

**Objection from the LCNE Village to the proposed Data Centre at 706 Mowbray Road**

**Objection from the LCNE Village to the proposed Data Centre at 706 Mowbray Road**

**Referred to as the Proposed *Mowbray Road Data Centre (SSD-13475973)***

Name

Bill Bewsher in the role of Chairman of the Executive Committee of the Community Association of Lane Cove North Estate at 710 Mowbray Road, Lane Cove North 2066.

Address of Bill Bewsher

3 Taylors Drive, Lane Cove North 2066

Name of project and application number –

Mowbray Road Data Centre (SSD-13475973)

Declaration of political donations

None of the Community Association, the Executive Committee, or Bill Bewsher have made any reportable political donations in the last 2 years.

Statement acknowledging and accepting the disclaimer and declaration.

We acknowledge and accept the Department's disclaimer and declaration.

## Objection from the LCNE Village to the proposed Data Centre at 706 Mowbray Road

This objection is made by the Chairman of the Executive Committee of the Community Association on behalf of the owners and residents of the Lane Cove North Estate at 710 Mowbray Road.

We object to the Proposed Mowbray Road Data Centre (SSD-13475973) development and the reasons for objection are detailed below.

### 1. LCNE Village

The Lane Cove North Estate (LCNE Village) consists of some 202 individual dwellings, townhouses and apartments. The impacts of this proposed development both during construction and in the long term are major, and this objection is written on behalf of the owners and occupants of the LCNE Village.

### 2. Context

It is acknowledged that the proposed Data Centre site is in a light industrial IN2 zone and that a **compliant** data centre development is a permissible use under the *State Environmental Planning Policy (Transport and Infrastructure) 2021*.

**However an over-development is not.**

**The proposed over-development of the site, the loss of urban visual amenity and the impact of demolition and construction works on the immediate community are of grave concern. In our opinion these have not be adequately addressed in the applicants' submission and we do not believe there are enforceable safeguards to protect the community during all phases of the project.**

Our primary objections relate to:

- We assert that the **Traffic and Transport Assessment Report is fundamentally flawed** and cannot be allowed to stand because significant parking issues both long term and during construction have been omitted.
- We assert that the development as currently submitted is **not economical** and that Microsoft will seek approval during construction to again **increase the height** exceedance to allow another story to be added.

Our Objections also relate to:

- The proposed over-development building; height, bulk and scale.
- Loss of urban visual amenity and existing trees [65%].
- A strong reliance on future landscape to mitigate the built form in 15 years time, with no guarantee.
- Construction impacts; truck movements.
- Environmental impacts – air quality, noise, and vibration during construction.
- Traffic congestion and pedestrian impacts.

### 3. Building Height

**Throughout the design and consultation process the proponent has not presented a complying scheme in accordance with the Lane Cove Local Environmental Plan 2009**

## Objection from the LCNE Village to the proposed Data Centre at 706 Mowbray Road

(LCLEP2009). The original building height proposed by Microsoft in April 2021 was 38m. It is evident that Microsoft never had any intention to comply with the 18.0m height control. The resultant impact of the over development being a significant loss of urban visual amenity, loss of existing vegetation and a significant commercial floor space advantage to Microsoft.

The proposed maximum building height for the Data Centre is **29.695m being a numerical exceedance of 11.695m represented at 66.47%.**

The proposed development has utilised clause 4.6 - Exceptions to development standards and has been submitted a written request in the form of a Clause 4.6 Variation Request at Appendix 27 of the supporting documentation. **The scale of the proposed Data Centre as submitted is not in the local resident community's public interest. As with the Demolition Works DA170/2021, the submission fails to address specific Management Plans to provide the community any confidence that the proponent or their contractor will implement appropriate safe-guards that are enforceable.**

### 4. Microsoft Will Increase the Non-Compliant Height

We assert that this site is not large enough to be economical for Microsoft and it will seek approval during construction to increase the height exceedance to allow another story to be added, in order to be economically viable.

- We observe that Microsoft is unable to build this data centre if it is required to comply with the height requirements.
- We record that at its first public consultation in April 2021 Microsoft proposed building height of 38m plus roof plantroom – effectively 2.4 times the height permissible under LCLEP2009.
- With reference to section 8 below, and Appendices A and B we note that even though Microsoft is aware that there is zero all-day parking capacity available in the vicinity of 706 Mowbray Road the proposed development is unable to support permanent parking for all of its employees.
- The development at 706 Mowbray Road now proposed will offer a very poor yield in terms of MW capacity per square metre. As proposed this building will allow Microsoft to support 36MW of data hall on a site of 10,000 m<sup>3</sup>, which is approximately 60% of the efficiency which other developers are achieving. This again supports the assertion that **Microsoft will not proceed with this development as submitted**, and will seek approval to increase the non-compliant height during construction.

