the original house, any new dwelling house should be designed in a manner that pays respect to the site's and dwelling's federation past. No such undertaking or concept plans had been offered or provided by the applicant in this case. Demolition of this nature is not sufficient on this basis without further detailed investigation occurring and it is considered that under the current circumstances that a genuine replica should be rebuilt.

Three submissions, including one from the Lane Cove Historical Society, have been received raising concerns with the proposal, have been addressed in detail in this report. Based on this lack of clarity involved or offered by the applicant at this stage, it would not be in the public interest to approve this application in this instance and refusal is recommended.

2. REASON FOR REFERRAL TO THE LOCAL PLANNING PANEL

The subject Development Application is referred to the Lane Cove Local Planning Panel (LCLPP) in accordance with the Local Planning Panels Direction under Section 9.1 of the Environmental Planning and Assessment Act, 1979 Planning Direction dated 6 September 2023 with respect to it, being a:

- i. **Sensitive development:** Development involving the demolition of a heritage item.

SITE AND EXISTING CONDITIONS

The subject site is known as No. 62 Cliff Road (Lots 20 & 21 DP 4424) and is generally rectangular. The site is located on the southern lower side of Cliff Road between Eva Street and Upper Cliff Road on the foreshore of Lane Cove River. The site has an overall area of approximately 4,878sqm and has a frontage to Cliff Road of approximately 36.575m. The width of the site varies approximately between 35.5m–46.5m and the depth varies approximately by 120m. There is approximately a 33m fall in natural ground level from Cliff Road to the river.

The dwelling house on the site has been severely damaged in a fire on 3 September 2022. The dwelling house is listed as a local heritage item being a federation dwelling house under Schedule 5 of Lane Cove Local Environmental Plan 2009.



Figure 1 – The site.

The site incorporates two lots and slopes steeply down from Cliff Road to the Gore Creek foreshore. The site is separated by terraced area with the highest top terrace being occupied by the primary fire-damaged dwelling and triple garage structure (known as the western addition). The later western addition has not been as severely damaged by the fire as the main heritage house. The garden area at the rear of the dwelling house is located on the terraced area below. The third terrace is occupied by a tennis court with an orchard area on the terrace area below that terraced area. The southern-most terrace area is the largely unaltered foreshore area with a stone boat shed and pontoon situated on the water's edge.

The main dwelling house occupies both lots and the existing heritage dwelling does not have a large setback from the street. The building is located behind a stone rubble wall which conceals much of the dwelling house's façade. As detailed in the structural advice letter prepared by Plantir and the Heritage Impact Statement prepared by DFP Planning, the roof and roof framing have been destroyed. Timber floors, joists and bearers have been destroyed as well as most of the internal and external doors and window joinery. The statement notes that the fire damage has revealed that internal alterations were made to the house at some later time, including widened openings supported by steel beams.

The bays on the south side of the house also appear to be later alterations. The stonework is set in wide cement mortar joints and the openings are supported on steel beams, uncharacteristic of early twentieth-century construction. The figures below detail the condition of the site pre and post fire.



Figure 2 – Dwelling from the Cliff Road frontage, pre-fire.



Figure 3 – Dwelling and rear yard, pre-fire.



Figure 4 – View of the front house looking west showing burnt-out roof, eaves and loss of slates.



Figure 5 – View of opening to terrace into the house. Floors, joists and bearers have been destroyed, no roof or ceiling, and architraves and door jambs are missing.



Figure 6 – View east across the south-eastern room. There is no roof, ceiling or floor and architraves and door jambs have been burnt. The fireplace surround is badly charred.



Figure 7 – External opening showing the original arch and steel beam inserted to widen the doors. Cracked and missing wall plaster can be seen on the rear wall.



Figure 8 – View to the north-west across the paved terrace towards the later addition showing the bay window which is a later addition. With a widened opening supported by a steel beam, the stonework has wide cement mortar joints instead of the traditional fine lime mortar joints.



Figure 9 – View from the rear garden of the sandstone stairs and flanking walls looking north dating from the original construction phase.



Figure 10 – Rock shelf adjacent to the sandstone stairs and flat lawn area on the lower terrace.

The subject site is located within the suburb of Northwood in the Lane Cove Local Government Area and is surrounded by detached dwelling houses. It is noted that the same owner owns the adjoining property to the northeast at No. 60 Cliff Road. Cliff Road comprises a mixture of single and multi-storey residential dwellings that are largely federation in style. The dwelling houses generally have a deep setback from Cliff Road with a front garden area and garages located within this setback. Access driveways punctuate the streetscape at regular intervals.

PROPOSAL

The proposal is for:

- the demolition of the burnt-out remnants of the dwelling house and the later addition to the west; and
- clearing the part of the site that contains the burnt-out remnants of debris and remediating the site of potentially hazardous materials (lead, asbestos) in accordance with the Remediation Action Plan (RAP).

According to the applicant, due to the September 2022 fire the heritage significance of the dwelling house has been reduced to a low level. According to the applicant, the low level of significance, together with the dangerous potential for contaminants leaching into the site and surrounding environment would mean that retention or reconstruction of the dwelling house would not be warranted. The fire has also resulted in contaminants from the dwelling (asbestos and lead) would lead into the site with potential for this to spread into the surrounding environment. The subject Development Application intends to demolish the burnt-out remnants and later additions and remediate the site.

Undamaged site features are to be retained and these would comprise the paved terrace, stone balustrades, steps and retaining walls at the rear of the existing heritage dwelling based on the recommendations of the Heritage Impact Statement (HIS).



Figure 11 – House and addition (in red and yellow respectively) to be demolished and rear Terrace (in green) to be retained.

No works are currently proposed between the terrace and the mean high-water mark.

The justification provided as to why a replica is not being proposed is due to the submitted Heritage Impacts Statement (HIS) stating that the question is whether there is sufficient remaining fabric and detail in which to base reconstruction of the house. To answer this question, the applicant's heritage consultant advised that it would be necessary to refer to the International Council on Monuments and Sites (ICOMOS) Australia Burra Charter to determine whether reconstruction of the dwelling house is a viable option.

Article 20.1 states:

Reconstruction is appropriate only where a place is incomplete through damage or alteration, and only where there is sufficient evidence to reproduce an earlier state of the fabric. In rare cases, reconstruction may also be appropriate as part of a use or practice that retains the cultural significant of the place.

Article 20.2 states:

Reconstruction should be identifiable on close inspection or through additional interpretation.

The definition of reconstruction is:

Reconstruction means returning a place to a known earlier state and is distinguished from restoration by the introduction of new material into the fabric.

According to the applicant's heritage consultant, insufficient original fabric has survived on which to base a meaningful reconstruction. Any attempt to reproduce the original building would create an inauthentic pastiche. The extent of works required would be well beyond the meaning of reconstruction in the ICOMOS Australia Burra Charter.

3. SECTION 4.15 ASSESSMENT

The following assessment is provided against the relevant provisions of Section 4.15 of the NSW Environmental Planning and Assessment Act, 1979:

3.1 Any environmental planning instrument:

3.1.1 State Environmental Planning Policy (SEPP) (Resilience and Hazards) 2021

The subject site is mapped wholly as a Coastal Environment Area and Coastal Use Area and part Coastal Wetland within Chapter 2 Coastal Management of the SEPP. The site is already developed for low-density residential purposes. The subject Development Application does not propose any intensification of this use. It is proposed to demolish the burnt-out remains of the dwelling house and to remediate the site from the contaminants that are leaking into the site due to the fire. This in principle would assist in protecting the coastal zone.

As a result of the fire and according to the applicant's Remediation Action Plan (RAP), there are contaminants leaking into the site. This would propose the remediation of the site in accordance with the relevant standards and with Chapter 4 Remediation of Land of the SEPP. There are no further matters raised in a SEPP that would require consideration.

3.1.2 State Environmental Planning Policy (SEPP) (Biodiversity and Conservation) 2021

The subject site is within the Sydney Harbour Catchment and is mapped as being within the Foreshores and Waterways Area within Chapter 6 Water Catchments of the SEPP. The subject Development Application is consistent with the principles listed under Clause 6.28.

3.1.3 Lane Cove Local Environmental Plan (LCLEP) 2009

3.1.3.1 Permissibility

The proposed demolition is permissible under Clause 2.7 of LCLEP 2009 which reads as:

2.7 Demolition requires development consent

The demolition of a building or work may be carried out only with development consent.

Note—

If the demolition of a building or work is identified in an applicable environmental planning instrument, such as this Plan or [State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008](#), as exempt development, the Act enables it to be carried out without development consent.

Further, Clause 5.10(2)(a) states that:

- (2) **Requirement for consent** *Development consent is required for any of the following—*
- (a) *demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)—*
 - (i) *a heritage item,*
 - (ii) *an Aboriginal object,*
 - (iii) *a building, work, relic or tree within a heritage conservation area,*

The subject Development Application is seeking development consent for the demolition of the fire damaged heritage dwelling house on the site.

3.1.3.2 Heritage Conservation

The subject site is listed as a heritage item within Schedule 5 of LCLEP 2009 and is also entered in The NSW Heritage Inventory Database. The property was formerly known as “Tallawalla”. The Statement of Significance of the site reads as:

“Tallawalla” is historically significant as one of the earliest dwellings built on the Northwood Estate auctioned in 1904. The dwelling has been sympathetically altered to include garages and the addition of a stone wall to Cliff Road. It has landmark qualities and is aesthetically significant, adding to the streetscape quality of Cliff Road.

The proposal is also subject to Clause 5.10(5) of LCLEP 2009 due to the land being listed as a heritage item. Clause 5.10(4) and (5) states the following:

(4) Effect of proposed development on heritage significance The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) Heritage assessment *The consent authority may, before granting consent to any development—*

- (a) *on land on which a heritage item is located, or*
- (b) *on land that is within a heritage conservation area, or*
- (c) *on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.*

It is noted that the applicant had submitted a Heritage Impact Statement (HIS) however they failed to submit a Heritage Conservation Management Plan (HCMP) with the subject Development Application. The HIS indicates the main components of the site:

- The burnt-out original house is shown in **red** outline as shown in Figure 11 above. According to the statement, in its undamaged state, it would have been assessed as having high significance warranting retention and conservation. The current state of the remnants reduces the significance to low category due to some ability to interpret the plan layout from the walls. A low level of significance together with the dangerous condition of the ruins means that retention and reconstruction are not warranted.
- The later additions to the west of the house are outlined in **yellow**. This part of the house is partly intact, but it is not of significance having a neutral effect on the value of the house as it was before its destruction.

- The terrace and low stone walls (outlined in green) appear to have been integral to the design concept of the house and are evaluated as having a high level of significance, worthy of retention and conservation.
- The landscaped area to the south (outlined in blue) comprising lawn, rock shelves and stone walls contributes to the scenic values of the foreshore slopes as seen from Gore Creek and Greenwich. Further research is necessary to evaluate the significance of the trees, plants and structures in the area. The area made an important contribution to the setting of the house and in this role is assessed as being of moderate significance. Regardless of the loss of the house, it is of scenic value.

The origins of the tennis court are not known. The tennis court appears in a 1943 aerial photograph. Further research may reveal when the tennis court was constructed and what level of significance should be attributed to it.

The HIS had found that assessment of the effect of the proposed demolition of the remnants of the house needs to be made in a two-step process. The first step is to consider the effect of the fire damage on the significance of the house. The fire has removed almost all the significant fabric that would have enabled an understanding and appreciation of the heritage values of the house. Therefore, the effect on the significance of the house is severe. Given the extent of damage, the loss of heritage values is irreversible and beyond meaningful reconstruction.

The second step is to assess whether the proposed demolition would prevent a meaningful interpretation of the heritage values of the house. There is insufficient fabric remaining to achieve this objective. Furthermore, the remaining structure is in a dangerous condition. The additional impact of demolishing the remnant fabric of the house would be minor.

The HIS concluded that the extent of fire damage is such that meaningful reconstruction of the house is not possible. The extent of new fabric would result in an inauthentic, and probably inaccurate, replica. The dangerous condition of the remnant walls and debris warrant demolition and removal as a priority safety precautionary action.

Comment: The applicant has not adequately demonstrated that the proposal as submitted would ensure that the relevant heritage values of the site would be retained or protected should approval be granted to the subject application. This is primarily due to the inadequate or unclear nature of the information being proposed. Demolition of a heritage item, even a burnt-out item should always be the last and final option.

There is no clear roadmap being provided for in how the site would evolve from this point on with regard to heritage and the future development potential of the site moving forward. The applicant has completely dismissed the potential option for a genuine rebuild or replica of the existing dwelling. Whilst it may not be the original house, any new dwelling should be designed in a manner that pays respect to the sites and dwellings federation past. No such undertaking or concept plans have been offered or provided by the applicant in this case. Demolition of this nature is considered inappropriate on this basis without further detailed investigation occurring.

There has been no comprehensive investigation, research, archival recording, and measured drawings completed to even consider approving this application to enable establishment of any site-specific controls. The western addition had been completely dismissed and should be retained until a full assessment is completed to ensure identified elements of heritage value are protected or recorded. It is possible that documentary evidence is available, together with surviving remnant structure to feasibly achieve an authentic reconstruction. The potential for a meaningful reconstruction of the dwelling house should be researched to establish whether there is sufficient evidence available to reproduce the earlier (undemolished) state.

