

Sydney North Planning Panel Meeting 21 April 2021
20-22 MINDARIE STREET AND 30 PINAROO PLACE, LANE COVE NORTH

Subject: 20-22 Mindarie Street and 30 Pinaroo Place, LANE COVE NORTH
Record No: DA20/181-01 - 15638/21
Division: Environmental Services Division
Author(s): Henry Burnett

Panel Reference	PPSSNH-188
DA Number	181/2020
LGA	Lane Cove Council
Proposed Development	Construction of a Residential Flat Building pursuant to SEPP (Affordable Rental Housing) 2009
Street Address	20-22 Mindarie Street and 30 Pinaroo Place, Lane Cove North
Applicant/Owner	Applicant: BCL2 Limited Owner: NSW Land and Housing Corporation
Date of DA lodgement	22 December 2020
Total number of Submissions Number of Unique Objections	<ul style="list-style-type: none"> • Eight (8) • Eight (8)
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	CIV > \$5 Million – Private infrastructure and community facilities
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • relevant environmental planning instruments <ul style="list-style-type: none"> - SEPP (Affordable Rental Housing) 2009; - SEPP 65 – Design quality of Residential Apartment Development and Apartment Design Guide (ADG); - SEPP (Building Sustainability Index) 2004; - SEPP (State and Regional Development) 2011; and - 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"> - Draft Environment SEPP; - Draft Housing Diversity SEPP; and - Draft Design and Place SEPP. • relevant development control plan <ul style="list-style-type: none"> - Lane Cove Development Control Plan 2010 • 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

Sydney North Planning Panel Meeting 21 April 2021
20-22 MINDARIE STREET AND 30 PINAROO PLACE, LANE COVE NORTH

	<ul style="list-style-type: none">• relevant regulations e.g. Regs 92, 93, 94, 94A, 288- Nil• coastal zone management plan- Nil <p>other relevant plans</p> <ul style="list-style-type: none">- Lane Cove Section 94 Contributions Plan																																																																														
List all documents submitted with this report for the Panel’s consideration	<table><tr><th>Annexure</th><th>Document</th><th>Prepared By</th></tr><tr><td>1</td><td>Conditions of Consent</td><td>Lane Cove Council</td></tr><tr><td>2</td><td>SEPP ARH Assessment</td><td>Lane Cove Council</td></tr><tr><td>3</td><td>SEPP 65 Assessment</td><td>Lane Cove Council</td></tr><tr><td>4</td><td>Architectural Plans (Rev. 2)</td><td>Stanton Dahl Architects</td></tr><tr><td>5</td><td>Landscape Plans (Rev. 2)</td><td>Botanique Design</td></tr><tr><td>6</td><td>Draft Stratum Plans</td><td>YSCO Geomatics</td></tr><tr><td>7</td><td>Statement of Environmental Effects</td><td>Creative Planning Solutions</td></tr><tr><td>8</td><td>Clause 4.6 Written Request</td><td>Creative Planning Solutions</td></tr><tr><td>9</td><td>Design Verification Statement</td><td>Stanton Dahl Architects</td></tr><tr><td>10</td><td>Amended Access Report</td><td>Vista Access Architects</td></tr><tr><td>11</td><td>BASIX Certificate</td><td>-</td></tr><tr><td>12</td><td>Amended Traffic Report</td><td>McLaren Traffic</td></tr><tr><td>13</td><td>Acoustic Report</td><td>Koikas Acoustics</td></tr><tr><td>14</td><td>Geotechnical Report</td><td>JC Geotechnics</td></tr><tr><td>15</td><td>Amended Arboricultural Report</td><td>The Ents Tree Consultancy</td></tr><tr><td>16</td><td>Detailed Site Investigation Report</td><td>Coffey</td></tr><tr><td>17</td><td>Remedial Action Plan</td><td>Coffey</td></tr><tr><td>18</td><td>Cost Estimate Report</td><td>MBM</td></tr><tr><td>19</td><td>Operational Waste Management Plan</td><td>Elephants Foot</td></tr><tr><td>20</td><td>Stormwater Management Plan</td><td>Greenview Consulting</td></tr><tr><td>21</td><td>Sediment and Erosion Control Plan</td><td>Greenview Consulting</td></tr><tr><td>22</td><td>Survey Plan</td><td>Project Surveyors</td></tr><tr><td>23</td><td>Notification Extent Map</td><td>Lane Cove Council</td></tr><tr><td>24</td><td>Summary of Submissions</td><td>Lane Cove Council</td></tr><tr><td>25</td><td>NSW RFS Concurrence</td><td>NSW RFS</td></tr></table>	Annexure	Document	Prepared By	1	Conditions of Consent	Lane Cove Council	2	SEPP ARH Assessment	Lane Cove Council	3	SEPP 65 Assessment	Lane Cove Council	4	Architectural Plans (Rev. 2)	Stanton Dahl Architects	5	Landscape Plans (Rev. 2)	Botanique Design	6	Draft Stratum Plans	YSCO Geomatics	7	Statement of Environmental Effects	Creative Planning Solutions	8	Clause 4.6 Written Request	Creative Planning Solutions	9	Design Verification Statement	Stanton Dahl Architects	10	Amended Access Report	Vista Access Architects	11	BASIX Certificate	-	12	Amended Traffic Report	McLaren Traffic	13	Acoustic Report	Koikas Acoustics	14	Geotechnical Report	JC Geotechnics	15	Amended Arboricultural Report	The Ents Tree Consultancy	16	Detailed Site Investigation Report	Coffey	17	Remedial Action Plan	Coffey	18	Cost Estimate Report	MBM	19	Operational Waste Management Plan	Elephants Foot	20	Stormwater Management Plan	Greenview Consulting	21	Sediment and Erosion Control Plan	Greenview Consulting	22	Survey Plan	Project Surveyors	23	Notification Extent Map	Lane Cove Council	24	Summary of Submissions	Lane Cove Council	25	NSW RFS Concurrence	NSW RFS
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Clause 4.6 requests	Yes – LCLEP 2009 Clause 4.3 – Maximum Height of Buildings																																																																														
Summary of key submissions	<ul style="list-style-type: none">• Bulk and scale• Overshadowing• Visual Privacy• Traffic and Parking																																																																														
Report prepared by	Henry Burnett																																																																														
Report date	9 April 2021																																																																														

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
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Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	Yes
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Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Yes
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Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	Not applicable
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Conditions

Have draft conditions been provided to the applicant for comment? <i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>	Yes
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1. EXECUTIVE SUMMARY

The Development Application is for a residential flat building pursuant to SEPP (Affordable Rental Housing) 2009 on land known as No. 20-22 Mindarie Street and 30 Pinaroo Place, Lane Cove North.