### 5. Compatibility of the Data Centre land-use and local impacts

Zone objective of *'To minimise any adverse effect of industry on other land uses'*.

The LCNE Village **objects** on the following basis,

To the immediate east of the site are other light industrial land uses and to the immediate west of the site is a childcare centre as well as other industrial land uses further west. Although the

## Objection from the LCNE Village to the proposed Data Centre at 706 Mowbray Road

surrounding buildings to the east and west are also light industrial in nature, **it is worth noting that these existing buildings are well within the maximum allowable building height defined in LCLEP2009.**

Directly across the road from the development site is a residential zone being R2 Low Density Residential Zone which mainly consists of single storey dwellings. Less than 100m from the site is the Lane Cove North Estate which is also a residential zone being R2 Low Density Residential Zone comprising 202 apartments and townhouses.

### 6. Urban Visual Impact

**The visual montages and Visual Impact Assessment demonstrate that the architectural bulk & scale will create an unacceptable visual impact due to the building height and relationship of the building to Mowbray Road at the eastern elevation. This is further exacerbated by the significant removal of existing vegetation at the eastern end of the site under the proposed scheme.**

The proposed Data Centre to the Mowbray Road West and Mowbray Road has a maximum height of **25.08m**, a **7.08m exceedance represented at 39.33%**. This will cause adverse visual impacts and relies heavily on a mature landscape (which will not eventuate for 15 years) to mitigate the impact to adjoining residential areas.

The twin junctions of Mowbray Road West and Mowbray Road, and Mowbray Road West are used by residents from the LCNE Village by foot, bicycle, motorbike, car and parents with prams as the main access to the LCNE Village. It also used by residents who have children that attend the childcare centre which adjoins the development site. In addition to this, Mowbray Road West is utilised by pedestrians from the LCNE Village to access the bus stops on either side of Mowbray Road, with one bus stop located directly opposite the development site. There is also a pedestrian link on the eastern end of 706 Mowbray Road that links to the bus stop on Epping Road to the city.

Mowbray Road is currently filled with street trees on both sides providing an aesthetically pleasing streetscape along the street frontages. The removal of all but two (2) mature trees to the street Mowbray Road frontages is alarming. **The loss of vegetative screening will expose the built form, especially an over-development as proposed.** The Landscape and Visual Impact Assessment at Appendix 8, under Section 7 of the report acknowledges ***‘that there will be noticeable impact to the existing site character along Mowbray Road, with a magnitude of change of moderate to high impacts’.***

This same report also analysed 15 viewpoints named from A through to O, in and around the development site. The relevant viewpoints for the residents of the LCNE Village are viewpoints

## **Objection from the LCNE Village to the proposed Data Centre at 706 Mowbray Road**

F (Mowbray Road West), Viewpoint G (Mowbray Road) and O (Mowbray Road – near bus stop) and Viewpoints N (4 Taylors Drive, Lane Cove North). Although Viewpoints N is said to have a negligible impact, the other viewpoints are still considered as important due to the reasons mentioned above which include current site access, bus stops and recreational activities utilised by the residents of the LCNE Village. These uses are supported by the Traffic and Parking Impact Assessment at Appendix 11 which states in section 1.2.1 that Mowbray Road has various public and active transport links.

For Viewpoints F, G and O it details that the current view will have a **high magnitude of change and will be fundamentally altered by the proposed development**. The report concluded that overall road users, pedestrians and cyclists will be impacted at a low level (including the assessment of other roads). **The LCNE Village disagrees and consider these to be a high magnitude of change moderate to high impact.**

It is worth noting that the Landscape and Visual Impact Assessment did not take viewpoints from Taylors Drive which is the primary entry/exit point from the LCNE Village.

### **7. Landscape**

The Arborist Report - Appendix 12 - details that **65 trees will be removed across the development site, representing @60% of the mature trees**. It is noted that the overall development will only be providing 17.46% of landscaped area which is below the minimum 20% requirement as described within the Development Control Plan (DCP) Compliance table under section E.9 Landscaping at Appendix 1.

Of key importance is the screening of the proposed Data Centre – eastern elevation. The proposal does not allow for any landscape screening to the eastern boundary and combined with substantial tree removal leaves the building façade highly exposed. An objective of Section E.9 of the Lane Cove DCP 2009 is for the **‘screening unsightly land uses and providing a buffer between industrial development and other land uses’**. This has not been achieved and we request that a landscape buffer be included and/or a high level of architectural articulation be required of the proponent.