There have been numerous instances where developers through their heritage architects have successfully attempted to provide for a genuine replica when rebuilding a demolished heritage item.

Typically the rebuilding of a demolished heritage item would require:

- The preparation of plans that would facilitate an accurate reconstruction of the building; and
- Any approval would then involve the reconstruction process to be supervised by a qualified heritage specialist.

Further, the extent of remediation works proposed do not seem to match the heritage value of the site where the RAP suggests that the vegetated area and the mortar between the sandstone walls may need to be removed to remove any contaminants present on the site. In addition, the RAP also suggests that the whole affected would require the removal of soil. This is not supported and seems excessive which indicates that the applicant has no real intention of ultimately protecting any heritage values currently present on this site. No mention of this is made within the Statement of Environmental Effects (SEE) and the Heritage Impact Statement (HIS).

The absence of site-specific controls would fail to protect and retain important historic and natural features on site. Site specific controls should be established prior to any applications being determined. Based on this lack of clarity involved or offered by the applicant at this stage, it would not be in the public interest to approve this application in this instance. Accordingly, the proposal is not considered to satisfy Clause 5.10 and its objectives including relevant aims and zone objectives of LCLEP 2009 such as:

5.10 Heritage conservation

(1) Objectives The objectives of this clause are as follows—

- (a) to conserve the environmental heritage of Lane Cove,*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*

1.2 Aims of Plan

(2) The particular aims of this Plan are as follows—

- (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) to establish, as the first land use priority, Lane Cove's sustainability in environmental, social and economic terms, based on ecologically sustainable development, inter-generational equity, the application of the precautionary principle and the relationship of each property in Lane Cove with its locality,*
- (b) to preserve and, where appropriate, improve the existing character, amenity and environmental quality of the land to which this Plan applies in accordance with the indicated expectations of the community,*
- (c) in relation to residential development, to provide a housing mix and density that—*
 - (ii) is compatible with the existing environmental character of the locality, and*
 - (iii) has a sympathetic and harmonious relationship with adjoining development,*
- (f) in relation to conservation—*
 - (iii) to control all new buildings to ensure their compatibility with surrounding existing built form and natural environmental character, and*
 - (iv) to conserve heritage items,*

Zone R2 Low Density Residential

- *To retain, and where appropriate improve, the existing residential amenity of a detached single family dwelling area.*

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

3.1.3.3 Earthworks

Clause 6.1A of the LEP reads as:

6.1A Earthworks

- (1) The objectives of this clause are as follows—
 - (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
 - (b) to allow earthworks of a minor nature without requiring separate development consent.**
- (2) Development consent is required for earthworks unless—
 - (a) the work is exempt development under this Plan or another applicable environmental planning instrument, or*
 - (b) the work is ancillary to other development for which development consent has been given.**
- (3) Before granting development consent for earthworks, the consent authority must consider the following matters—
 - (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,*
 - (b) the effect of the proposed development on the likely future use or redevelopment of the land,*
 - (c) the quality of the fill or the soil to be excavated, or both,*
 - (d) the effect of the proposed development on the existing and likely amenity of adjoining properties,*
 - (e) the source of any fill material and the destination of any excavated material,*
 - (f) the likelihood of disturbing relics,*
 - (g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.**

Although not mentioned within the SEE and the HIS, the RAP requires earthworks to cover approximately an area of 1,100sqm involving excavation to a depth of 0.1m below natural ground level (see Figure 11 below).

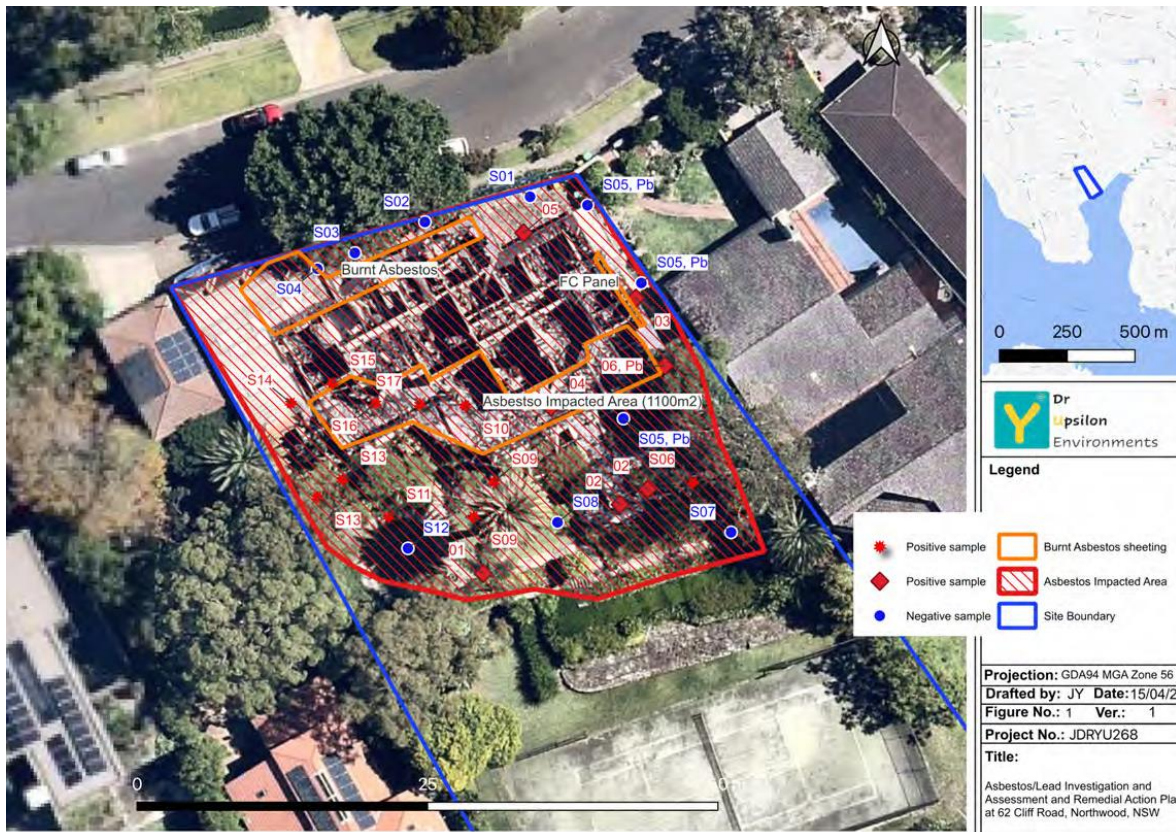


Figure 12 – Areas hatched in red proposing the extent of earthworks

This would suggest that everything in the areas hatched in red in the figure would have to be removed as the RAP based on the recommendations contained in the report which includes removal of mortar between the terraced sandstone wall structure. It is considered that the proposed excavation would have adverse heritage impacts as discussed further within this report in more detail, where it is considered that the extent of excavation is not supported as it would be inconsistent with the heritage character of the site.

It is intended that this would lead to an outcome where the remaining heritage values of the site would be effectively removed to enable full remediation and the ultimate redevelopment of a new dwelling which would not have to address any heritage elements that otherwise would have remained present on the site.

3.2 Any proposed instrument (Draft LEP, Planning Proposal)

N/A

3.3 Any development control plan

3.3.1 Lane Cove Development Control Plan LCDCP – Part B.9 Heritage

As detailed above, the proposal is unsatisfactory as it would have unacceptable impacts on the status of the existing heritage item. Inadequate documentation had been prepared with the subject application such as submission of a detailed photographic record and heritage conservation plan as required under Part B.9.1(d) – Heritage Items and the Conservation Area. This lack of detail is

not sufficient to permit the approval of any demolition of a heritage dwelling house. Based on the above discussions contained within this report, it is considered that the following DCP general objectives would not be met as follows:

- *Support the locality's sustainability in environmental, social and economic terms.*
- *Conserve, protect and enhance the environmental and built heritage of Lane Cove.*
- *Minimise any impacts of the redevelopment of uses not conforming to the zone they are in, by having regard to the scale and character of the surrounding neighbourhood.*
- *Balance individual and community interests to preserve and, where appropriate, improve the existing character and amenity of the municipality.*

3.4 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The impacts on both the natural and built environments of the locality have been considered and addressed in the report and are unsatisfactory.

3.5 The suitability of the site for the development

The proposed development does not respond appropriately to the site constraints and therefore the site is not suitable for the development.

3.6 Any submissions made in accordance with this Act or the regulations

The proposed development was notified in accordance with Council policy and three submissions including a submission from the Lane Cove Historical Society were received. The other submissions came from Nos. 35 and 56B Cliff Road. The submissions main concerns are summarised and addressed within the table below as follows:

Summary of Submissions	
Concern	Comment
The residents are hoping that the building will be restored to the original state or rebuild a replica. Otherwise, once demolition would occur, the owner would redevelop the site in an uncontrolled manner with respect to relevant heritage considerations.	In this instance, this is a reasonable request based on the unique circumstances of this matter. The proposed retention of the rear elements would assist in the rebuild of a federation style dwelling reminiscent of and pays homage to its predecessor.
Any redevelopment purposes ought to ensure that it is built within the envelop of the original home so that the water views for many homes on Cliff Road including our home are not affected as these homes were purchased based on these views and which were not expected to change due to the heritage nature of this property.	Any new designs would need to address the relevant heritage values present on the site and relevant view sharing principles that are applicable. Whether the new dwelling would be an exact replica is not known as this stage and this matter would need to be ultimately resolved in a satisfactory manner moving forward.
The subject application ought not to be approved until the legal matters associated with this site is ultimately resolved.	The alleged criminal case is a separate matter which would be resolved in time, however determination of this application should not be

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62 CLIFF ROAD NORTHWOOD**

Summary of Submissions	
Concern	Comment
	predicated on the result of this.
The assessment should be undertaken by more than one heritage expert as there would be many views about the repairing restoring, reconstructing, process of this damaged heritage building.	Agreed, the subject application has been assessed by various heritage consultants which has been determined that the proposal as submitted should not be supported in this instance.
As the surrounds of the building do not appear to be damaged, would these areas, would remain under a heritage status.	As a minimum, undamaged site features are to be retained and these would comprise the paved terrace, stone balustrades, steps and retaining walls at the rear of the existing heritage dwelling although further work needs to be completed to ensure more heritage values are protected moving forward.
The spread of contaminants in the air and soil during the demolition process would occur, which can harm the health of residents.	Any removal of contaminants would be conducted in a manner that would be in accordance with relevant health or safety regulations and guidelines.
<p>Concerns from the Lane Cove Historical Society</p> <p>For the abovementioned reasons and until the site and building's history is fully investigated and recorded, and its significance reassessed, only the minimum demolition (and remediation) required to secure the safety of the site should be approved or occur under this DA.</p>	The extent of initial demolition work should be limited to a minimum extent required to secure the safety of the site. Site specific controls can only be determined by Council after a comprehensive investigation, research, archival recording, and measured drawings are completed by the applicant.
The west part of the building as well as the foundations and footprint should be kept or at least recorded so that they can inform the location and form of future development and to maximize the opportunity for retention of historic site elements and natural features.	The west part of the building which has incurred less damage than the remainder of the building is a later extension and is unlikely to have the high level of significance of the original 1915 section. However, it should be retained until a full assessment is completed and ensure identified elements of heritage value are protected or recorded.
The potential for a meaningful reconstruction of the place should be researched to establish whether there is sufficient evidence available to reproduce the earlier (undemolished) state. This evidence should include surviving physical fabric but also evidence from documentary sources, such as photos, drawings, previous approvals etc.	It is possible that documentary evidence is available, together with surviving remnant structure to feasibly achieve an authentic reconstruction as after demolition of the remaining unstable structure the site would be essentially razed to ground level. Any attempt at conservation of the ruins would result in almost total reconstruction, resulting in a new replica of the 1915 heritage building whilst not ideal would be the correct outcome in this instance.
The Inventory Form and the Statement of Significance, that underpin the LEP heritage listing should be reviewed immediately to identify and reference significant site features and landscape components in the Inventory Form. All the remaining physical evidence should be recorded together with documentary evidence, including historical research, to	The inventory has not been updated by the applicant's heritage consultant. Approval of a DA based on an inventory for a heritage building which no longer exists, would compromise any desired outcome which protects the heritage values of the site, and leaves open unintended consequences and the potential for legal issues.