The Development Application is referred to the Sydney North Planning Panel for determination under SEPP (State and Regional Development) 2011 as the Capital Investment Value exceeds \$5 million and includes affordable housing.

The proposed development is for the construction of a part five and part six storey residential flat building comprising 30 apartments, two levels of basement parking for 43 vehicles and rooftop communal open space.

The proposal has been assessed against the relevant parts of Section 4.15 of the Environmental Planning and Assessment Act, 1979. A detailed assessment of the relevant environmental planning instruments is provided in Section 5 of this report. The legislative clauses requiring consent authority satisfaction are summarised, in **Table 1**.

Table 1 – EPI Matters to be Satisfied		
EPI	Clause	Recommendation Summary
SEPP (Affordable Rental Housing) 2009	17 – Affordable Housing for 10 Years	Satisfied, condition imposed.
SEPP 55 Remediation of Land	7 – Contamination and remediation to be considered in determining an application.	Satisfied, Detailed Investigation completed.
LCLEP 2009	4.6 – Exception to Development Standards (Building Height)	Satisfied, Clause 4.6 satisfied as detailed in this report.

The proposal was notified on two occasions and the main concerns raised relate to bulk and scale, overshadowing, visual privacy and traffic and parking. A total of eight (8) unique submissions were made objecting to the proposal. The submissions are summarised and addressed in the report.

The Development Application provides for a development, permitted by way of SEPP (Affordable Rental Housing) 2009 that is considered satisfactory in this instance for the following key reasons:

- The proposal provides for a density significantly less than the maximum allowed for under SEPP (Affordable Rental Housing) 2009. The SEPP would allow a maximum FSR of 2.226:1 where an FSR of 1.526:1 is proposed;
- Building separation is provided in excess of the Apartment Design Guide to the southern adjoining single detached dwelling houses;
- Greater than required deep soil zones provide a high quality landscape outcome and allow for a softening of the proposed built-form;
- The Clause 4.6 written request seeking to vary building height is considered satisfactory and a better planning outcome is achieved than if strict compliance was enforced; and
- The applicant has taken into account the reasons for the deferral of the concept application.

The Development Application is reported to the Sydney North Planning Panel with a recommendation for approval subject to draft recommended conditions of consent.



Figure 2: Aerial Imagery of Subject Site (Source: Nearmap)



Figure 3: Aerial Perspective of Subject Site (Source: Nearmap)



Figure 4: Photo of Subject Site from Mindarie Street



Figure 5: Photo of Subject Site from Pinaroo Place

2.2 Adjoining Properties





Table 3 – Adjoining Properties	
North	<p>To the north of the site is Mindarie Street and to the northern side of Mindarie Street, residential flat building developments.</p>  <p style="text-align: center;">Figure 6: North of Site – Mindarie Street and Residential Flat Buildings</p>
West	<p>To the west of the site is located single detached dwellings on land zoned R4 High Density Residential (see Figure 10). A Development Application for a residential flat building development on that land has been recently approved by the Lane Cove Local Planning Panel.</p>  <p style="text-align: center;">Figure 7: West of Site - Single Detached Dwellings</p>

Table 3 – Adjoining Properties	
East	<p>To the east of the site is located Pinaroo Place and on the eastern side of Pinaroo Place a residential flat building development.</p>  <p style="text-align: center;">Figure 8: East of Site – Pinaroo Place and Residential Flat Building</p>
South	<p>To the south of the site is located single detached dwellings on land zoned E4 Environmental Living (see Figure 10).</p>  <p style="text-align: center;">Figure 9: South of Site – Single Detached Dwellings</p>

2.3 Local Planning Provisions

In order to understand the site and adjoining development in the context of the existing local planning provisions, the existing zoning, building height and FSR maps of Lane Cove Local Environmental Plan 2009 (LCLEP 2009) are included as **Figure 10, 11 and 12** respectively below.