**We assert that the proponent has failed to adequately address the zone objective as the basis of the Clause 4.6 Variation Request. The proposal diminishes the visual amenity; the landscape is critical to mitigating the bulk and scale of the architecture with the end result not delivering an exemplar outcome that enhances the local amenity, but rather detracts from the existing amenity.**

## **Objection from the LCNE Village to the proposed Data Centre at 706 Mowbray Road**

### **8. The Traffic and Transport Assessment Report**

The Traffic and Transport Assessment Report has carefully avoided identifying the major parking impacts, both permanent and during construction.

- It avoids mentioning the parking studies which it has undertaken.
- In its list of agency responses (Section 1.3) it fails to identify that Lane Cove Council stated:

**“It is recommended that a Traffic and Parking assessment be submitted as part of the proposed development documentation.”**

**Given that street parking is already a critical issue in the vicinity of 706 Mowbray Road, as illustrated in Appendix A, we assert that the proponent intends to use the visitors parking of the LCNE Village for overflow parking during construction and on a permanent basis.**

This may explain why the proponent has omitted its assessment of parking adjacent to 706 Mowbray Road from its Assessment Report.

**We assert that The Traffic and Transport Assessment Report is fundamentally flawed and cannot be allowed to stand.**

### **9. Construction Parking**

Street parking is already a critical issue in the vicinity of 706 Mowbray Road, as illustrated in Appendix A.

This has been raised with the proponent on many occasions, including the following:

- Parking was raised as an issue in the submission to SEARS by Lane Cove Council on 12/2/21.
- Parking was raised with the proponent as an issue in the very first consultation meeting with LCNE Village in mid 2021.
- Parking was raised as an issue in the submission to Lane Cove Council regarding DA 170/2021 for demolition at 706 Mowbray Road, in a submission dated 19/12/21.
- Parking was raised with the proponent as an issue by Lane Cove Council in its letter to the proponent dated 12/4/22 which stated:

**“As a result of the site constraints, limited vehicle access and parking, an updated Demolition Traffic & Parking Management Plan (DTPMP) and report shall be prepared . . . . prior to commencing any demolition work.”**

## **Objection from the LCNE Village to the proposed Data Centre at 706 Mowbray Road**

- Submission to Lane Cove Council dated 28/10/22 objecting to the inadequacy of management plans submitted regarding demolition DA 170/2021.

We the residents of LCNE Village can see no solution to the parking issues which will arise when the proponent brings hundreds more workers into this area, and it would appear that the proponent has not been able to find a solution either. While the roads of the LCNE Village are private property, the Village has no ability to prevent the public or construction workers from parking inside the Village.

**Any by-laws apply to residents and owners of the Village, but are not binding on members of the public or construction workers. So the Village will be defenceless in the face of worker parking.**

In this SSD-13475973 submission the proponent has chosen to exclude any reference to the critical parking situation adjacent to the site, and instead have dismissed the question with a simplistic and unsupportable assumption:

“All construction worker parking will occur within the site to avoid impacts.”

This statement is both impractical and unenforceable. It overlooks three key factors:

1. Street parking is already a critical issue in the vicinity of 706 Mowbray Road.
2. The LCNE Village does not have any capacity to ask workers from 706 Mowbray Road not to park in the Village's visitor carparks. We are helpless!
3. the proponent has given an indication of at least 150 workers on site during construction. Regardless that this is a low estimate, it is highly unlikely that the builder will provide parking for so many workers within a confined construction site. And if the builder fails to do so, there would be no consequences, no means of redress.

If the DA were to be approved we would ask the following:

- A constraint that the four unrestricted carparking spots immediately adjacent to the western end of the site be declared as not available for construction purposes, and
- A mechanism to protect the LCNE Village from having workers park their cars in the Village's visitor carparks.

**We assert that The Traffic and Transport Assessment Report is fundamentally flawed and cannot be allowed to stand.**

## **Objection from the LCNE Village to the proposed Data Centre at 706 Mowbray Road**

### **10. Permanent Parking**

The Traffic and Transport Assessment Report has carefully avoided identifying the major long term parking impacts.

The executive summary states as follows:

“In addition to this parking facilities are provided within the Site which will serve a portion of the expected number of staff and visitors.”

The Report indicates that the site will provide 30 carparking spaces. The required parking spaces for the site as per DCP requirements is 61 car spaces which demonstrates a shortfall of 31 spaces. This compares with approximately 100 parking spaces which will be lost when the existing building is demolished.

This reveals that the proponent intends to rely on local parking for some staff and visitors, even though there exists no capacity for local parking, except the LCNE Village's visitor carparks.