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Summary of Submissions	
Concern	Comment
provide a comprehensive record of the site's development and to inform any future development.	
<p>It is recommended that site specific controls for this site be developed to ensure that important historic and natural features would be retained, prior to this application and any further DAs being lodged to redevelop the site.</p> <p>The site should continue to be managed as a heritage item, as is its current statutory status throughout the demolition, rectification, remediation, and redevelopment process. Significant or historically aesthetically important built or landscape elements, and natural features should be carefully identified in consultation with the applicants Heritage Consultant and Council's Heritage Advisor to ensure that they are protected from any further damage during the demolition and remediation process.</p>	<p>A comprehensive set of site-specific controls should be developed, following a comprehensive investigation by the applicant to ensure protection of remaining elements. Extensive landscape features including sandstone structures, retaining walls, steps, the east terraced area, and the stone wall to the street boundary have already been identified.</p> <p>The extent of potential significant elements can only be determined after detailed investigation and research. Council is aware of the sensitivity of controls for future development of the site when the current DA is for demolition only. The first stage of redevelopment and the site would continue with protection of the heritage listing. The implications for other heritage items are acknowledged, however the circumstances in this case are unique and should not create a precedent.</p>

Comment: In general, the concerns raised by the historical society are supported, and the extent that these can be implemented. This would be dependent on further site investigation and research outlined above. Further consultation with the society and relevant heritage consultants during this process would be welcomed. It is recommended that the subject application be refused until a new assessment of significance is carried out and the heritage listing be updated immediately to reflect the current situation and identify significant elements to be retained. Finally, the recommendation by the residents that a replica be rebuilt is supported in this case, due to its unique circumstances involved.

RECOMMENDATION

That pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act, 1979 the Lane Cove Local Planning Panel at its meeting of 21 February 2024 refuse the subject Development Application DA100/2023 for the proposed part demolition of an existing heritage dwelling house including site remediation on land known as No. 62 Cliff Road, Northwood for the following reason:

1. LEP zoning objectives, aims of Plan:

The proposed development would be inappropriate on the subject heritage site and is inconsistent with the following aims and R2 Low Density Residential of *LCLEP 2009* as follows:

Particulars:

1.2 *Aims of Plan*

(2) *The particular aims of this Plan are as follows—*

(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts, to establish, as the first land use priority, Lane Cove's sustainability in environmental, social and economic terms, based on ecologically sustainable development, inter-generational equity, the application of the precautionary principle and the relationship of each property in Lane Cove with its locality,

(b) to preserve and, where appropriate, improve the existing character, amenity and environmental quality of the land to which this Plan applies in accordance with the indicated expectations of the community,

(c) in relation to residential development, to provide a housing mix and density that—

(ii) is compatible with the existing environmental character of the locality, and

(iii) has a sympathetic and harmonious relationship with adjoining development,

(f) in relation to conservation—

(iii) to control all new buildings to ensure their compatibility with surrounding existing built form and natural environmental character, and

(iv) to conserve heritage items,

Zone R2 Low Density Residential

- *To retain, and where appropriate improve, the existing residential amenity of a detached single family dwelling area.*
- *To ensure that landscaping is maintained and enhanced as a major element in the residential environment.*

2. LEP Heritage provisions of the Plan:

The proposed development would be inappropriate on the subject heritage site and is inconsistent with *Clause 5.10 – Heritage conservation of LCLEP 2009* and does not satisfy the relevant objectives as follows:

Particulars:

Objectives *The objectives of this clause are as follows—*

(a) to conserve the environmental heritage of Lane Cove,

(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.

3. LEP Earthwork provisions of the Plan:

The proposed development cannot be granted due to the inability to fully satisfy the earthworks provisions of the Lane Cove LEP 2009:

Particulars:

Clause 6.1A – Earthworks of LCLEP 2009. Including:

- *(3) Before granting development consent for earthworks, the consent authority must consider the following matters—*
 - (f) the likelihood of disturbing relics,*

The extent of earthworks proposed is not supported as it would be inconsistent with the heritage values currently present on the subject site and does account for the disturbance of heritage relics on the site.

4. DCP Heritage provisions:

The development does not comply with the following requirements of *Lane Cove*

Development Control Plan (LCDCP) 2009 Part B – General Control in respect of:

Particulars:

- *Part B General Objectives for the DCP*
Part 1.1 General Objectives –
 - *Support the locality's sustainability in environmental, social and economic terms.*
 - *Conserve, protect and enhance the environmental and built heritage of Lane Cove.*
 - *Contribute to effective management of biodiversity.*
 - *Minimise any impacts of the redevelopment of uses not conforming to the zone they are in, by having regard to the scale and character of the surrounding neighbourhood.*
 - *Balance individual and community interests to preserve and, where appropriate, improve the existing character and amenity of the municipality*

 - *Part 9.1(d) Heritage Items and the Conservation Area.*
 - (d) Photographic records of all heritage listed items to be demolished or to be changed is to be undertaken prior to release of the construction certificate.*
 - (f) Development involving a heritage item may be required to be in accordance with an up - to - date Conservation Management Plan and/or Specific Element Conservation Policy (SECP).*
- (i) The proposed development would have an unreasonable impact upon the existing heritage values currently present on the subject heritage site. The impacts on the environmental, built, and social environments on the site and locality are unsatisfactory. The cumulative heritage impact of the proposal is unreasonable.
- (ii) The subject Development Application should be refused because the proposal would not be suitable for the subject heritage site having regard to the unnecessary heritage impacts that the proposal would have.
- (iii) The subject Development Application should be refused primarily for the reasons provided above, and approval of the application would be contrary to the public interest. Approval of the proposal would be contrary to the public interest as it would provide for an inappropriate form of development of the subject heritage site.

5. Insufficient Information:

Insufficient information has been submitted in support of the application in accordance with *Clause 36 of the Environmental Planning & Assessment Regulations (EPAR) 2021* with respect to:

Particulars:

- Inadequate documentation had been prepared with the subject application such as submission of a detailed photographic record and heritage conservation plan as required under Part B.9.1(d) – Heritage Items and the Conservation Area.
- The documentation does not include any potential for alternatives to demolition such as a genuine rebuild or replica of the existing dwelling.
- The applications fails to provide a comprehensive investigation, research, archival recording, and measured drawings to enable establishment of any site-specific controls.

6. Public Interest:

The proposal does not with the relevant evaluation provisions of clause 4.15 of the Environmental Planning and Assessment Act 1979 and is not in the public interest.

The subject Development Application should be refused primarily for the reasons provided above, and approval of the application would be contrary to the public interest. Approval of the proposal would depart from the existing local Northwood character which should respond to and be informed by a more sensitive approach to the heritage status of the site.

Particulars:

4.15 Evaluation (1) Matters for consideration - general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application—

(a) the provisions of—

(i) any environmental planning instrument, and

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

(c) the suitability of the site for the development,

(e) the public interest.

ATTACHMENTS:

There are no supporting documents for this report.

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180 RIVER ROAD, LANE COVE

Subject: 180 River Road, Lane Cove
Record No: DA22/147-01 - 7256/24
Division: Planning and Sustainability Division
Author(s): Robert Montgomery

Property:	180 River Road Lane Cove (comprises various lots)
DA No:	DA 147/2022
Date Lodged:	1 December 2023
Cost of Work:	\$61,912,148.00
Owner:	Lane Cove Council
Applicant:	Lane Cove Council

Description of the proposal to appear on determination	Modification pursuant to s4.55(1A) of Development Consent DA147/2022 and approved plans to reflect minor design changes that have occurred as the project progresses. These changes include internal rearrangement, changes to stairs and landscaping.
Zone	RE1 Public Recreation
Is the proposal permissible within the zone	Yes
Is the property a heritage item	No
Is the property within a conservation area	No
Does the property adjoin bushland	No
BCA Classification	Class 5, 6, 7a, 9b
Stop the Clock used	No
Notification	Neighbours: Notified from 1 December 2023 to 19 January 2024 Ward Councillors Progress Association Other

SITE

Property	Various lots to be consolidated as a consequence of DA. Known as 180-River Road Lane Cove	
Area	2.006ha	
Site location	180 River Road Lane Cove	
Existing improvements	Golf Club, pro shop, outdoor tennis courts, car parking and outbuildings	
Shape	Irregular	
Dimensions	Width	Depth
Adjoining properties	East – Lane Cove Golf Course Nort – Lane Cove Golf Course	West – 8 dwellings South – Lane Cove Golf Course

SITE APPLICATION HISTORY

DA 147/2022	Construction of a sports and recreation facility – Approved by Sydney North Planning Panel on 3 May 2023.

PROPOSAL

The proposal is for a number of minor modifications to the consent and approved plans for construction of a sports and recreation facility, which was approved by Sydney North Planning Panel on 3 May 2023.

The modification comprises numerous changes brought about by the need for BCA compliance, operational requirements and the ongoing design process. The changes are detailed in Table 1 contained within this report. In summary, the changes relate to stair location, additional skylights, relocation of golf pro shop, alterations to driveway and pedestrian pathway, internal reconfiguration, additional shade structure, minor reduction in roof overhang, amendments to landscape planting schedules and changes to entry design.

The application is made pursuant to Section 4.55(1A) of *the Environmental Planning and Assessment Act, 1979*.

PROPOSAL DATA/POLICY COMPLIANCE

Lane Cove Local Environmental Plan 2009

Zoning: RE1 Public Recreation

Site Area: 2.006ha

LEP table			
	Development Standard	Proposal	Complies
Floor Space Ratio (max)	No maximum specified for the site.		N/A
Height of Buildings (max)	No maximum specified for the site.		N/A

Comprehensive Development Control Plan

The development was assessed against the relevant provisions of the Lane Cove Development Control Plan and was found to be compliant. The proposed modification does not bring about any non-compliance.

REFERRALS

(a) The application was referred to Council’s Director Open Space and Infrastructure, who raised no objection to this modification subject to the submission of detailed construction methodology for assessment prior to the issue of a Construction Certificate. Condition C.10 of the original consent requires this to occur.

REASON FOR REFERRAL

The modification application is referred to the Lane Cove Local Planning Panel as Lane Cove Council is the owner of the land.

EXECUTIVE SUMMARY

This assessment report is prepared by Robert Montgomery, an independent town planner engaged by the Council to assess the application.

The Section 4.55(1A) application seeks to modify Development Consent DA147/2022 by proposing a number of changes relating to stair location, additional skylights, relocation of golf pro shop, alterations to driveway and pedestrian pathway, internal reconfiguration, additional shade

structure, minor reduction in roof overhang, amendments to landscape planting schedules and changes to the entry design.

The modification comprises a number of minor changes, which are required in part to achieve BCA compliance, future operational requirements and the ongoing design process.

Approved by the Sydney North Planning Panel on 5 May 2023, the development is described as:

“Demolition of existing structures and construction of a (part two and part three storey/mezzanine) sports and recreation facility.”

The approved development comprises four new outdoor multi-purpose courts, indoor sports hall, multipurpose shared spaces, bistro, outdoor dining terrace, lounge space, meeting rooms and golf pro shop.

The Sydney North Planning Panel previously delegated all functions relating to determination of applications to modify consent to Council’s General Manager. However, as the Council is the owner of the land, the application is referred to the Lane Cove Local Planning Panel for determination.

In accordance with the Lane Cove Community Participation Plan, the application was notified from 1 December 2023 to 19 January 2024. Seven submissions were received.

The modification application has been assessed under the provisions of Sections 4.15 and 4.55 of the Environmental Planning and Assessment Act, 1979, and is recommended for approval.

SITE

The site, known as the Lane Cove Golf Course and Lane Cove Country Club, is located at 180 River Road, Lane Cove. The site is approximately 3km south of Chatswood CBD and 4km north-west of North Sydney CBD.

River Road is classified as a regional road, which provides a connection between St Leonards in the east and Lane Cove in the West. Figure 1 below shows the location in the context of surrounding town centre’s and road network.