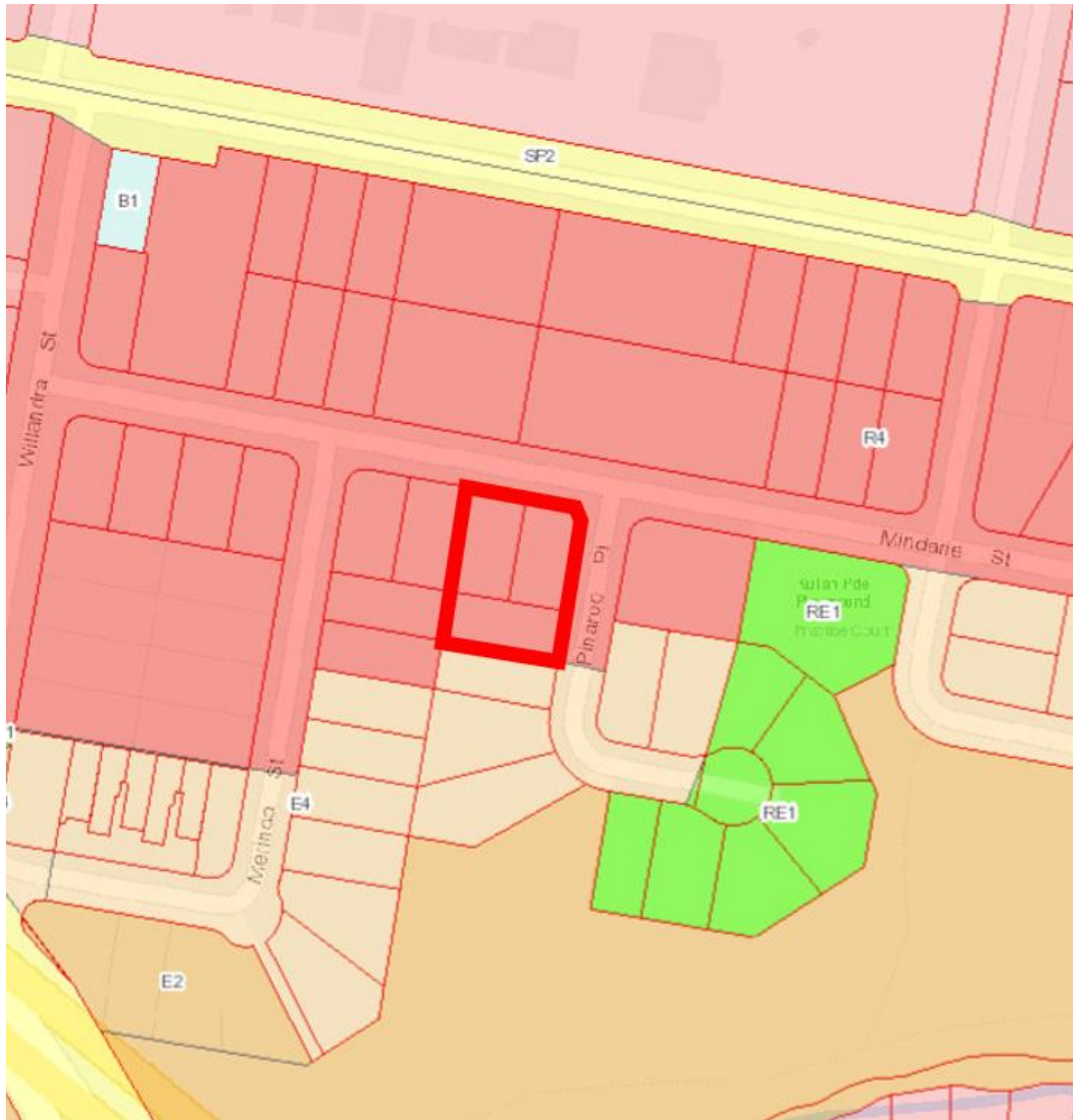


Figure 10: Zoning Map (Source: LCLEP 2009 and EPlanning Spatial Viewer)
(Red: R4 High Density Residential, Tan: E4 Environmental Living)



Figure 11: Max. Building Height Map (Source: LCLEP 2009 and EPlanning Spatial Viewer)
 (Brown: 17.5m, Green: 9.5m)



Figure 12: Max. FSR Map (Source: LCLEP 2009 and EPlanning Spatial Viewer)
 (Pink: 1.8:1, Blue: 0.5:1)

2.4 Application History

A Concept Development Application (Ref. DA50/2019) was submitted by NSW Land and Housing Corporation on 15 May 2019 for a residential flat building envelope. A perspective of the originally submitted building envelope proposed is shown in **Figure 13** below.

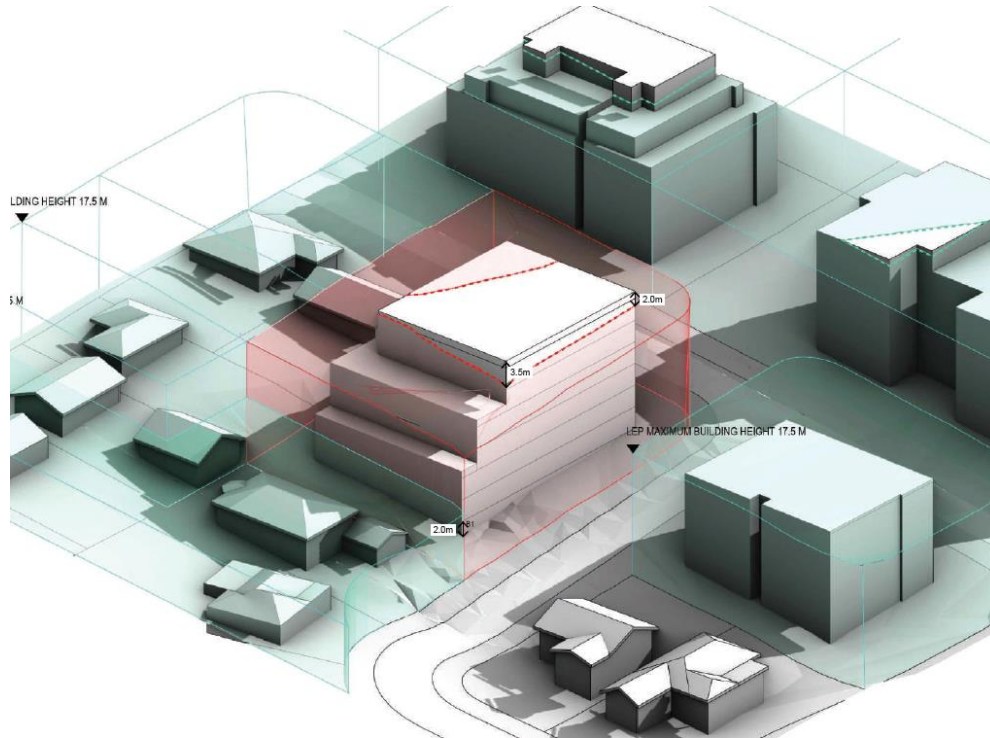


Figure 13: Previous Concept Development Application for an RFB Building Envelope

The Concept Development Application was reported to the Sydney North Planning Panel, on the first occasion, on 23 October 2019 and the matter was deferred for the following reasons:

1. *The Panel resolved to defer the determination of the application in order to allow the applicant to respond to the following concerns:*
 - a. *While the applicant is entitled to submit this application as a Concept Application, the Panel considers that there is insufficient detail and information in this application for it to make an informed determination, particularly given the variation sought to the height limit and the lack of detail as to the end form of the development both in physical form, uses, quantum of social housing and vehicular ingress/egress. In this respect, the applicant has indicated that a contract for development of the site has been issued. In this respect a detailed application will be necessary and will need to respond to the concerns raised. One purpose of the deferral is to allow the applicant to reconsider the question whether its purpose would be better served by lodging a detailed application thus avoiding the need for two approvals.*
 - b. *However, if the applicant wishes to proceed with a Concept Application, the Panel considers that there is not enough information for it to make an informed decision. In particular, the application provides no information on where the vehicular entry and exit are located. This is a fundamental aspect even of a Concept Application.*
 - c. *The Panel considered the objections of neighbours and listened to their concerns during the public meeting. The main concern is the overshadowing of houses to the south and the transition of the building form. The Panel notes that the site is on the*

sensitive boundary interface between an R4 and an E4 zone, and the planning principle (Seaside v Wyong Shire Council) specifically states that maximizing the controls on the higher density site/zone can not be presumed.

