

29 July 2021

218496

Hamish McNulty
General Manager
Cumberland City Council
1 Susan Street
Auburn NSW 2144

ATTN: Ms Rennie Rounds, Executive Planner

Dear Ms Rounds,

CLAUSE 4.6 VARIATION REQUEST – HEIGHT OF BUILDING DA2021/0152 – 2-36 CHURCH STREET, LIDCOMBE

This variation request has been prepared by Ethos Urban on behalf of Lidcombe Church Property Pty Ltd (Billbergia) pursuant to clause 4.6 of the *Auburn Local Environmental Plan 2010* (ALEP 2010). It is submitted to Cumberland Council (Council) to accompany Development Application DA2021/0152 (the DA), which was lodged on 24 March 2021. It should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by Ethos Urban dated 15 April 2021.

The proposed development is entirely consistent with the maximum height limits that apply to the site apart from a minor 0.78m variation to accommodate mechanical plant on Building B.

1.0 Development standards to be varied

The proposed development exceeds the maximum height of building (HoB) limit under clause 4.3 of the Auburn LEP as it applies to Building B. The maximum height permissible on the land that accommodates Building B is 32 metres. The proposed rooftop mechanical plant will result in a maximum building height of 32.78 metres (refer to **Figures 1 – 2**).

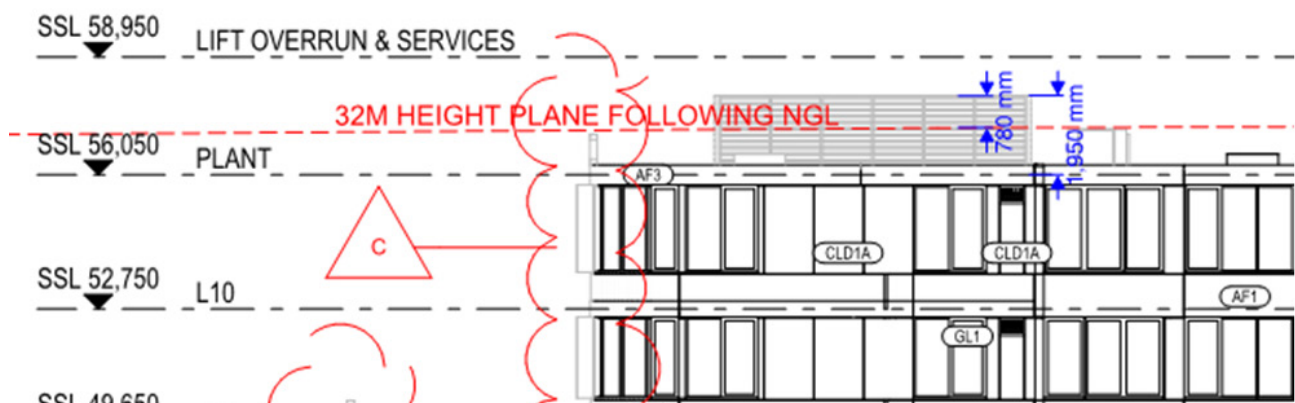


Figure 1 Extent of the noncompliance (blue measurements)

Source: Plus Architecture



Figure 2 Building B south elevation, with mechanical rooftop plant highlighted in red

Source: Plus Architecture, edits by Ethos Urban

2.0 Justification

2.1 Clause 4.6(3)(a): Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

The following points demonstrate that compliance with the development standard is unreasonable and unnecessary in the circumstances because the underlying objectives of the standard are achieved notwithstanding the non-compliance with the standard.

- (a) *to establish a maximum height of buildings to enable appropriate development density to be achieved,*
- (b) *to ensure that the height of buildings is compatible with the character of the locality*

- The rooftop plant does not accommodate any floor area, and Building B complies with the maximum floor space ratio permitted for the site under clause 4.4 of the ALEP 2010. Therefore, the proposed density on the site is consistent with the Council's expectations.
- The proposed height of Building B is consistent with the maximum permitted under clause 4.3 of the ALEP 2010. The building will remain compatible with character of the area notwithstanding the minor and localised variation to accommodate a small area of roof top plant.

2.2 Clause 4.6(3)(b): Environmental planning grounds to justify contravening the development standard

There are sufficient environmental planning grounds to justify contravention of the maximum building height development standard in this specific instance as the proposal is 32 metres high (excluding architectural roof feature) and the proposed variation will not be readily visible from the public domain surrounding the site and will not impact on views or daylight access to the surrounding dwellings or public and private open space.

2.3 Clause 4.6(4)(a)(ii): In the public interest because it is consistent with the objectives of the zone and development standard

The proposed development is consistent with the objectives of the R4 High Density Residential zoning of the site, as outlined in the DA's SEE at Section 5.1.

2.4 Clause 4.6(5) Other matters for consideration

The proposed contravention of the development standards does not raise any matters of significance for the State or regional environmental planning. Further, there is no public interest in maintaining the numerical building height standard in this instance. As outlined above there are sufficient environmental planning grounds to warrant contravention of the development standard and it is therefore considered to be in the public interest for the variation to be supported in this case.

3.0 Conclusion

The proposed development has been designed to comply with the ALEP 2010 height development standard notwithstanding the minor variation on Building B to accommodate roof top plant. We trust that the above is sufficient to enable the continued assessment of DA2021/0152. If you have any questions, please do not hesitate to contact the undersigned.

Yours sincerely,



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