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180 RIVER ROAD, LANE COVE

Figure 1: Location Source: NSW LPI SIX Maps

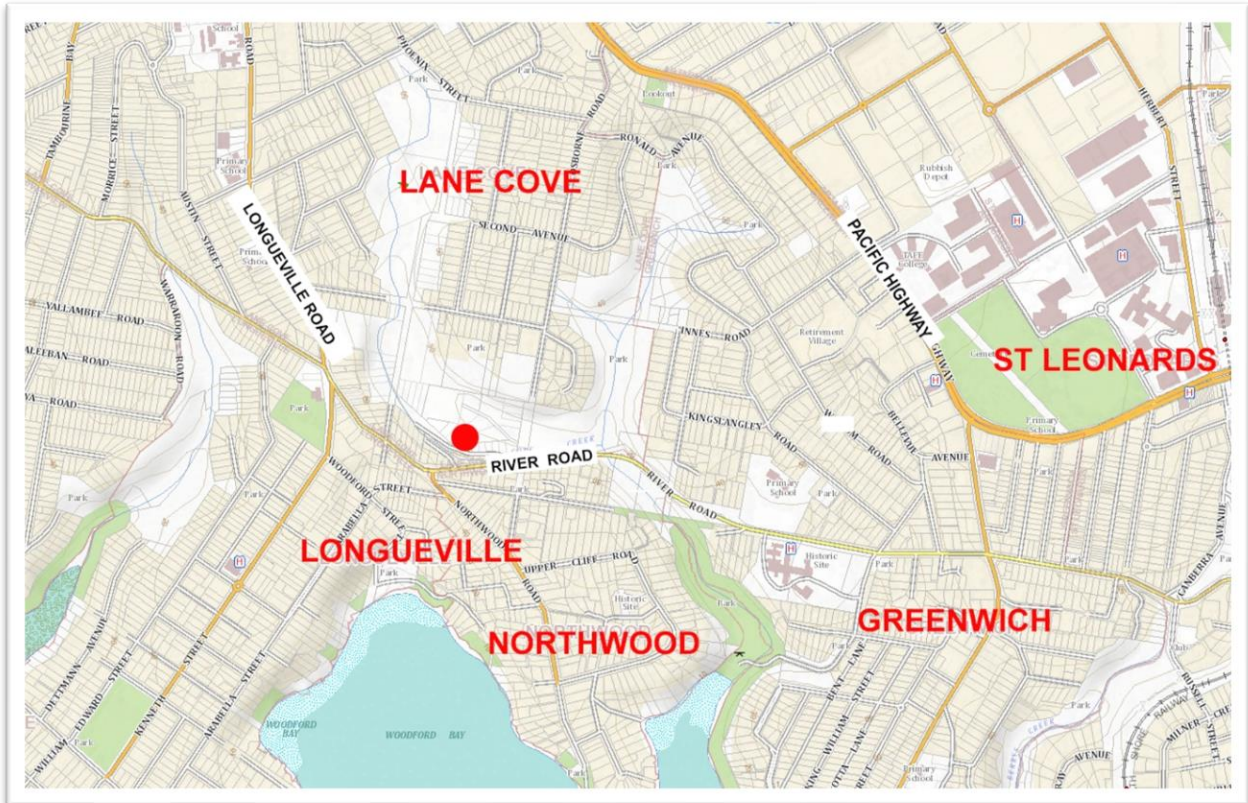
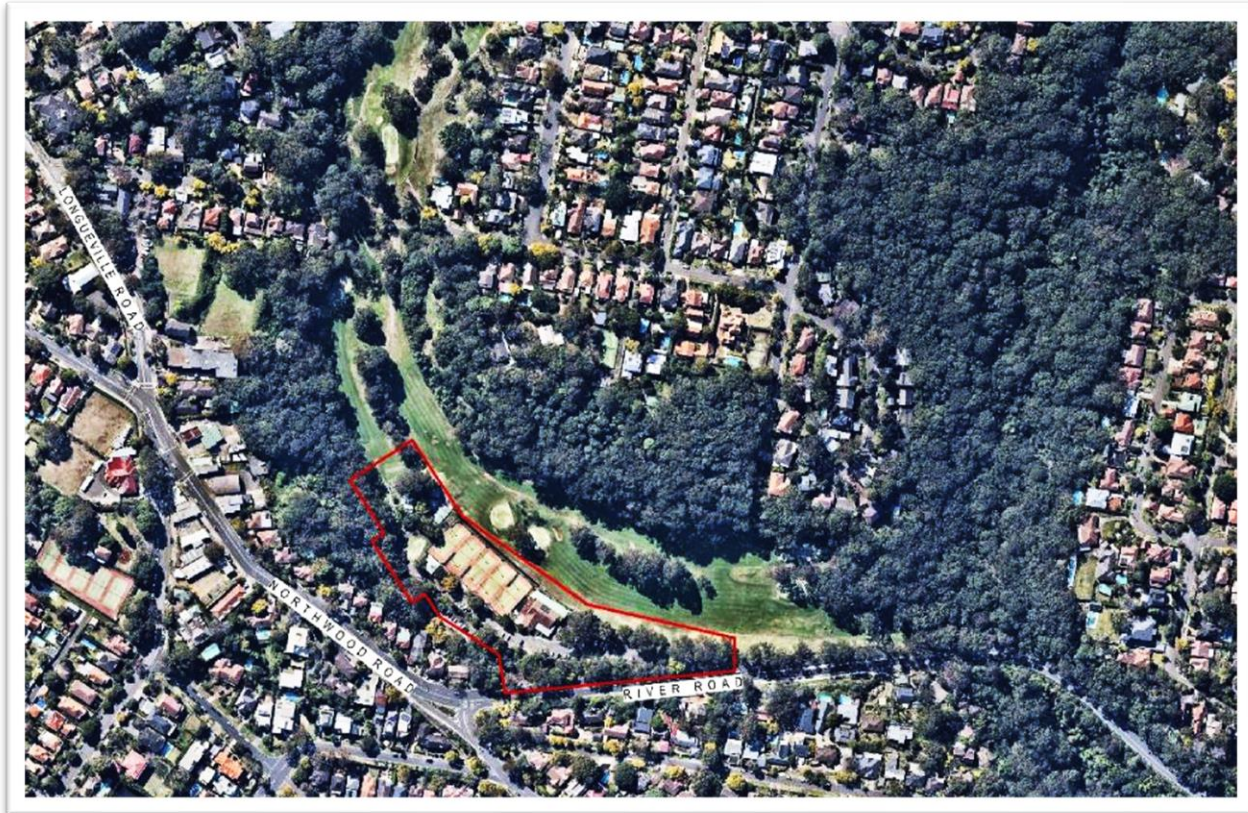


Figure 2: Satellite Image. Google Maps and Ethos Urban



The land currently provides local sporting facilities in the form of five (5) floodlit synthetic tennis courts, Lane Cove Country Club building, various outbuildings, a greenkeepers cottage and

carparking. The land comprises a number of lots which includes the adjoining golf course. It is proposed to consolidate all lots and re-subdivide to create a lot of 2.006ha, which will contain the proposed recreation centre.