- d. The application also does not comply with the height development standard and that the clause 4.6 submission provides insufficient environmental planning grounds to justify the variation.*
- e. In addition, the Panel believes that any application should comply with the ADG's requirement for an additional 3m setback on sites situated on zone boundaries with a lower density development. This would significantly change the proposed concept envelope.*

The Concept Development Application was reported to the Sydney North Planning Panel, on the second occasion, on 29 May 2020, and the matter was deferred for the following reasons:

- That the proposed plans be amended to incorporate the appropriate lift overrun and the Clause 4.6 be amended to address the proposed maximum height breach.. and address all objectives of the height standard.*
- Solar impact assessment of the increased height breach (lift overrun) be addressed.*
- If the provision of social housing is to be the sufficient environmental ground for justifying the variation then the provision of such housing needs to be confirmed and established, including commitment to actual number of units to be used as social and affordable housing as part of this application; since it is the basis for the variation. Alternatively, if the Clause 4.6 cannot be justified then the Panel considers the proposal should comply with the height controls.*
- Relocation of the car park entry further north so that the setback on the southern boundary is increased to a minimum of 2.5m to allow for sufficient deep soil to grow screen plants and canopy trees along the southern boundary.*
- In addition to the above the basement shall be lowered so that it has minimal projection above existing ground level so that the increased southern setback and planting will not be overshadowed by an immediate elevated structure.*
- That any communal open space on the southern boundary be located at existing ground level and not elevated as indicated on the indicative plans. Such a location would have an adverse impact on neighbouring properties.*

The Concept Development Application was withdrawn by NSW Land and Housing Corporation on 9 October 2020 in order for the current applicant (BCL2 Ltd) to prepare and submit the subject Development Application.

The subject Development Application is considered to address the matters raised by the Sydney North Planning Panel including the provision of zone transition building separation to the south and relocating the driveway with associated buffer landscape planting.

3. Proposal

3.1 Overview

The Development Application is for the construction of a part five and part six storey residential flat building pursuant to *SEPP (Affordable Rental Housing) 2009* comprising 30 apartments (7 x 1 bedroom, 19 x 2 bedroom and 4 x 3 bedroom), two levels of basement parking for 43 vehicles and stratum subdivision. The proposed architectural plans are provided as **Annexure 4** to this report.



Figure 14: Perspective of Proposal

A summary of the key components of the proposal is provided in **Table 4** as follows:

Table 4 – Development Summary	
Component	Proposed
Site Area	1,745m ²
Storeys	6 storeys (2 basement levels)
Total Units	30 units
Unit Mix	7 x 1 bedroom 19x 2 bedroom 4 x 3 bedroom
Social Housing Units (LAHC)	9 of 30 units
Affordable Housing Units (Blue CHP)	6 of 30 units
Parking	43 spaces
Vehicular Access	Pinnaroo Place (9m from southern boundary)
Proposed Landscaped Area	41.9%
Proposed FSR	1.526:1
Proposed Max. Building Height)	21.38m (lift overrun)
Proposed Deep Soil (DCP)	31.7%
Proposed Deep Soil (SEPP 65 – 6m)	20.5%

A level by level description of the proposal is provided in **Table 5** as follows:

Table 5 – Proposed Development By Level	
Level	Description
Basement Level 2	<ul style="list-style-type: none"> - 28 x resident parking spaces; - Fire stairs; - Passenger lift; and - One-way ramp to/from Basement Level 1.
Basement Level 1	<ul style="list-style-type: none"> - 10 x resident spaces including: <ul style="list-style-type: none"> - 6 x accessible spaces; - 5 x residential visitor spaces including: <ul style="list-style-type: none"> - 1 x accessible space; and - 1 x car wash bay; - Fire stairs; - Garbage and bulky goods store; - Bicycle storage room (22 bicycles); and - 3 x motorcycle spaces.
Ground Level	<ul style="list-style-type: none"> - 4 x residential units comprising: <ul style="list-style-type: none"> - 1 x 1 bedroom unit - 3 x 2 bedroom unit - Entry lobby from Pinaroo Place; - Residential storage room; - Fire services and stairs; and - Garbage chute room.
Level 1	<ul style="list-style-type: none"> - 6 residential units comprising: <ul style="list-style-type: none"> - 1 x 1 bedroom unit - 5 x 2 bedroom units - Lift lobby, waste room (chute) and fire stairs.
Level 2	<ul style="list-style-type: none"> - 6 residential units comprising: <ul style="list-style-type: none"> - 6 x 2 bedroom units - Lift lobby, waste room (chute) and fire stairs.
Level 3	<ul style="list-style-type: none"> - 7 Residential Units comprising: <ul style="list-style-type: none"> - 3 x 1 bedroom units - 4 x 2 bedroom units - Lift lobby, waste room (chute) and fire stairs.
Level 4	<ul style="list-style-type: none"> - 4 Residential Units comprising: <ul style="list-style-type: none"> - 1 x 1 bedroom unit - 1 x 2 bedroom unit - 2 x 3 bedroom units - Lift lobby, waste room (chute) and fire stairs.
Level 5	<ul style="list-style-type: none"> - 3 Residential Units comprising: <ul style="list-style-type: none"> - 1 x 1 bedroom unit - 2 x 3 bedroom units - Lift lobby, waste room (chute) and fire stairs.
Roof Level	<ul style="list-style-type: none"> - Lift-overrun, toilet and fire stairs; - Roof-top plant; and - Communal open space.

