



Gungahlin Community Council Inc.
PO Box 260 Gungahlin ACT 2912

9 June 2020

ACTPLA
Environment, Planning and Sustainable Development Directorate
GPO Box 158
Canberra City ACT 2601

EPDCustomerservices@act.gov.au

Representation in Response to Amended Development Application 201732666 (Gungahlin Block 6 Section 224)

Introduction

The Gungahlin Community Council (GCC) is a voluntary, not for profit, community-based association operating in the Gungahlin district of Canberra, in the Australian Capital Territory. Our objective is to preserve and improve the social, cultural, economic, and environmental well-being of Gungahlin and the Gungahlin community¹. The Gungahlin Community Council receives support and funding from the ACT Government.

This representation is informed by, and made on behalf of, the residents of Gungahlin.

Background

The GCC opposed development application (DA) 201732666 when it was submitted in November 2017². Despite 118 representations being made, the DA was approved in September 2018.

The GCC remains opposed to the proposed development, and hence the amended DA. Our reasons for doing so are based on

- **Consistency**, as the amended development is substantially similar in scale to the original proposed in 2017;
- **Concerns**, related to the very subjective nature of the original Notice of Decision; and
- **Changes**, to the development and the associated planning framework.

The GCC understands that the original DA has been approved (albeit with numerous conditions). Nevertheless, we believe it is important to advocate on behalf of the Gungahlin community consistently and continuously, and to record our concerns with the Notice of Decision. We also believe the amendment is flawed.

¹ <https://gcc.asn.au/about-gcc/>

² <https://gcc.asn.au/air-towers-development-application/>

Representation

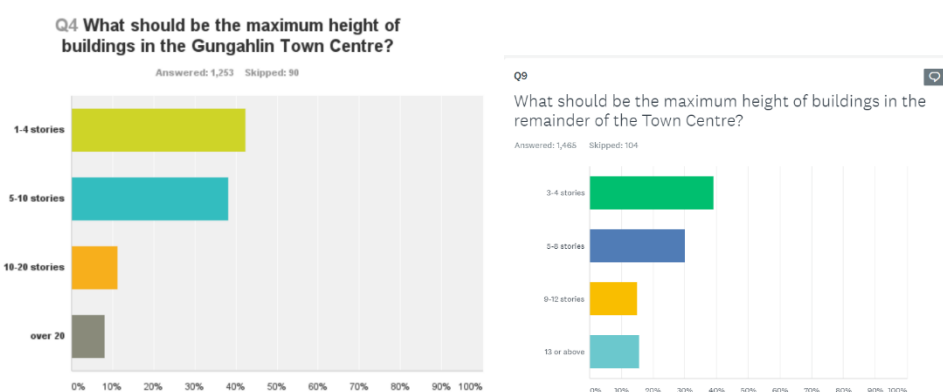
Consistent – with the view of residents

The GCC's view is that this development should not proceed on the proposed site. This is consistent with the position we have been advocating on behalf of the Gungahlin community since 2016³. Specifically:

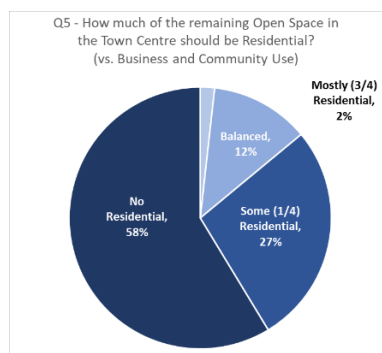
- The 15-storey **height** does not align with community expectations for building heights in the Gungahlin Town Centre.
- The GCC's Have Your Say **surveys** conducted in 2014 and 2019 showed a strong preference for buildings in the town centre of 10 stories or less (2014: 80% of respondents) and for no further residential development in the town centre (2019: 57% of respondents).
- The buildings will **overshadow and overlook** the YMCA Early Learning Centres; as well as nearby residential areas, removing winter sun and privacy.
- The **impact to traffic** in the surrounding areas arising from an additional 290 apartments.
- The continued development of an **excessive number of residential apartments** at the expense of any other potential commercial office development.
- A lack of consideration about **infrastructure to support the increasing number of residents** in this section of Gungahlin. For example, schools, green spaces, pedestrian access etc.