Figure 3: Golf Club Building with grassed bank down to golf course



Figure 4: Tennis Courts



Figure 5: Car Park with Escarpment behind

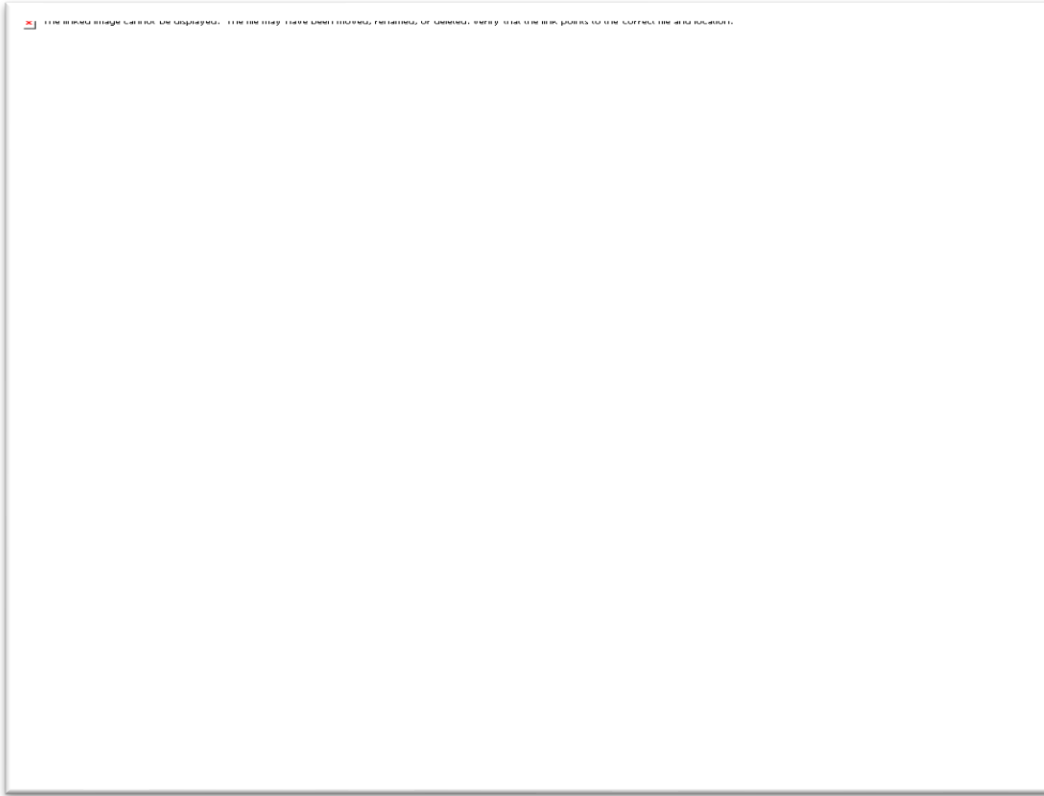


Figure 6: Car Parking near Golf Club Building

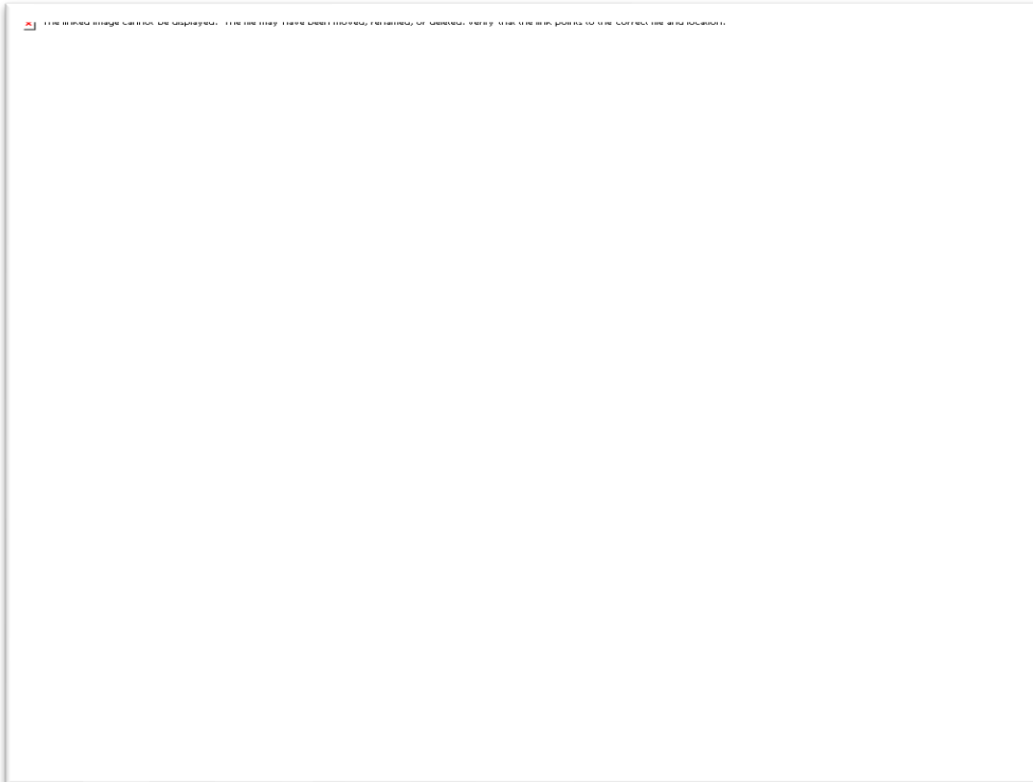


Figure 7: Maintenance Buildings

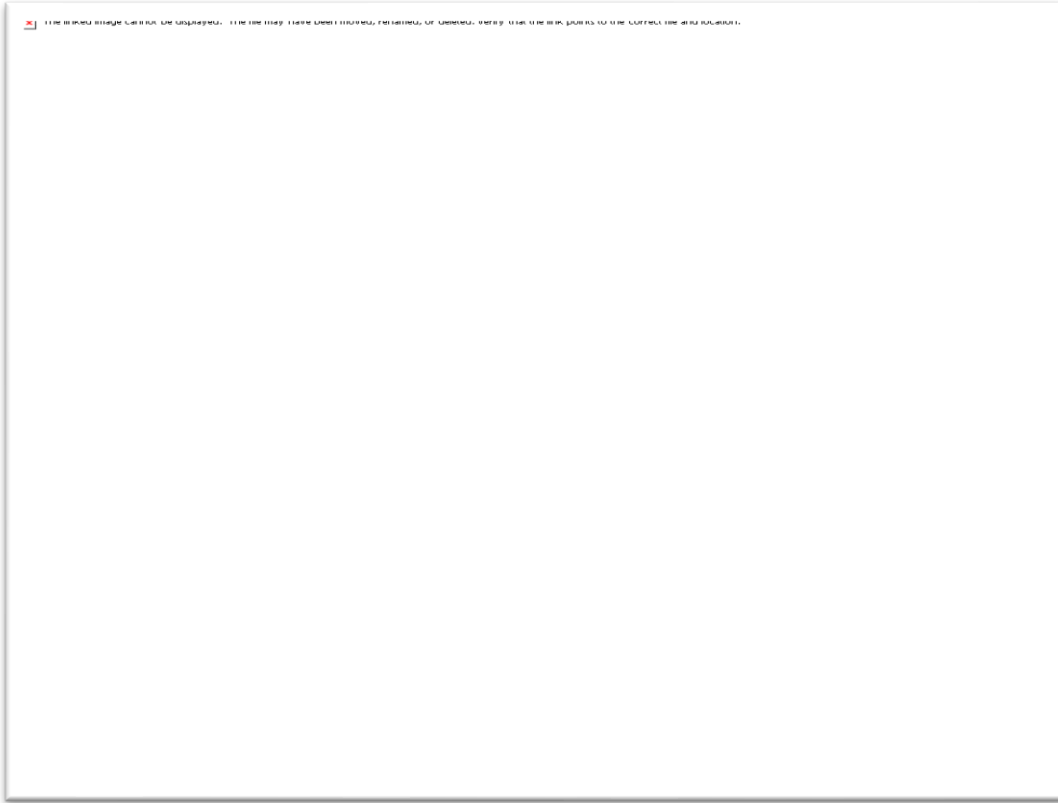
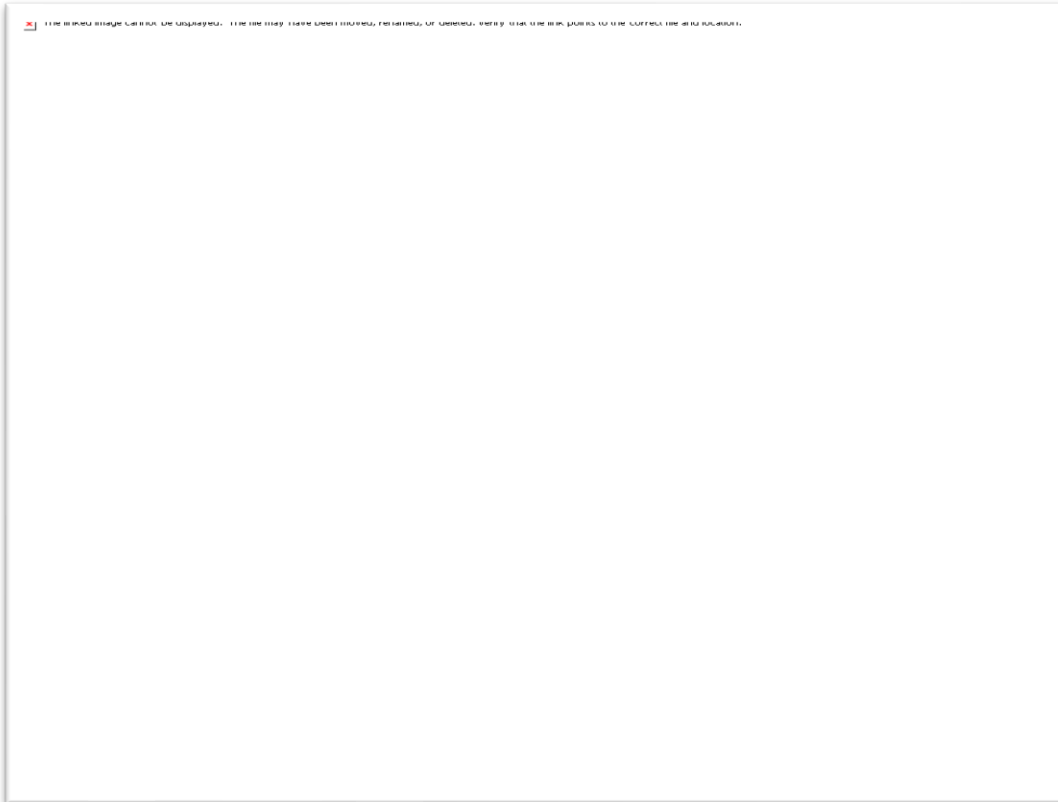


Figure 8: Grass Bank Transition between development site and golf course



The site is surrounded by the Lane Cove golf course to the north, east and south of the site. Eight dwellings, with frontage to Northwood Road, adjoin the site to the west and seven dwellings, with frontage to Fleming Street, are located on the southern side of River Road.

PREVIOUS APPROVALS/HISTORY

Approved by the Sydney North Planning Panel on 5 May 2023, the development is described as:

“Demolition of existing structures and construction of a (part two and part three storey/mezzanine) sports and recreation facility.”

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

Attachment 5 is a copy of the development consent issued on 9 May 2023.

PROPOSED MODIFICATION

The application seeks to amend the following conditions:

- Condition A.1 – Approved plans and supporting documentation;
- Condition A.4 Tree preservation and approved landscaping works; and
- Condition C.11 – Entry Design.

These conditions relate to the details of the approved plans, the management of trees on site and the design of the entrance. In summary, the changes relate to stair location, additional skylights, relocation of golf pro shop, alterations to driveway and pedestrian pathway, internal reconfiguration, additional shade structure, minor reduction in roof overhang, amendments to landscape planting schedules and changes to entry design.

Design Changes

The applicant states that the modified plans are considered appropriate due to the following:

- Improvements to the functionality of the building and rationalisation of the layout.
- Improved pedestrian access from River Road. This was also a requirement of the consent conditions.
- Improved driveway access, drop off and loading area from River Road.
- Provision of increased light from additional skylights
- Improved functionality of landscaping within the building
- Improved shading
- Improved access within the building
- A kitchen and bistro area that will have an improved function due to rearrangement.
- Improved storage areas. The increase in floor area for this area was a part of an existing void next to the rock escarpment negating any impact on neighbouring properties or visual impact.
- Improvements to window design for light and privacy and design.
- Additional viewing space from the internal balcony within the multi purpose hall without impacting on the bulk or footprint of the building.
- The pro shop, buggy store and staff room are located conveniently adjoining the practice and the proposed first tee area.

- The proposal to retain the internal driveway access from Stevenson Street to the site for Council access to the golf course will merely maintain the existing access with a more restrictive impact. This will be due to the installation of a swing gate that will be installed at the high point of the driveway blocking public access.
- There will be no impacts on traffic or parking as the intensity of use of the site will not change.

Landscaping and Tree Removal

The applicant states that the modified plans comprise the following:

- Add the first tee.
- Update the landscaping for the building, accessways, entries and to accommodate the proposed building design changes. The plans reflect the revised floor plans.
- Amend the bleacher seating and add a shelter.
- Amend the planting schedules with a substantially higher ratios of indigenous plants.

Two trees, T81- *Angophora costata*, Sydney Red Gum, and no number-*Eucalyptus pilularis*, Blackbutt, which grow along the edge of the rock escarpment, are to be removed. An arborist report submitted with the application found that it is likely that as these trees grow, cracks within the rock shelf will increase in size and the integrity of the rock face may be compromised. The arborist report concluded that the trees have a TreeAZ retention rating of Z8 (trees that are likely to be removed within 10 years through responsible management of the tree population).

Entry Design

Condition C11 requires a number of treatments to enhance the entrance to the building. The applicant notes that the façade of this elevation will be clad with colorbond and was incorrectly described as concrete in the condition. The applicant also submits that additional landscaping at the base of the eastern wall will not be practical due to limited space, high usage and would be located under an overhang to be provided for weather protection of the drop off zone.

Attachment 3 is a detailed schedule of the changes proposed.

SECTION 4.55 ASSESSMENT

The application is made under section 4.55(1A) of the *Environmental Planning and Assessment Act, 1979*. This section relates to “modifications involving minimal environmental impact” and provides that the consent authority may modify the consent if:

- (a) *it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), 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 any period prescribed by the regulations or provided by the development control plan, as the case may be.*

In relation to section 4.55(1A) (a), it is considered that the changes proposed by the modification are of minimal environmental impact only. There is no enlargement or expansion of the building footprint or driveway area. The pedestrian walkway has been relocated to minimise the impact on existing trees, as required by Condition C.10 of the consent.

In relation to section 4.55(1A) (b), the Panel is advised that the description, use and nature of the development is unchanged and the proposal remains consistent with the approved development description. The height of the building, building envelope, car parking remain consistent with the approved development and no additional development is proposed.

Accordingly, the Panel can be satisfied that the proposed modification is of minimal environmental impact and is substantially the same development as the development for which the consent was originally granted.

In relation to section 4.55(1A)(c), the application was notified from 1 December 2023 to 19 January 2024 in accordance with the Lane Cove Community Participation Plan. Seven submissions were received, which are summarised in Table of 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:

1.
 - Sydney North Planning Panel Determination and Statement of Reasons dated 5 May 2023; and
 - Assessment Report to SNPP dated 3 May 2023.

Copies of these documents are Attachments 1 and 2.

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

SECTION 4.15(1) MATTERS FOR CONSIDERATION

In determining an application for modification of a consent under section 4.55(3), 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.

Environmental Planning Instruments

The following Environmental Planning Instruments apply to the land:

- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- Lane Cove Local Environmental Plan 2009

All of the above environmental planning instruments (EPIs) were considered in the assessment of the original development application. The minor nature of the modifications proposed does not give rise for the need for a detailed examination of the EPIs.

Notwithstanding, a review and consideration of the relevant provisions of the above Environmental Planning Instruments confirms that the proposed modification creates no impacts beyond the original development consent.

Draft Environmental Planning Instruments

There are no draft instruments.

Development Control Plans

Lane Cove Development Control Plan 2010 (*LCDCP*) applies to the site. The development application was assessed against the provisions of the *LCDCP* in the assessment report dated 3 May 2023.

Having reviewed the proposed modification, it is concluded that the proposal satisfies the requirements of the Lane Cove Development Control Plan.

Regulations

The *Environmental Planning and Assessment Regulation, 2021 (EP&A Reg)* contains provisions relating to modification applications. The following clauses apply:

Table 1: Summary of Relevant Clauses in the EP& A Reg, 2021

Clause	Summary	Comment
98	Sets out who can make an application	Complies
99	Form, particulars and lodgement	Complies
100	Content required	Complies
104	Consent authority may ask for additional information	A request for additional information was made on 23 January 2024. A satisfactory reply was received on 6 February 2024.
105	Requires notification of 4.55(1A) if required by local community participation plan	In accordance with the Lane Cove Community Participation Plan, the application was notified from 1 December 2023 to 19 January 2024. Seven submissions were received.
109	Relevant concurrence and approval bodies to be notified if the modification affects any condition imposed.	The original application was referred to Transport for NSW (TfNSW) for comment as traffic generating development under the Infrastructure SEPP. As the modification proposes no change to the conditions suggested by TfNSW, referral is not required.

The application satisfies the relevant clauses of the *Environmental Planning and Assessment Regulation, 2021*.

Likely Impacts of the Development

The proposed modification will not result in any discernible environmental impacts. Nor does it alter the character of the approved development. There are no changes to the approved land use, building height, design and materials, parking provision, or footprint of the building. Therefore. It is not anticipated that any additional or different environmental impacts will occur in relation to privacy, views, acoustic impacts, traffic or biodiversity.

Natural Environment

The impacts were considered in the assessment of the original development application. An arborist report was submitted with the modification which justifies the proposed removal of two additional trees.

The pedestrian walkway from River Road to the building has been redesigned and moved alongside the roadway, which causes less visual impact. The walkway is designed as a lightweight boardwalk style structure, with the ability to place footings in locations with minimal impact on root zones of the mature trees on site.

Built Environment

Minor changes are proposed to the roof overhang, windows, internal reconfiguration, stair requirements and provision of shade structures for outdoor seating area. It is agreed that landscaping along the eastern end of the building will not be practical, however low planter boxes with suitable species would be appropriate for the external drop off area. Some minor changes are also proposed to the driveway.

There are no changes to potential impacts on surrounding properties. In approving the original development application, the consent authority was satisfied in relation to these impacts.

Traffic Access and Parking

The modification involves no changes in terms of traffic access and parking.

Social Impacts

Proposed changes to the internal configuration of spaces will provide better utility for patrons of the centre. The modification has no other impacts.

Economic Impacts

The modification involves no changes in economic impacts.

It is considered that the likely impacts of the modification are minor and acceptable.

Suitability of the Site

The site was considered suitable for the development when the development application was assessed and approved.

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Any Submissions Made

In accordance with the Lane Cove Community Participation Plan, the application was notified from 1 December 2023 to 19 January 2024. Seven submissions were received. The following table provides a summary of the submissions received and comments in response.