3.2 Landscaping

The proposed landscaping is shown on the submitted landscape drawings (**Annexure 5**). The landscaping site plan is shown in **Figure 15** below. The proposed landscaping includes the following:

- **Tree Removal:** Removal of thirteen (13) site trees.
- **Tree Retention:** Retention of six (6) trees including three (3) street trees and three (3) on-site trees;
- **Replacement Trees:** Replacement tree planting of twenty-seven (27) trees including 8 x 200L trees and 8 x 100L trees.

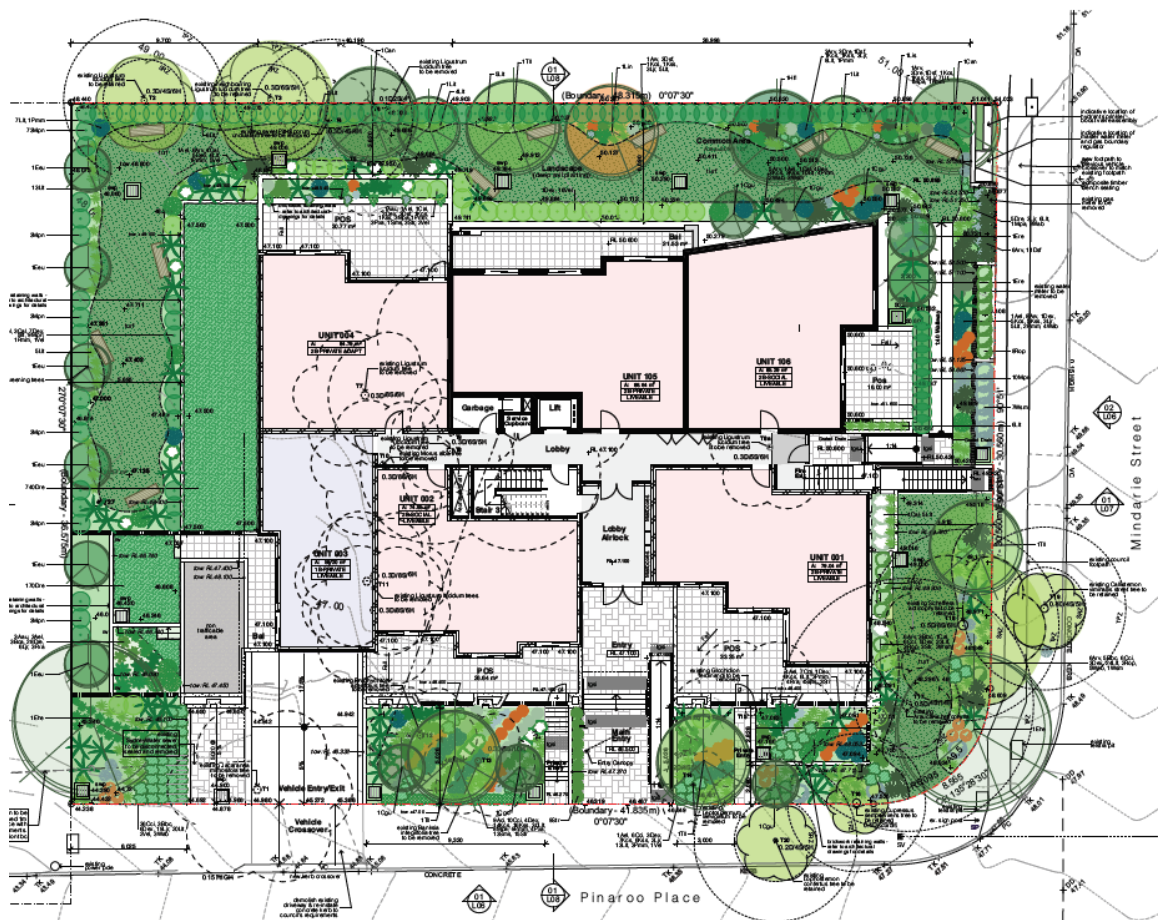


Figure 15: Proposed Landscaping Plan

3.3 Public Domain Interface

The public domain interface to Mindarie Street is characterised by a five storey built-form, brick pier metal palisade front fencing behind landscaping. The public domain interface to Pinaroo Place is characterised by a six storey built-form, significant front setback landscaping, a generous entry lobby and the vehicular entrance.

3.4 Site Access (Vehicular and Pedestrian)

Site access (vehicular) is proposed via a two-way driveway from Pinaroo Place. The driveway is located 9 metres from the southern boundary. The accessible pedestrian entrance point to the site is from Pinaroo Place. A secondary non-accessible entry is provided to Mindarie Street.

3.5 Materiality

The proposed materiality is shown in **Figure 16** and is principally masonry face brick which is considered a low maintenance solution with a high visual quality especially for the purposes of establishing the podium level. Painted rendered surfaces are used sparingly for definition of the building above the podium level with fibre cement cladding for feature finishing.

External Colour Selection
 20 & 22 Mindarie Street & 30 Pinaroo Place, Lane Cove North, NSW



Figure 16: Proposed Materiality

3.6 Private Open Space

The proposed **private open space** for the ground floor units is provided in courtyards and the private open space for upper level units is provided through balconies. No balconies face directly south.

3.7 Communal Open Space

The proposed **communal open space** is located on the ground level and the rooftop. The ground level communal open space is accessible, appropriately separated from private open space and located at grade-level within deep soil zones. The rooftop communal open space is located to the north of the proposed rooftop and incorporates a unisex toilet, BBQ, pergola and outdoor furniture as shown in **Figure 17**.