It is important to note that although there are similar mixed-use (residential) developments in Town Centre Precinct 2b, the GCC has only taken a strong position against the Air Towers/Establishment development principally because of its location.

Community surveys undertaken in 2014 and 2019 have shown strong opposition (more than 70%) amongst residents to further residential development in the Gungahlin town centre and to developments over 10 storeys, as indicated below.



GCC Survey Results regarding Building Height – 2014 (left) and 2019 (right)



GCC Survey Result (2019) regarding Residential Development (1,506 responses)

³ <https://gcc.asn.au/getting-development-right-for-the-town-centre-the-gungahlin-residential-towers-story/>

Concerns – with the Notice of Decision

The original Notice of Decision was largely dismissive of a few concerns (outlined below) that are not addressed in the new DA, and the GCC would like to highlight these as the GCC believes they should be addressed in the amended DA (2020).

- “Any future applications to amend this development proposal will require assessment involving greater scrutiny” (Condition E9, p. 9). The GCC has not been provided with evidence that this scrutiny has been demonstrated, particularly regarding the (many, 39) conditions imposed by the original DA – we do not have confidence that the Directorate has enforced these conditions.
- Changes were made to the original DA (2018) by the proponent after its submission (from 18 stories to 16). These were not publicly notified because “the authority considered the amended design will reduce the potential impacts of the building height and mass, and that the revised proposal will decrease the potential environmental impact” (p. 10). These changes are not considered by the GCC to be adequate as the development is still significant in scale and will have significant environmental impact. There are other references in the Notice of Decision that make the subjective claim that simply reducing the height from 18 to 16 storeys was in effect “a win” – rather than making the case for why 16 storeys was acceptable (for example, see over shadowing below).
- The privacy concerns of the YMCA child care centre are claimed to be addressed by requiring screening on the Western windows of the first four floors of the development, but this hardly seems adequate when 16 storeys of units (over 100 in total) will face the childcare centre. The Notice of Decision suggests that the “interface distance and vistas enjoyed by residents will offer for protection for the privacy of the children” (p. 11) but provides no objective analysis or evidence what distance is adequate or quality of vista would be needed to provide this protection.
- Further, any requirements to comply with the United Nations Convention of the Rights of Child regarding privacy are dismissed as the development “is not unlawful because the development meets the requirements, including the requirements related to privacy, of the Territory Plan and the Planning and Development Act (p. 11)
- Regarding overshadowing, the decision simply indicates the “overshadowing impact is reduced from the original proposal” (p. 11) yet the impacts are still very significant as the childcare centre playground will be overshadowed until 10:30am, and that the overshadowing of existing residential units is “inevitable” (p. 11) (it’s obviously only inevitable if the development is built).
- The ACT Conservator of Flora and Fauna could not support the proposal on the basis “it proposed to remove a high-quality regulated tree on the development site” (p. 12). The authority indicates this advice was “considered” yet the DA was approved – another example of a subjective conclusion with little or no supporting evidence to justify it.
- In the final assessment the authority echoes the arguments of the proponents in very subjective terms, inconsistent with community views (p. 12)
 - “There are existing developments and developments to be constructed within the surrounding area of varying height, mass and scale”
 - “The height and scale of the development is compatible with the locality”
 - “The setback ... and transition ... is considered an acceptable outcome”
- The Notice of Decision has been corrected three times since its release (24 October 2018, 14 March 2019, 22 August 2019) mostly related to the conditions of approval. It has been difficult for the GCC to obtain evidence of why these corrections have occurred how these changes to the conditions of approval have been complied (or not) with.

Changes – with the Development and Planning Framework

The changes proposed in the amended DA are focused on increasing the commercial return to the developer, through an increase in the number of units (from 270 to 290) and adjusting the mix of units. There are aspects to these changes and the amended DA of concern to the GCC.