Table 1: Submission Summary

Matters Raised		Frequency	Comment
1	Insufficient detail about Remedial Action Plan for site / concern about operational matters relating to contamination.	3	The Remedial Action Plan formed part of the original development application. Conditions of consent require implementation and certification that the site is suitable for the use. No changes are proposed in the modification.
2	Landscaping plan (original and modified) is inappropriate and must be changed.	3	The consent authority was satisfied with the original landscape plans. Council's Director of Open Space and Infrastructure has reviewed the modification and raises no objection.
3	Insufficient information has been provided to the community. Original material was only 80% complete.	1	All information submitted with the development application and the modification is available to the public. While certain members of the community may wish to see more operational detail for the facility, sufficient information has been submitted by the applicant to support the modification.
4	Proposed wildlife crossing under entryway (shown on approved DA plan) has been deleted.	1	The modified plans do not show the wildlife crossing. An additional condition is to be imposed to ensure that this is provided.
5	Skylights appear to be deleted over the indoor sports halls.	1	The skylights are shown on the modified plan in the same locations as the approved plan. No changes are proposed to the roof in this area.
6	Proposed internal road extension has not been assessed. There is potential impact on native trees.	1	The applicant's response is: <i>"To meet Sydney Water conditions for future access and Council Maintenance. The driveway will be restricted in use by the installation of a gate system for authorised access only. There are no environmental impacts arising from the deletion of the work"</i> .
7	Recommended that all measures be taken to prevent adverse impacts on the trees associated with the Stevenson Street extension.	1	A suitable condition is proposed.
8	Parapet is shown on plan but not on east elevation.	3	A parapet is shown on Plan 2103B. In the schedule of changes, the applicant states that there has been an Incremental change to the approved parapet design/ east

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			<p>elevation. The change proposed seeks to improve articulation of the façade to align with condition C.11 of the consent.</p> <p>The parapet sits within façade elevation and does not encroach building envelope or ridge levels.</p> <p>There are no environmental impacts arising from the change.</p>
9	Signage zone is deleted from the east elevation.	1	This has not been addressed in the applications S4.55 statement, however this is covered by condition C.11, which requires all details of the entry elevation, including signage, to be submitted to and approved by Council.
10	Turning circles from the new road to golf fairway and golf store should be provided.	1	The extension to Stevenson Street is to provide physical access for Sydney Water and Council maintenance purposes. It will not be used by other service vehicles for loading or unloading.
11	The new access road is not within the site boundary.	1	<p>Part of the proposed maintenance access is identified as a future council road on the applicant's lot consolidation plan (Attachment 6 to this report. Clearly there are no plans to create a public road in this location.</p> <p>The land in question does form part of the development site. However, it is suggested that the final lot consolidation plan be amended to include in the new lot which will contain the recreation centre in its entirety.</p>
12	Design of pedestrian entry and sense of arrival is awkward (internal drop off area)	1	The lift and stairway appear to be conveniently located in relation to the internal drop off area.
13	Ratio of male to female WCs is too high.	1	Requirements for WCs are regulated by the National Construction Code/BCA
14	The applicant has not provided the rationale behind the modification, particularly in relation to reduced glazing and modified eaves.	1	The application satisfies the requirements of S4.55(1A) of the <i>Environmental Planning and Assessment Act, 1979</i> .
15	No assessment of visual Impact of shade cloth to external courts	1	<p>The modification proposes two small shade structures for the seating associated with the outdoor courts. DA3202 Long Section A3 indicates self-supporting lightweight structures.</p> <p>It is considered that there is unlikely to be any adverse visual impact.</p>
16	Staircase to carpark deleted	3	There are three separate staircases from the carpark ground level. The applicant advises that the previously proposed stairs on the western side of the building are not required

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			by the BCA.
17	Question whether the removal of two trees is necessary.	2	The arborist report states that the trees are likely to become unstable as they grow, due to cracking of the rock escarpment. If not removed now they may become hazardous over time.
18	Agree with proposal to remove two trees	1	Both trees are separating the rock and will most likely to undermine the integrity of the rock.
19	How will the driveway reduction impact vehicles entering the site.	1	Changes to the pedestrian pathway have resulted in some marginal reduction in driveway width along the northern side of the driveway. Some widening is now proposed on the southern side of the driveway. This is depicted in Plan DA2101B. The modified driveway is considered adequate.
20	Concern that reconfiguration to internal spaces will result in a reduction of usable space to the community.	1	This is not a consideration for the assessment of the modification. Future usage and arrangements for the various spaces is a matter for Council.
21	Concerned that bushland path is deleted on south side.	1	It is unfortunate that part of the Stevenson Street extension is required for maintenance access. However, the majority of the bushland along the southern boundary will remain intact and is subject to regeneration planting as part of the application.

The Public Interest

It is considered that the proposed modification will facilitate the Objects of the Environmental Planning and Assessment Act, 1979. In particular, the following Objects are relevant:

- (c) to promote the orderly and economic use and development of land,
- (g) to promote good design and amenity of the built environment,
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,

Accordingly, it is considered that the approval of the modification serves the public interest.

CONCLUSION

The proposal modification satisfies all relevant statutory requirements.

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 likely impacts of the modification are minor and acceptable.

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 to the approved development.

Approval is therefore recommended.

RECOMMENDATION

That: -

A. The Panel is satisfied that the proposed modification:

- is of minimal environmental impact;
- is substantially the same development as the development for which consent was originally granted and before that consent was modified;
- has been notified; and
- has been assessed having regard to the relevant matters in s4.15(1) EP&A Act.

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 Lane Cove Local Planning Panel at its meeting of 21 February 2024, exercising the functions of Council as the consent authority, approve the modification to Development Consent DA 147/2022 for the demolition of existing structures and construction of a (part two and part three storey/mezzanine) sports and recreation facility at 180 River Road Lane Cove, subject to the following updated conditions:

Condition A.1 is amended as follows:

Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No	Revision	Plan Title	Drawn By	Dated
DA0001	A	Cover Sheet	AJ&C	13/10/22
	B			13/10/23
DA0002	A	3D Views	AJ&C	24/11/22
	B			13/10/23
DA1001	A	Site Plan	AJ&C	24/11/22
				13/10/23

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DA1002	A	Site Analysis	AJ&C	24/11/22
DA1003	A	Notification Site Plan	AJ&C	24/11/22
DA1004	A	Notification Elevations	AJ&C	24/11/22
DA1101	A	Demolition Plan	AJ&C	24/11/22
DA2101	A B	Level 1 Plan	AJ&C	24/11/22 13/10/23
DA2102	A B	Level 2 Plan	AJ&C	24/11/22 13/10/23
DA2103	A B	Level 3 Plan	AJ&C	24/11/22 13/10/23
DA2104	A B	Roof Plan	AJ&C	24/11/22 13/10/23
DA2901	A	Shadow Diagrams – 9AM	AJ&C	24/11/22
DA2902	A	Shadow Diagrams –12PM	AJ&C	24/11/22
DA2903	A	Shadow Diagrams – 3pm	AJ&C	24/11/22
DA3101	A B	Elevations – Sheet 1	AJ&C	24/11/22 13/10/23
DA3102	A B	Elevations - Sheet 2	AJ&C	24/11/22 13/10/23
DA3201	A B	Sections – Sheet 1	AJ&C	24/11/22 13/10/23
DA3202	A B	Sections – Sheet 2	AJ&C	24/11/22 13/10/23
3610-LD-G12	7 Oct 23	Tree Protection & Removal	Environmental Partnership	Nov 2022 Oct 2023
3610-LD-CA01	7 Nov 23	Civil Alignment Plan	Environmental Partnership	Nov 2022 Nov 2023
3610-LD-GA01	7 Oct 23	General Arrangement: Ground Floor	Environmental Partnership	Nov 2022 Oct 2023
3610-LD-GA02	7 Oct 23	General Arrangement: First Floor	Environmental Partnership	Nov 2022 Oct 2023
3610-LD-PL01	7 Oct 23	Planting Plan: Regeneration Areas	Environmental Partnership	Nov 2022 Oct 2023
3610-LD-PL02	7 Oct 23	Planting Plan: Ground Floor	Environmental Partnership	Nov 2022 Oct 2023
3610-LD-PL03	7 Oct 23	Planting Plan: First Floor	Environmental Partnership	Nov 2022 Oct 2023
3610-LD-IR01	7 Oct 23	Irrigation Areas: Ground Floor	Environmental Partnership	Nov 2022 Oct 2023

**Lane Cove Local Planning Panel Meeting 21 February 2024
180 RIVER ROAD, LANE COVE**

3610-LD-IR02	7 Oct 23	Irrigation Areas: First Floor	Environmental Partnership	Nov-2022 Oct 2023
3610-LD-SP01	7 Oct 23	Soil Plan: Ground Floor	Environmental Partnership	Nov-2022 Oct 2023
3610-LD-SP02	7 Oct 23	Soil Plan: First Floor	Environmental Partnership	Nov-2022 Oct 2023
3610-LD-CR01	7 Oct 23	Cross Sections 1	Environmental Partnership	Nov-2022 Oct 2023
3610-LD-CR02	7 Oct 23	Cross Sections 2	Environmental Partnership	Nov-2022 Oct 2023
3610-LD-DE01	7 Oct 23	Hard Landscape Detail 1	Environmental Partnership	Nov-2022 Oct 2023
3610-LD-DE02	7 Oct 23	Soft Landscape Detail 1	Environmental Partnership	Nov-2022 Oct 2023
257-11G L01 [06]	-	Subdivision Plan / Lot Layout	Craig and Rhodes	4/5/21

Document Title	Prepared By.	Dated
Spill Light Study	Steensen Varming	25/11/22
Aboricultural Impact Assessment Report Aboricultural Statement for 2 trees located within 180 River Road Lane Cove	Seasoned Tree Consulting Seasoned Tree Consulting	29/11/22 9/10/23
Remediation Action Plan	Douglas Partners	Nov 22
Stormwater Management Report	TTW	29/11/22
Construction & Demolition Waste Management Plan	Elephants Foot Recycling Solutions	28/11/22
Operational Waste Management Plan	Elephants Foot Recycling Solutions	28/11/22
Ecologically Sustainable Development	Steensen Varming	24/11/22
Noise Impact Assessment	Acoustic Logic	29/11/22
Access Review	Funktion	26/11/22
BCA Compliance Statement	Blacket Maguire & Goldsmith	28/11/22

Condition A4 is amended as follows:

A.4 Tree preservation and approved landscaping works

All landscape works shall be undertaken in accordance with the approved landscape plan(s), Aboricultural Impact Assessment Report, tree management plan and transplant method statement as applicable, as modified by any conditions of consent.

The following trees shall be retained:

4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 17, 23, 24, 26, 28, 30, 49, 50, 51, 54, 53, 55, 56, 57, 58, 59, 62, 63, 64, 65, 68, 69, 70, 73, 74, 75, 77, 78, 79, 80, 81, 82, 83, 84, 85, 87, 88, 89, 90, 91, 93, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 158, 159, 160, 161, 162, 163, 164, 165, 166, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 186, 187, 188, 189, 276, 277, 279, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 322, 323, 234, 235, 236, 237, 238, 321

61, 76, 86, 94, 167, 185, 278, 280* all dead trees

(161 total)

This consent approves the removal of the following trees as identified in the approved Arboricultural Impact Assessment Report

10, 16, 18, 19, 20, 21, 22, 25, 27, 29, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 62, 60, 66, 67, 71, 72, 81, 92, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233,

(80 total)

Condition C.11 is amended as follows:

C.11 – Entry Design

Prior to the issue of any construction certificate for building structures, the applicant shall submit detailed plans to Council for approval of treatments to be implemented to provide a sense of arrival to the building. The treatments shall include, but are not limited to the following:

- ~~Patterned, coloured and/or textured finish to concrete surfaces;~~
- Signage is to be integrated and/or recessed into concrete panels;
- Additional detail of proposed metal cladding, including product specification and colour;
- Additional detail of proposed glass and louvres to the eastern elevation;
- ~~Additional landscaping as appropriate at the base of concrete wall;~~
- Decorative paving and delineation between pedestrian and vehicle movement paths;
- Drop off area shall be positioned to allow direct access to the pedestrian pathway, so as avoid car/pedestrian conflicts.
- ~~Installation of low planter boxes with suitable species within the external drop off area.~~

2.

Reason: To provide an appropriate sense of entry to the building.

Amend Condition E.9 as follows:

E.9 - Tree protection

While site or building work is being carried out, the applicant must maintain all required tree protection measures in good condition in accordance with the construction site management plan

required under this consent, the relevant requirements of *AS 4970-2009 Protection of trees on development sites* any arborist's report approved under this consent inclusive or conditions listed within section B of this determination.

This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.

Particular attention should also be given to the protection of trees which overhang the proposed Stevenson Street extension during construction.

Reason: To protect trees during construction.

Additional condition C.13 and G.2

C.13 Wildlife Crossing

Prior to the issue of any construction certificate for driveway works, the applicant shall submit detailed plans to Council for approval of the proposed wildlife crossing to be located under the new access driveway. Construction shall occur in accordance with the detailed plans and must be operational prior to issue of the relevant Occupation Certificate.

Reason: To protect native wildlife

G.2 Lot Consolidation

The final lot which encompasses the recreation centre shall include all land which is required for the ongoing operation of the centre. Including the part of the proposed Stevenson Street extension required for maintenance access.

Reason: Compliance with National Construction Code

Mark Brisby
Director - Planning and Sustainability
Planning and Sustainability Division

ATTACHMENTS:

AT-1 View	SNPP Panel Decision 5 May 2023	2 Pages	Available Electronically
AT-2 View	Assessment Report to SNPP 3 May 2023	35 Pages	Available Electronically
AT-3 View	Applicant's detailed schedule of proposed changes	3 Pages	Available Electronically
AT-4 View	Development Consent Notice issued 9 May 2023	34 Pages	Available Electronically
AT-5 View	Lot consolidation	2 Pages	Available Electronically

**Lane Cove Local Planning Panel Meeting 21 February 2024
KINGSFORD SMITH OVAL, STUART STREET, LONGUEVILLE.**

Subject: Kingsford Smith Oval, Stuart Street, Longueville.

Record No: DA23/116-01 - 7278/24

Division: Planning and Sustainability Division

Author(s): Henry Burnett

Property:	Kingsford Smith Oval, Longueville Lot 1 DP 723858
DA No:	DA116/2023
Date Lodged:	23/10/2023
Cost of Work:	\$100,000.00
Owner:	Minister for Lands
Applicant:	Longueville Tennis Club Inc
Description of the proposal to appear on determination	Tennis Court Lighting
Zone	RE1 Public Recreation
Is the proposal permissible within the zone	Yes
Is the property a heritage item	Yes, clubhouse and scoreboard being heritage item No. 274 under Schedule 5 of <i>Lane Cove Local Environmental Plan 2009</i> .
Notification	Notified in accordance with the Community Participation Plan and 52 unique submissions have been received including 49 by way of objection and 3 in support.