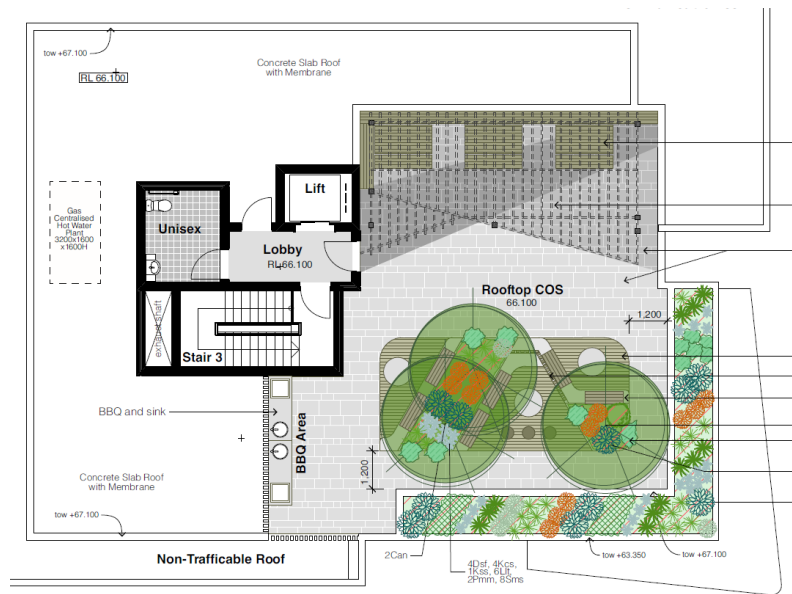


Figure 17: Proposed Communal Open Space Area (Rooftop)

3.8 Waste Management

On-site waste collection is proposed for the development including a chute system for general waste to a track system in the basement bin storage area, and recycling bin storage on each residential level for both recycling streams. The proposal also provides for a bulky goods waste storeroom within the basement level. An Operational Waste Management Plan is included as **Annexure 19** to this report.

3.9 Stormwater Management

The proposed stormwater plans (**Annexure 20**) incorrectly indicate the proposal is exempt from providing on-site detention of stormwater as the site is contained within Stringybark Creek catchment. The OSD-exemption is only applicable to single dwellings and dual occupancy development. Council's Development Engineer is satisfied OSD can be provided for and amended plans would be required prior to the issue of a Construction Certificate.

3.10 Stratum Subdivision

Stratum subdivision is proposed as shown on the submitted draft subdivision plans contained in **Annexure 6** to this report. The stratum subdivision is for the purposes of separating the units to be provided back to NSW Land and Housing Corporation for social housing.

3.11 Social and Affordable Housing

The proposal seeks to provide for a mix of social and affordable housing across 15 of the 30 units. Nine (9) units are to be owned and managed as social housing by Land and Housing Corporation and 6 units to be owned and managed as affordable housing by Blue CHP, a registered community housing provider. A schedule of social, affordable and private housing is provided in **Table 6** below.

Sydney North Planning Panel Meeting 21 April 2021
20-22 MINDARIE STREET AND 30 PINAROO PLACE, LANE COVE NORTH

Table 6 – Schedule of Affordable, Social and Private Housing			
Category	Total Units	Units Identified	Mix
Private	15	001, 003, 101, 105, 201, 205, 301, 302, 306, 402, 403. 404, 501, 503, 502	4 x 1 bedroom 7 x 2 bedroom 4 x 3 bedroom
Affordable	6	004, 103, 104, 203, 204, 303	6 x 2 bedroom
Social	9	002, 102, 106, 202, 206, 304, 305, 307, 401	3 x 1 bedroom 6 x 2 bedroom

4. ASSESSMENT HISTORY

4.1 Assessment Timeline

The assessment timeline of the Development Application is summarised in **Table 7** as follows:

Table 7 – Assessment Timeline	
Date	Stage
22 December 2020	Development Application lodged (Revision 1).
17 February 2021	Sydney North Planning Panel briefing held.
24 February 2021	Letter sent to the applicant from Council providing a preliminary assessment and request for further information.
16 March 2021	Additional information provided by the applicant (Revision 2).
22 March 2021	Further request to retain Tree No. 13 and improve southern interface sent to the applicant.
30 March 2021	Additional information provided by the applicant (Revision 3).

4.2 Application Revisions

The proposal was amended on two occasions during the assessment of the application. **Table 8** summarises key amendments in each revision:

Table 8 – Plan Revisions	
Revision	Summary of Key Amendments
Revision 2 16 March 2021	<ul style="list-style-type: none"> - Building Separation: Sixth storey (Level 5) Unit 502 reduced from 3 bedroom to 2 bedroom increasing rear setback from 13m to 14.96m; - Affordable Housing: 20% GFA identified on Drawing No. DA25; - Front Fence: height reduced and landscaping to street increased; - On-site Waste Collection: collection zone identified; and - Landscaping: documentation improved to meet the provisions of Lane Cove Council's Landscape Checklist.
Revision 3 29 March 2021	<ul style="list-style-type: none"> - Retention of Tree No. 13; - Building Separation: Unit 502 further reduced to 1 bedroom + study to reduce overshadowing; - Parapet and Colonnade Wall: reduced along the Pinaroo Place frontage to provide greater visual separation to southern adjoining property.

5. 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:

5.1 Any environmental planning instrument:

5.1.1 SEPP (Affordable Rental Housing) 2009

The Council assessment against SEPP (Affordable Rental Housing) 2009 is provided as **Annexure 2** to this report.

5.1.1.1 Variation

The proposal complies with SEPP (Affordable Rental Housing) 2009 with the exception of minimum landscaped area (Clause 14(1)(c)). The SEPP seeks to provide a concession for social housing providers by allowing for 35m² of landscaping per dwelling, compared to 30% of the site area for all other providers. In the circumstances of this case 35m² per dwelling equates to 59% of the site area, far beyond the non-concessional 30% provision. This is not considered the intent of the provision and the proposal provides for a landscaped area of 41.9% of the site area in compliance with the envisaged landscaped character of the locality specified in Lane Cove Development Control Plan 2010. A variation is considered satisfactory in this instance.

5.1.1.2 Character of Local Area

Clause 16 of SEPP (Affordable Rental Housing) 2009 requires the consent authority to consider whether the design of the development is compatible with the character of the local area. The NSW Land and Environment Court has established a planning principle on compatibility in *Project Venture Developments Pty Ltd v Pittwater Council [2005] NSWLEC 181*. The judgement specifies the most apposite meaning of compatibility in an urban design context is *capable of existing together in harmony*. It then goes on to stipulate that *compatibility* is therefore different from *sameness*. The principle establishes two tests as to whether the proposal is compatible within its context which are addressed as follows:

Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.