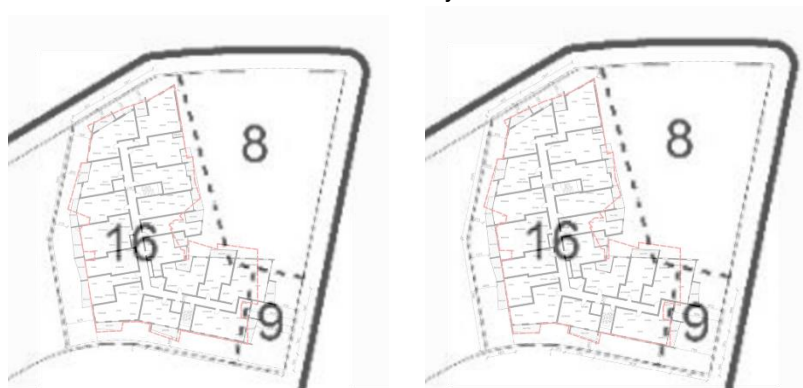
Most particularly, the GCC strongly supports the concerns the YMCA has expressed regarding the impact the following issues will have on their Early Learning Centre (ELC) located adjacent to the site on Gungahlin Block 3 Section 224:

- Oversight (including privacy, sunlight, and outdoor environment)
- Car Parks
- Commercial Tenancies
- Easement
- Waste Collection
- Traffic flow
- Noise
- Construction impacts

The GCC believes that the oversight concerns for the YMCA childcare centre have not been addressed (arguably have worsened), and the proposed traffic arrangements are likely to force its closure because of the risk of an accident.

With respect to the DA's Statement Against Criteria Document:

- The GCC prompted the Directorate to confirm that Draft Variation 364 to the Territory Plan (DV364) was to be applied to this DA, which the Directorate acknowledged it was. This resulted in an amendment to the Statement Against Criteria (from Revision 3 to Revision 4) being posted on the eDevelopment site silently on 18 May 2020 (as advised by the Directorate in response to a specific question) – there was no indication or notification that the file had changed. This is a significant transparency failing and added to the complexity of responding to this DA.
- The Statement argues in support of the scale (height) of the development (p. 5) that “the development proposal ... responds appropriately to the escalating density along Gundaroo Drive”. This is demonstrably not true. From South to North along Gundaroo Drive the number of storeys of each of the residential tower developments are 20, 22 (Infinity), 16 (Pod), 14, 7 (Lumi), 1, (YMCA), and then 15/8 (Establishment); there is an obvious “escalating” disconnect from the proposed development and Lumi at least, but certainly the YMCA.
- The Statement claims the DA is compliant with rule R61 regarding the number of stories. In the figure below, the proposed floor plan for level 9-11 is overlaid by the relevant portion of Figure 16 from DV364. This shows that the development as proposed encroaches on the height restrictions where it “steps down” through levels 9-11 where it is 10-12 stories high when it should be 8/9 stories high. The DA is not consistent with DV364 and should be rejected.



Levels 9 & 11 (10 and 12 stories) left , Level 10 (11 stories) right, overlaid by DV364 height restrictions.

- The Statement argues in support of the scale (height) of the development (p. 9) that “The proposed development is within 500m of the Canberra Metro”. This is not practically true. The development is at least 700m from the Gungahlin Light Rail stop via all forms of terrestrial transport.

With respect to the DA's Traffic Analysis:

- The document does not reflect the changes incorporated in DV364 (still referencing precinct 2b as “Office Park”).
- It includes numerous references to documents which are not immediately available to the GCC or the public (listed under “Consultants Reports”) which makes it hard to undertake a thorough analysis.
- Demonstrates no understanding of how the YMCA operates suggesting “the access easement will be used ... by some parents” where it is actually **all** parents.
- References bus routes that no longer operate (55, 255 p. 19).

The GCC therefore does not have confidence in the findings of the Traffic Analysis.

Yours Sincerely

Peter Elford
President, GCC
president@gcc.asn.au