**We assert that The Traffic and Transport Assessment Report is fundamentally flawed and cannot be allowed to stand.**

### **11. Construction Traffic**

The twin junctions of Mowbray Road West and Mowbray Road, and Mowbray Road West and Taylors Drive are overlooked in the Traffic and Transport Assessment Report.

These intersections carry frequent traffic, including to and from the LCNE Village and the Childcare Centre, as well as heavy vehicles entering and leaving the NUSS warehouse.

The three significant aspects of these intersections are:

1. These form the only exit from LCNE Village for traffic heading east on Mowbray Road. The Village has only one other exit, and that does not allow traffic to turn right (east). When construction activities block the junction of Mowbray Road West and Mowbray Road, and traffic departing from the Village will be forced onto Epping Road, a limited access road, which is several kilometres from the desired destination.
2. Today, before construction commences, these intersections are occasionally blocked to accommodate the complex manoeuvring required for large trucks and semis entering and leaving the NUSS warehouse.
3. Many pedestrians cross Mowbray Road West here, as there is no alternative.



## **Objection from the LCNE Village to the proposed Data Centre at 706 Mowbray Road**

A construction contractor will have little choice but to significantly increase the traffic intensity and the frequency of large trucks and semis entering and exiting through these twin junctions, and will many times block them.

In this SSD-13475973 submission the proponent has chosen to exclude any reference to these traffic challenges.

### **12. Traffic and Pedestrians**

Many children walk from the LCNE Village to the school on Mowbray Road, walking along the entire frontage of 706 Mowbray Road.

We find no acknowledgement in the Traffic and Transport Assessment Report of the existence of this threat to the safety of a large number of children, particularly when the proponent has conservatively identified that this site will require 150 workers.

**We assert that The Traffic and Transport Assessment Report is fundamentally flawed and cannot be allowed to stand.**

### **13. Data Centre Traffic - Permanent**

The Traffic and Parking Impact Assessment at Appendix 11 indicates that the site will provide for 30 carparking spaces which relate to the Data Centre. The additional 12 spaces will be dedicated to the adjoining childcare centre to honour past arrangements between previous owners (supported by DA110/2022 which is currently being assessed). **The required parking spaces for the site as per DCP requirements is 61 car spaces which demonstrates a shortfall of 31 spaces.**

Contrary to the directions of the Planning Panel relating to the Demolition Works DA170/2021, whereby the eastern access point (No.1) was identified as the primary access to the site during demolition and construction, the SSD states that *'during operation, the majority of the vehicles will be accessed from the western entrance (along Mowbray West Road West) with the other entry to the east (along Mowbray Road) being reserved for emergency vehicles'*. This is contrary to the express intent being to minimise traffic on Mowbray Road West and to mitigate the potential congestion impact at the intersection of Taylors Drive and the right hand turn onto Mowbray Road. **The SSD proposal is unacceptable.**

The report states that the overall traffic generation during construction and operation will produce less vehicle trips than the existing use onsite. We disagree.

## Objection from the LCNE Village to the proposed Data Centre at 706 Mowbray Road

### 14. The LCNE Village asks the Department of Planning & Environment

The LCNE Village requests,

- A comprehensive and honest assessment of traffic and parking impacts both long term and during construction is submitted and placed on exhibition, complete with proposed solutions and mitigations.
- That this development is not approved if it relies, as this SSDA relies on using the visitor carparking in LCNE Village for parking for workers during construction.
- That the Department obtain enforceable commitment from Microsoft not to seek to increase the non-compliant height over the next 10 years.
- That as an absolute minimum sufficient permanent parking be provided within the site for all employees and visitors.
- Development Consent Conditions of all Development Applications and the SSD Application relating to this project and Management Plan **are consistent.**
- That Dilapidation Reports are prepared for 2-6 Taylors Drive Apartment Buildings, by an independent specialist at the cost of the proponent, to provide a baseline condition report prior to proposed rock excavation works. Ground vibration is a legitimate concern of the LCNE Village.
- That noise and air quality monitors be installed at 2-6 Taylors Drive Apartment Buildings for the duration of the demolition and construction phases, with results presented to the LCNE Village monthly.

The proposed Data Centre is a significant development in scale that will have a 2-year demolition and construction period. The potential impacts on the local community are considerable and appropriate mitigation provisions need to be duly considered in the DEP review of the SSD and in the preparation of future Consent Conditions.