The proposal's physical impacts on surrounding development have been assessed. A merit assessment has been undertaken against the part of Lane Cove Development Control Plan 2010 applying to residential flat buildings in the Mowbray Precinct and R4 High Density Residential zone. The proposed physical impacts are generally those anticipated by a development proposed under the local planning provisions for the site. The departures from the local planning provisions are **building height**, the **front setback (Mindarie Street)**, the **number of storeys and their extent** and a merit consideration of **visual privacy**.

- **Front Setback to Mindarie Street:** The DCP stipulates for a 7.5m front setback to Mindarie Street with an allowable 500mm articulation zone. The proposal provides for a front setback to Mindarie Street of 6m. The proposal in effect is shifting the proposed building massing to the north-east street corner, away from surrounding sites and providing greater separation to both the southern and western adjoining properties beyond what the DCP and ADG requires. In turn this reduces the physical impacts of the built-form on those

properties and the front setback variation whilst a departure from the local planning provisions would not result in unacceptable impacts on surrounding properties.

- **Number of Storeys and Extent of Fifth Storey:** The DCP stipulates a maximum of 5 storeys for the subject site. The proposal provides for a part 5 and part 6 storey design (noting that a part of the ground level is subterranean with residential storage and fire services and would not constitute a storey). In addition the DCP stipulates the fifth storey is to be 50% of the extent of the fourth storey. The fifth storey is 70% of the fourth storey and the sixth storey is 61.7% of the fourth storey.

Notwithstanding, the proposed design does not oversubscribe each storey with residential units, with an average of 5 units proposed per floor reducing the proposed massing of the lower levels. The proposal has stepped back the proposal from the southern and western boundaries at the fifth and sixth storey in accordance with the DCP. The physical impacts on surrounding development are considered acceptable and even improved through the re-massing of the building envelope as proposed. The applicant was initially requested to delete Unit 502 on the part 6th storey. The applicant responded by reducing its extent from 3 to 1 bedroom which is considered adequate.

- **Building Height:** See Section 5.1.6 of this report.
- **Visual Privacy:** The visual privacy implications of the proposal to the southern adjoining property requires further consideration. If the following amendments to the design are made the proposal would be considered to not have an adverse visual privacy impact on surrounding sites:
 - o All fixed window panels on the southern elevation are to be obscure glazed (With the exception of the ground level) on **Figure 18**;
 - o All non-bedroom windows are to have a minimum sill height of 1.5m above the finished floor level; and
 - o The balcony returns projecting beyond the southern building line at Ground to Level 4 are to be deleted on **Figure 19**.



Figure 18: Proposed Obscure Glazed Fixed Panels (Shaded Red)

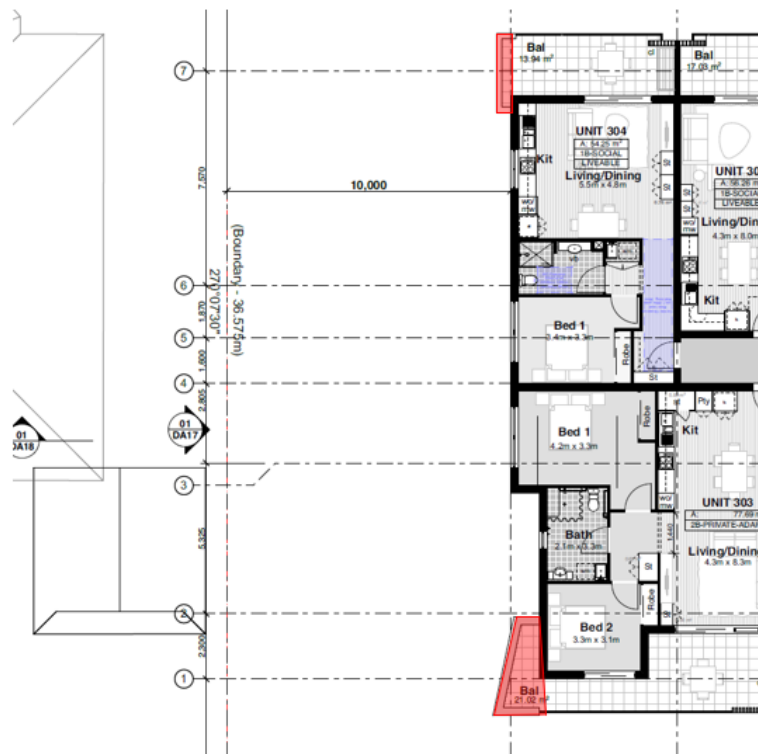


Figure 19: Proposed Balcony Returns to Be Deleted (Shaded Red)

Is the proposal's appearance in harmony with the buildings around it and the character of the street?

The Mowbray Precinct provides both low and high density development in a natural setting resulting from the R4 High Density Residential zone abutting an E4 Environmental Living zone which then transitions into E2 Environmental Conservation zoned land. The subject site is zoned R4 High Density Residential and is a reasonable continuation of the scale of development existing on the northern side of Mindarie Street. The proposed building provides a reasonable density (30 units at an FSR of 1.526:1), a reduced horizontal building footprint, significant deep soil zones and landscaping in keeping with the locality and complies with the ADG provisions for how to address transitions in scale to lower density zones (refer Section 5.1.2 of the report below).

In summary the proposal meets the physical impact and harmony test contained within *Project Venture Developments Pty Ltd v Pittwater Council [2005] NSWLEC 181*.

5.1.2 SEPP 65 – Design Quality of Residential Apartment Development

This Policy aims to improve the design quality of residential flat development. This proposal has been assessed against the following matters relevant to SEPP 65 for consideration:

- The 9 SEPP 65 Design Quality Principles; and
- The NSW Apartment Design Guide (ADG) guidelines.

The applicant's design verification statement is provided as **Annexure 9** to this report.

The Council SEPP 65 assessment against the design quality principles and a compliance table against the design criteria of the Apartment Design Guide is provided as **Annexure 3** to this report. The proposal meets the provisions of SEPP 65.

A key consideration in the deferral of the previous Concept Application was building separation to the southern adjoining properties. A level by level comparison of the Concept Application with the subject proposal is provided in **Table 9** below to demonstrate compliance with the Apartment Design Guide and the improvements made to building separation.