1. REASON FOR REFERRAL TO LOCAL PLANNING PANEL

The Development Application is referred to the Lane Cove Local Planning Panel for determination on behalf of Council in accordance with the following criteria in Schedule 1 of the Local Planning Panels Direction dated 6 September 2023:

- **Contentious development:** Development that is the subject of 10 or more unique submissions by way of objection.

2. SITE

Property	Lot 1 DP 723858
Area	18,750m ²
Site location	Kingsford Smith Oval is bounded by Stuart Street, Kenneth Street, William Edward Street and Dunois Street. There are five (5) tennis courts located at the northern end of the site. The tennis court lighting is proposed for the two (2) western most courts towards William Edward Street (refer Figure 1 below).
Existing improvements	Council's Plan of Management describes the existing improvements as follows: <ul style="list-style-type: none"> - Grass oval with turf wicket used for soccer and cricket; - Cricket nets; - Basketball court; - Five (5) tennis courts (leased); - Community facilities including club rooms, sports change rooms, storage rooms and viewing area; - Toilets

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KINGSFORD SMITH OVAL, STUART STREET, LONGUEVILLE.**

	- <i>Playground.</i>
Shape	Rectangular
Dimensions	The site has a southern frontage to Stuart Street of 99.84m, an eastern frontage of 196.2m to Kenneth Street, a northern frontage of 98.99m to Dunois Street and a western frontage of 183.26m to William Edward Street.
Adjoining properties	Dwelling houses are located across the perimeter roads around the site.



Figure 1 – Aerial Photograph of Site

3. APPLICATION HISTORY

Date	Description
21 July 2003	DA39/2003 approved for the demolition of existing cricket wickets and installation of new wickets.
27 August 2008	DA151/2008 approved for the installation of 2 underground rainwater tanks.
23 October 2023	Subject Development Application lodged.
29 November 2023	Additional information relating to lighting and acoustics submitted by the applicant.
30 November 2023	Evening site inspection undertaken by author of this report.

4. PROPOSED DEVELOPMENT

The Development Application is for the installation of tennis court lighting on two (2) tennis courts at Kingsford Smith Oval, Longueville.

The two (2) tennis courts are known as Courts 4 and 5 and are part of an ongoing lease of five (5) tennis courts to Longueville Tennis Club by Lane Cove Council. Courts 4 and 5 are the courts available for public hire.

The proposed lighting structure consists of six (6) light poles ranging in height between 8m and 9m.

The proposed lighting comprises two LED lights on each of the two (2) centre poles, and one LED light on each of the four (4) outer poles.

The proposed lighting is proposed to be installed with louvres to reduce light spill.

The proposed development seeks to provide illumination to 9pm daily (with a dimming period to allow for exiting patrons to 9:10pm).

The Development Application also seeks extension of the hours of operation of Court 4 and 5 to 9:10pm, 7 days a week.

The lighting will allow between one (1) and four (4) hours additional hours of operation depending on sunset. Sunset is as late as 8:00pm during Summer (a one hour increase) and as early as 5:00pm in winter (a four hour increase).

No vegetation is proposed to be removed.

5. SECTION 4.15(1) ASSESSMENT

The following subsections provide an assessment of the proposal against the relevant heads of consideration under Section 4.15(1) of the *Environmental Planning and Assessment Act, 1979*.

5.1 Any Environmental Planning Instrument (Section 4.15(1)(a)(i))

5.1.1 Lane Cove Local Environmental Plan 2009

The proposed development is permissible with consent in the RE1 Public Recreation zone pursuant to *Lane Cove Local Environmental Plan 2009* (LEP) being lighting associated with a recreation facility (outdoor) as defined by the LEP.

No development standards (height of building, floor space ratio etc.) apply to the site under the LEP.

The site contains local heritage item no. 1274 in Schedule 5 of the LEP which is identified as the clubhouse and scoreboard. The proposed development has been reviewed by Council's Heritage Advisor and no objection is raised on heritage grounds. Accordingly, the proposed development is considered to satisfy the relevant provisions of Clause 5.10 of the LEP.

5.1.2 State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 6 – Water Catchments of *State Environmental Planning Policy (Biodiversity and Conservation) 2021* (SEPP BC) applies to the Site as it is located within the Sydney Harbour Catchment.

The consent authority can be satisfied as to the relevant jurisdictional matters and matters for consideration in Chapter 6 of SEPP BC through the provision of appropriate erosion and sediment control which is a recommended draft condition of consent.

5.1.3 State Environmental Planning Policy (Resilience and Hazards) 2021

The proposed development continues the recreational use of the land and is considered satisfactory with respect to land contamination considerations under Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* (SEPP RH).

5.1.4 State Environmental Planning Policy (Sustainable Buildings) 2021

State Environmental Planning Policy (Sustainable Buildings) 2021 (SEPP SB) does not apply as the capital investment value is not greater than \$5 million (refer to Section 3.1(1) of SEPP SB).

5.2 Any Proposed Instrument (Section 4.15(1)(a)(ii))

N/A

5.3 Any Development Control Plan (Section 4.15(1)(a)(iii))

5.3.1 Lane Cove Development Control Plan 2009

Planning Assessment

There are no specific DCP provisions specific to lighting of a public tennis court. Part C of the DCP includes controls relating to the lighting of tennis courts within residential development as follows:

Courts are not to be illuminated beyond the hours of use between 7am to 8pm daily.

The DCP control does not have any reference to lighting standards.

The proposed development seeks to provide illumination to 9pm daily (with a dimming period to allow for exiting patrons to 9:10pm).

Further discussion of the proposed lighting is provided in **Section 5.6** of this report.

Referrals

Referral Officer	DCP Section	Assessment
Development Engineer	Part O – Stormwater Management	Council’s Development Engineer has reviewed the proposed development and raises no objections subject to recommended draft conditions.
Environmental Health	Part S – Environmental Sustainability Part C1 – Tennis Court Lighting (Merit)	Part S of the DCP does not apply as the cost of works does not exceed \$250,000. Council’s Environmental Health Officer has reviewed the proposed development in relation to acoustics and lighting and raises no objection subject to recommended draft conditions including compliance with AS 4282 – Control of the obtrusive effects of outdoor lighting.
Bushland Coordinator	Part H – Bushland	Part H of the DCP does not apply as the site is not bushland or adjoining bushland. Notwithstanding, Council’s Bushland Coordinator has reviewed the proposal and raises no objections subject to recommended draft conditions including the requirement for suitable erosion and sediment control measures during construction.

Heritage Advisor	Part B9 - Heritage	Council's Heritage Advisor has reviewed the proposed development and raises no objection on heritage grounds.
Community Services	-	Council's Community Services section have reviewed the proposed development and raise no objection in relation to compliance with the Plan of Management.

5.4 Any Planning Agreement (Section 4.15(1)(a)(iiia))

N/A

5.5 Regulations (Section 4.15(1)(a)(iv))

Section 66A of the *Environmental Planning and Assessment Regulations 2021* provides requirements for Council-related development applications:

66A Council-related development applications—the Act, s 4.16(11)

(1) A council-related development application must not be determined by the consent authority unless—

- (a) the council has adopted a conflict of interest policy, and*
- (b) the council considers the policy in determining the application.*

(2) In this section—

conflict of interest policy means a policy that—

- (a) specifies how a council will manage conflicts of interest that may arise in connection with council-related development applications because the council is the consent authority, and*
- (b) complies with the Council-related Development Application Conflict of Interest Guidelines published by the Department and available on the NSW planning portal, as in force from time to time.*

Lane Cove Council's 'Managing Conflicts of Interests for council-related developments policy' has been met in the circumstances of this case through the report being prepared by an independent assessment officer and referral for determination of the development application to the Lane Cove Local Planning Panel.

5.6 Likely Impacts (Section 4.15(1)(b))

Lighting Impacts

The Development Application seeks to light Court 4 and 5 in the evening period until 9pm daily. (with a dimming period to allow for exiting patrons to 9:10pm).

Currently Kingsford Smith Oval has limited security lighting on existing buildings but is otherwise not illuminated.

The Development Application is accompanied by a lighting assessment demonstrating compliance with *AS/NZS 4282:2019 – Control of the obtrusive effects of outdoor lighting* including lighting levels at adjoining dwelling houses.

The lighting assessment also demonstrates that the lighting complies with the minimum luminance required for court lighting systems for club tennis under *AS2560.2:2021 Sports Lighting*.

Both assessments demonstrate that the lighting level required for the tennis courts can be achieved without resulting in adverse outdoor lighting effects at neighbouring residential properties. It is noted that Chapter 2 of SEPP (Transport and Infrastructure) 2021 (SEPP TI) has two provisions that allow a public authority (which includes a council) to install lighting via different planning pathways.

Division 4 of Chapter 2 relates to exempt development. Section 2.21 provides that exempt development carried out by public authorities for purposes in Schedule 1 can be carried out as exempt development subject to certain criteria. Schedule 1 allows for development of lighting (construction or maintenance) to be undertaken as exempt development subject to:

Construction and maintenance of external lighting if light spill is contained within site and in accordance with AS 4282–1997, Control of the obtrusive effects of outdoor lighting.

It is noted that the above Australian Standard has been updated to 4282-2019. There are also other general requirements for exempt development in section 2.20 that need to be met to be exempt development including the following subsection:

(e) if it is likely to affect a State or local heritage item or a heritage conservation area, must involve no more than minimal impact on the heritage significance of the item or area, and

Division 12 of Chapter 2 relates to development for parks and other public reserves and includes provisions where development can be carried out without consent (i.e. an authorisation under Part 5 of the EP&A Act). Relevantly, Section 2.73(3)(a)(iv) provides that “*development may be carried out by or on behalf of a public authority without consent on land owned or controlled by the public authority*” including development for lighting subject to the following:

if light spill and artificial sky glow is minimised in accordance with the Lighting for Roads and Public Spaces Standard.

This Standard is not directly relevant as it does not provide standards relating to the illumination of a public tennis court (i.e. Table 2.3 of AS/NZS 1158.3.1:2005 does not list any relevant or equivalent).

Both planning pathways require a degree of merit assessment and for robustness of decision making a development application has been submitted. The above provisions are a useful assessment tool for lighting impacts.

The DCP control which limits lighting to 8pm for tennis courts on a residential dwelling house site is also useful for assessment. An extension by 1 hour (compared to the DCP control) is considered reasonable in the circumstances of this case as follows:

- The courts are not directly abutting any residential property being separated by the road reserve. This provides a separation of about 28m to Dunois Street properties and 52m to William Edward Street properties. The 8pm DCP control relates to circumstances where the relationship between a tennis court and adjoining properties would be much closer, and does not contain lighting standards;
- The proposed development complies with the Australian Standards relevant to lighting (one of which is the standard used in SEPP (TI)); and
- It will allow for the use of a recreational facility within reasonable hours that will not have an adverse impact on the acoustic amenity of any sensitive receivers.

Notwithstanding, given the non-illuminated nature of the site presently it is recommended that no lighting be permitted on Sunday to provide a respite period to adjoining dwelling houses.

Acoustic Impact

The Development Application is accompanied by an acoustic impact assessment which assesses the acoustic impacts of the proposed extended hours of operation to 10pm against the NSW EPA Noise Policy for Industry 2017 (NPfI).

Notwithstanding, for the purpose of the DA the proposed hours of operation are to 9pm only for lighting and an additional 10minutes for patrons to depart.

The acoustic assessment considered noise impacts such as general patron activity such as talking, shouting and the playing of tennis up to a maximum of eight (8) persons (four (4) per court).

The acoustic impact assessment considered the impacts to the following receivers:

- R1 – 101 William Edward Street, Longueville
- R2 – 23, 25 and 27 Dunois Street, Longueville; and
- R3 – 67, 69, 71 and 73 Kenneth Street, Longueville.

The following table is replicated from the acoustic report (Table 6-1) which provides the following assessment:

Measured Source Noise Levels	Calculated SPL at affected point of residential premises	Time of Day	Project Trigger Levels <small>L_{Aeq15min}</small>	Noise	Complies
<small>L_{Aeq15min}</small> 45 dB(A) at 10m	29 dB(A) at R1	6:30pm to 8pm	42		Yes
	36 dB(A) at R2	8pm to 9pm	40		Yes
	<35 dB(A) at R3	9pm to 10pm	38		Yes

The applicant was requested to provide additional information in relation to the location of the noise monitoring device along Kenneth Street.

The acoustic consultant provided a response that stated that the noise environment was likely to be similar with marginal difference in background noise level readings from its location adjacent to Kenneth Street.

The acoustic consultant confirmed, that notwithstanding, even if the NPfI minimum background noise level criteria was used, the proposed development would be acceptable. The NPfI has a minimum background noise level criteria of 30dB(A), resulting in a maximum level of 35dB(A) at the receivers. As per column 2 of the above table, 35dB(A) would be exceeded by a maximum of 1dB(A) at Receiver 2 only. The acoustic consultant stated this is considered to be with an accepted level of tolerance and not discernable by the average listener.