Appendix B to Objection by LCNE Village to Proposed Data Centre at 706 Mowbray Road (SSD-13475973)



## Appendix B to Objection by LCNE Village to Proposed Data Centre at 706 Mowbray Road (SSD-13475973)

In this diagram:

Green parking area A is four unrestricted car parking spots on Mowbray Road West, immediately adjacent to 706.

Green parking area B is six unrestricted car parking spots on Mowbray Road, immediately adjacent to 706.

Orange parking area C is three unsafe and unrestricted car parking spots on Mowbray Road.

Green parking area D is three unrestricted car parking spots on Mowbray Road.

Mowbray Road is marked as orange because it unsafe to cross.

Avian Crescent is identified as D. Parking is currently unrestricted, however is it not safely accessible from the LCNE Village.

All other roads on this map are restricted to 2 hour parking, residents excluded.

## **Appendix A**

### **Parking is already a critical Issue adjacent to 706 Mowbray Road.**

Parking is already a critical issue for the LCNE Village and adjacent to the Proposed Microsoft Data Centre at 706 Mowbray Road.

#### **Parking Summary:**

- There are total of 13 safe unrestricted carparking spaces adjacent to LCNE Village. These are indicated as A, B and D on Appendix B.
- There are three unsafe parking spaces on Mowbray Road. These are indicated as C on Appendix B.
- All other roads on this map are restricted to 2 hour parking, (residents excluded). This restriction alone is clear evidence of the pressures on parking in this area, and the lack of unrestricted parking.

#### **In Detail**

- A – four unrestricted parking spots on Mowbray Road West, immediately adjacent to 706. These spots are hotly contested and most often, all four of them are occupied.
- B - six unrestricted car parking spots on Mowbray Road, immediately adjacent to 706.
- D - three unrestricted car parking spots on Mowbray Road to the north of LCNE Village.
- C - three unsafe and unrestricted car parking spots on Mowbray Road to the east of LCNE Village. Cars frequently swoop down this curved section of Mowbray Road in excess of the listed speed limit.
- Mowbray Road is marked as orange because it unsafe to cross. Cars frequently swoop down this curved section of Mowbray Road in excess of the listed speed limit. Concern at the safety of crossing this section of Mowbray Road is evidenced by the recent offer by Willoughby Council to build a pedestrian refuge close to the area marked as carpark D on Appendix B. For this reason it is unsafe for people to park on Avian Crescent because of the need to risk two crossings of Mowbray Road.
- All other roads on this map are restricted to 2 hour parking, residents excluded. This restriction alone is clear evidence of the pressures on parking in this area, and the lack of unrestricted parking.

#### **Construction Impact**

A construction contractor will naturally require some parking in the street outside the worksite, and would expect to create construction zones for the period. In this very unusual case, that would place immense pressure on the local parking residents, because there are no alternatives.

A construction contractor will make some requests of his workers not to park in the visitors spots of LCNE Village, however that is un-enforceable. The builder would

not have the interest nor the means to manage that parking, and the LCNE Village will have no “power” to prevent it, because by-laws are not binding on members of the public or construction workers. The Village will be, in fact, defenceless in the face of a workforce exceeding 150 persons who want to park close to the worksite.

### **Evidence**

Microsoft has chosen not to provide any information from its investigations into parking, hoping that it can discount local concerns about parking as normal.

And in addition, we contend that Microsoft has closely evaluated the parking issues and realised that other are no solutions.

So, it appears that Microsoft wants to look the other way while its workers park in the visitors spots in LCNE Village both during construction and in the long term.

In order to illustrate the intensity of use of the four carparking spots at location A we have referred to an independent service which takes aerial photographs several times each year.

The service is called Nearmaps; an internet based service for a small fee. (search for Nearmaps Login) It is probable that Microsoft has also used this ASP to examine this same parking issue.

Quite surprising to learn that during the last two years, ALL FOUR of the carparks were occupied on all of the 9 occasions when Nearmaps have aerial photographs on any day except Sunday.

To be clear Nearmaps have 9 aerial photos, and all four carparks were occupied in every single photo.

<b>SYD04 Lane Cove Data Centre</b>	<b>No of Cars</b>
Monday, 12 September 2022	4
Thursday, 28 July 2022	4
Tuesday, 17 May 2022	4
Tuesday, 21 December 2021	4
Monday, 4 October 2021	4
Friday, 6 August 2021	4
Monday, 31 May 2021	4
Saturday, 10 April 2021	4
Saturday, 26 September 2020	4

### **Conclusion**

The only conclusion that can be drawn it that there is intense competition from Monday to Saturday for the use of the four unrestricted carparks on Mowbray Road West immediately adjacent to 706 Mowbray Road.

### **Copies from Nearmaps**

Below are copies taken from Nearmaps.