The acoustic impact assessment includes recommendations relating to signage for users of the tennis court and the requirement to implement a complaints procedure.

Ecology

The Development Application is within a public reserve and does not propose to remove vegetation.

The Development Application is accompanied by an ecological assessment which concludes as follows:

The proposal impacts a very small area of habitat that is suitable for a number of threatened and protected species. No vertebrate fauna species would be significantly impacted. Small shifts in behaviour are likely during hours of illumination, however these shifts should not impact the ability of any species, or even any individual, to persist in the area.

Traffic and Parking

The proposed development will extend the parking and traffic impacts of the existing use of Courts 4 and 5 to 9:10pm daily, noting this is likely to be a decrease from the daytime when five courts are in usage. It is unlikely that the use of the courts for this period will result in any adverse traffic or parking impacts.

A maximum of eight persons would be attending the site (in accordance with the acoustic report and as reflected in a recommended operational draft condition of consent). This results in a maximum of four vehicle trips per court. The minimum booking time is one hour. Accordingly, the maximum additional vehicle trips per court per hour is eight (being four in/four out).

5.7 Site Suitability (Section 4.15(1)(c))

The site is suitable for the proposed development. The proposed development will allow for an extension to the use of Courts 4 and 5 under the terms of the existing lease to the Longueville Tennis Club. Having regard to the site's residential context it is recommended that no lighting be permitted on a Sunday.

5.8 Submissions (Section 4.15(1)(d))

The Development Application was notified in accordance with the Community Participation Plan. A total of 52 submissions were received including three (3) in support and 49 objections. The following table summarises the objections received.

Concern or Comment	Comment
Light impacts – Concerns relating to light impacts on neighbours and locality.	Refer to Section 5.6 of this assessment report.
Noise impacts – Concerns relating to suitability of noise assessment and acoustic impacts on neighbours.	Refer to Section 5.6 of this assessment report.
Carparking, traffic and pedestrian safety – Concerns relating to parking and traffic.	Refer to Section 5.6 of this assessment report.
Hours of operation – Concerns relating to hours of operation including potential for 10pm operation.	The proposed lighting will not extend beyond 9:00pm with reduced exit lighting allowed until 9:10pm. Restriction to 8pm (as per the requirements for dwelling houses) is not considered a reasonable standard to apply in the circumstances of this case as outlined in Section 5.6 of this assessment report.
Ecology – Concerns regarding ecological impacts and suitability of ecology report.	The proposed development does not remove any vegetation. The ecologist report covers a number of proposed design scenarios including the design within the subject DA. The

**Lane Cove Local Planning Panel Meeting 21 February 2024
KINGSFORD SMITH OVAL, STUART STREET, LONGUEVILLE.**

Concern or Comment	Comment
	conclusions of the assessment are outlined in Section 5.6 of this assessment report.
Dimmers – The lights should include dimmers to reduce light spill and glare. The lights should be turned down when the courts are not in use.	The installation of dimmers, and the switching off of lighting when the court is not in use, forms a recommended draft conditions of consent.
Screening – Further screening of lights and noise should be implemented.	The light or acoustic assessment does not require the implementation of any additional physical screening measures to comply with the applicable lighting and noise criteria.
Height of the Lighting	The LEP does not contain a building height development standard for the site. The light poles have a maximum height of 9m which is below the 9.5m building height development standard of the LEP for the adjacent residential zoned land.
Demand for Outdoor Activities, Tennis as an Outdoor Activity and Need for Additional Night Tennis Opportunities	The impacts of the proposed lighting have been considered in this report and found to be reasonable subject to recommended draft conditions of consent. The provision of extended tennis opportunities is considered reasonable in this location. Any diversion of demand from the site to other facilities within the LGA would mean the impacts are further reduced. That is, the lighting is not permitted to be on if the courts are unoccupied.
Submissions in Support	Submissions in support say the proposal would allow for more recreational and employment opportunities with minimal environmental impacts.

5.9 The Public Interest (Section 4.15(1)(e))

The Development Application is in the public interest including the proposed development's consistency with the objectives of the RE1 Public Recreation zone.

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

The proposal enables the land to be used for recreational purposes and does not detract from the natural environment for recreation purposes.

6. Council-Related Development Application

Schedule 1 of the EP&A Act includes the following for Council-related development applications:

9B Council-related development applications

(1) Minimum public exhibition period for a council-related development application—28 days.

(2) In this clause—

council-related development application means a development application, for which a council is the consent authority, that is—

(a) made by or on behalf of the council, or

(b) for development on land, other than a public road within the meaning of the Local Government Act 1993—

(i) of which the council is an owner, a lessee or a licensee, or

(ii) otherwise vested in or under the control of the council.

Note—

Land vested in or under the control of the council includes public land within the meaning of the Local Government Act 1993.

The land is vested in or under the control of the council and accordingly a minimum public exhibition period of 28 days applies. The DA was renotified for a period of 28 days in accordance with Schedule 1 of the EP&A Act.

6. Plan of Management

In accordance with the Lane Cove Community Land Plan of Management (POM), Kingsford Smith Oval is land owned by the Crown which is managed by the Council under the *Crown Land Management Act 2016*.

Kingsford Smith Oval is managed as a sportsground in accordance with the Plan of Management. The proposed development is consistent with the core objectives in Section 3.2 of the POM:

- a) to encourage, promote and facilitate recreational pursuits in the community involving organised and informal sporting activities and games, and*
- b) to ensure that such activities are managed having regard to any adverse impact on nearby residences.*

The Development Application will promote recreational pursuits and is accompanied by adequate supporting documentation to demonstrate the activities will not have any adverse impact on nearby residences.

CONCLUSION

The matters in relation to Section 4.15 of the Environmental Planning and Assessment Act 1979 have been satisfied.

Whilst there are no controls in the applicable environmental planning instruments (EPIs) and Lane Cove DCP that control light, this assessment has had regard to other EPIs that do contain such standard for different planning pathways. In addition, the assessment also has regard for the time limitation for illumination of tennis courts in Part C Residential Development of the Lane Cove Development Control Plan 2009.

The proposal has been found to comply with the relevant light standards and acoustic standards and on that basis is not considered to have an adverse impact on adjoining properties. Other impacts such a traffic, parking and ecological impacts have been found to be minor and acceptable.

The illumination of 2 of the 5 courts will improve opportunities for the community to use the recreation facility making good use of a public asset.

On balance as the proposed development would be reasonable it is therefore recommended for approval.

RECOMMENDATION

That pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979, the Lane Cove Local Planning Panel, exercising the functions of Council as the consent authority, grants development consent to Development Application 116/2023 for Construction of lighting for two tennis courts (numbers 4 and 5) at Kingsford Smith Oval, Longueville, subject to the following conditions:

PART A – GENERAL CONDITIONS

1. A.1 – Approved plans and supporting documentation

Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Drawing No	Plan Title	Drawn By	Dated
A.01	Full Site Plan	-	30 October 2023
A.02	Partial Site Plan, Courts	JR	30 October 2023
B.01	Proposed North Elevation	JR	30 October 2023
B.02	Proposed West Elevation	JR	30 October 2023

Document Title	Version No.	Prepared By.	Dated
Obtrusive Light Report	22089-02-B	Apex Lighting	-
Obtrusive Light Report Calculations	22089-03	Apex Lighting	29 September 2023
DA Acoustic Assessment	12466 R01v1	PKA Acoustic Consulting	25 November 2022
Environmental Assessment	-	Applied Ecology	23 November 2022

In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

2. A.12 – Construction Certificate

The submission of a Construction Certificate and its issue by Council or Principal Certifier PRIOR TO CONSTRUCTION WORK commencing.

Reason: To ensures the detailed construction plans and specifications comply with the requirements of the Building Code of Australia (BCA) and any relevant Australian Standard.

3. A.3 – Payment of security deposits (if applicable)

Before the commencement of any works on the site or the issue of a construction certificate, the applicant must make all of the following payments to Council and provide written evidence of these payments to the Certifier:

- Security deposit	- Revision
- Infrastructure Damage Bond	- \$4000

A \$4000.00 cash bond or bank guarantee shall be lodged with Council to cover the satisfactory construction of the above requirements.

The payments will be used for the cost of:

- making good any damage caused to any council property (including street trees) as a consequence of carrying out the works to which the consent relates.
- completing any public work such as roadwork, kerbing and guttering, footway construction, stormwater drainage and environmental controls, required in connection with this consent.

Reason: To ensure any damage to public infrastructure is rectified and public works can be completed.

4. **A.9.T Works on Council land**

Separate application shall be made to Council's Urban and Services Division if there is any associated works on Council property. Written approval is to be obtained prior to the start of any works on Council property.

Reason: To manage impacts to Council's assets.

(b) **PART B – PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

5. **Construction Management Plan**

The applicant must submit a construction plan of management to the satisfaction of Council including an erosion and sediment control plan prepared by a suitably qualified hydraulic engineer prior to the issue of a Construction Certificate.

Reason: To manage impacts to Council's assets and waterways.

(c) **PART C – BEFORE THE COMMENCEMENT OF BUILDING WORK**

6. **C.1 – Erosion and sediment controls in place**

Before the commencement of any site or building work, the principal certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan, (as approved by the principal certifier) are in place until the site is rectified (at least 70% ground cover achieved over any bare ground on site).

Reason: To ensure runoff and site debris do not impact local stormwater systems and waterways.

PART D – WHILE BUILDING WORK IS BEING CARRIED OUT

7. **D.1 – Hours of work**

The principal certifier must ensure that building work is only carried out between:

Monday to Friday (inclusive) 7.00am to 5.30pm

Saturday 7.00am to 4.00pm

With NO high noise generating activities, to be undertaken after 12 Noon on Saturday.

A Notice/Sign showing permitted working hours and types of work permitted during those hours, including the applicant's phone number, project manager or site foreman, shall be displayed at the front of the site.

The principal certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.

Reason: To protect the amenity of the surrounding area.

8. **D.7 – Construction noise**

While building work is being carried out where no noise and vibration management plan is approved under this consent, the applicant is to ensure that any noise caused by demolition, vegetation removal or works does not exceed an Laeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where these works are being carried out.

Reason: To protect the amenity of the neighbourhood.

9. **E.18.B – No obstruction of public way**

The public way and Council verge must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by Council to stop all work on site.

Reason: To ensure public safety.

(D) **PART E – BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE**

10. **E.1 – Works-as-executed plans and any other documentary evidence**

Before the issue of the relevant occupation certificate, the applicant must submit, to the satisfaction of the principal certifier, works-as-executed plans, any compliance certificates and any other evidence confirming the following completed works:

The following matters that Council requires to be documented:

- Certification from suitable licensed contractor that all works have been constructed satisfying relevant Australian standards (including lighting standards).
- Certification from qualified structural engineer that the proposed construction has been completed according to approved plan and structurally certified.

The principal certifier must provide a copy of the plans to Council with the occupation certificate.

Reason: To confirm that the proposed works have been constructed satisfactorily as per approved plans

PART F – OCCUPATION AND ONGOING USE

11. **Operational Restrictions - Noise Management**

The use of the tennis courts 4 and 5 is subject to the following restrictions when illuminated:

- The on-line booking facility is to advise patrons to be mindful of nearby residences when arriving and leaving.
- Appropriate signage is to be provided reminding patrons to conduct themselves in an orderly manner at all times and to limit excessive noise.
- a maximum of four (4) persons per court at any one time;
- Amplified music/announcements is not permitted.

Reason: protect the amenity of the neighbourhood.

12. **Operational Restrictions of Lighting**

The use of the tennis court lighting is subject to the following restrictions:

- Lighting is permitted between 7am to 9pm, Monday to Saturday;
- The court(s) are only to be illuminated when they are being used for playing tennis. The

lighting is to be installed to allow the courts to be illuminated individually so that if one of the courts is not in use, that court is not illuminated.

- Compliance with *AS/NZS 4282 – Control of the obtrusive effects of outdoor lighting* (with the version being as applicable at time of issue of the Construction Certificate);
- Lighting is to be turned off when the tennis court is not in use;
- Lighting is to be in accordance with the lighting specifications (including BL1 louvres) detailed in the Longueville Tennis Club Obtrusive Light Report and Calculations prepared by Apex Lighting submitted with the Development Application.
- Dimmers are to be installed with appropriate monitoring technology so that the illumination does not exceed an average 350 lux with a tolerance of +5%.
- Dimmers are to also automatically reduce the lux at 9pm before switching off the lighting at 9:10pm

Reason: protect the amenity of the neighbourhood.

13. **H.1 - Release of securities / bonds**

When Council receives an occupation certificate from the principal certifier, the applicant may lodge an application to release the securities held in accordance with **Condition 3**. Council may use part, or all of the securities held to complete the works to its satisfaction if the works do not meet Council's requirements.

Reason: To allow release of securities and authorise Council to use the security deposit to complete works to its satisfaction.

ATTACHMENTS:

There are no supporting documents for this report.