Table 9 – Building Separation Comparison to Southern Boundary						
Level	ADG Base	ADG Base + 3m Zone Transition	Previous Concept Application	Current DA (Minimum)	Extent of Increase	Current Compliance w/ ADG
Ground	6m	9m	6m	9.7m	+ 3.7m	Yes
Level 1	6m	9m	6m	10m	+ 4m	Yes
Level 2	6m	9m	9m	9.5m	+ 0.5m	Yes
Level 3	6m	9m	9m	9.5m	+ 0.5m	Yes
Level 4	9m	12m	12m	12.63m	+ 0.63m	Yes
Level 5	9m	12m	16.74m	12.63m	- 4.11m	Yes

In summary, the proposal now exceeds the ADG building separation at all levels to the southern boundary inclusive of the additional 3m to allow for the lower density residential zone transition. It is further noted the visual privacy recommendations of this report would increase the minimum building separation to 10m at Ground Level to Level 3.

The proposal is considered satisfactory with respect to SEPP 65 – Design Quality of Residential Apartment Development.

5.1.3 SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate accompanies the application and is provided as **Annexure 11** to this report. The BASIX Certificate demonstrates compliance with the provisions of the SEPP and is consistent with the architectural documentation submitted. The proposal is considered satisfactory with respect to SEPP (BASIX) 2004.

5.1.4 SEPP No. 55 – Remediation of Land

A Detailed Site Investigation and Remedial Action Plan accompanies the application and is provided as **Annexure 16** and **Annexure 17** to this report respectively. The proposal was assessed against the provisions of SEPP No. 55 by Council's Manager Environmental Health with the assessment summarised in **Table 10** below:

Table 10 – SEPP No. 55 Clause 7 Compliance Table	
Provision	Compliance
<p><i>(1) A consent authority must not consent to the carrying out of any development on land unless -</i></p> <p><i>(a) it has considered whether the land is contaminated</i></p> <p><i>(b) if the land is contaminated, it is satisfied the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed, and</i></p> <p><i>(c) if the land requires remediation to be made suitable for the purpose for which the</i></p>	<p>Complies - The proposal was accompanied by a Preliminary Investigation Report and Remediation Action Plan (Annexure 16 and 17) to assist Council in determining compliance with Clause 7(1) of SEPP No. 55.</p> <p>The use of the site has been residential since mid-1940s. The Detailed Investigation Report recommends the preparation of a Remedial Action Plan (Annexure 17) and Asbestos Removal Control Plan.</p> <p>Council's Manager Environmental Health</p>

Table 10 – SEPP No. 55 Clause 7 Compliance Table	
Provision	Compliance
<i>development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.</i>	concurs with the recommendations of the report, including them as draft conditions of consent.
<i>(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.</i>	Complies – A Preliminary Investigation Report was previously carried out (2017) and is considered and addressed in Annexure 16 .
<i>(3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.</i>	Complies – The Detailed Investigation Report (Annexure 16) and Remediation Action Plan are prepared in accordance with the relevant Guidelines and provide recommendations as to how to remediate the land so as to be suitable for the proposed use.
<i>(4) The land concerned is— (a) land that is within an investigation area, (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out, (c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land— (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).</i>	Complies - Subject to Clause 7(4)(c).

Having regard to the information above, the proposal is considered satisfactory with respect to SEPP No. 55 – Remediation of Land.

5.1.5 SEPP (State and Regional Development) 2011

The Development Application is referred to the Sydney North Planning Panel for determination as the Capital Investment Value exceeds \$5 million (\$14,642,183.00) and includes affordable housing **satisfying the requirements of SEPP (State and Regional Development) 2011.**

5.1.6 Lane Cove Local Environmental Plan 2009

The proposal has been assessed against the relevant provisions of LCLEP 2009 as detailed in **Table 11** below.

Table 11 – Compliance with LCLEP 2009		
Clause	Provision/Standard	Compliance
Zoning	R4 High Density Residential	Complies - Residential flat buildings are permitted with consent in the zone.
Zone Objectives	<ul style="list-style-type: none"> - <i>To provide for the housing needs of the community within a high density residential environment.</i> - <i>To provide a variety of housing types within a high density residential environment.</i> - <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i> - <i>To provide for a high concentration of housing with good access to transport, services and facilities.</i> - <i>To ensure that the existing amenity of residences in the neighbourhood is respected.</i> - <i>To avoid the isolation of sites resulting from site amalgamation.</i> - <i>To ensure that landscaping is maintained and enhanced as a major element in the residential environment.</i> 	<p>The proposal provides for housing needs in a high density residential environment with the provision of 30 units including 15 affordable dwellings.</p> <p>The proposal provides private, affordable and social housing and a suitable apartment mix of 1, 2 and 3 bedroom units.</p> <p>N/A</p> <p>The proposal provides for a high concentration of housing not greater than the planned for density of housing.</p> <p>The proposal seeks to respect the amenity of the existing residences in the neighbourhood particularly to the southern boundary interface.</p> <p>The proposal will not result in the isolation of any R4 sites.</p> <p>The landscaping would be substantially enhanced and is a major element of the proposal.</p>
4.3 – Building Height	17.5m	No - 21.38m (3.88m or 22.17%)
4.4 – Floor Space Ratio	1.8:1	Complies – 1.526:1
4.6 – Exceptions to	See Section 5.1.6.1 below.	See Section 5.1.6.1 below.

Development Standards		
5.10 - Heritage	Not a heritage item or within vicinity of heritage item.	Not applicable.
6.1A - Earthworks	Consideration of impact of earthworks in accordance with Clause 6.1(A)(3)(a)-(g).	Complies - The matters are satisfied.

5.1.6.1 Clause 4.6 – Exceptions to Development Standards

A. Extent of Proposed Variation

The maximum building height for the site under LCLEP 2009 is 17.5m. The proposed maximum building height is 21.38m to the lift overrun being a variation of 3.88m or 22.17%. The applicant has provided height plane and sectional diagrams to detail the proposed breach as shown in **Figure 20**, **Figure 21** and **Figure 22** below. The proposed height breach principally relates to the lift overrun and fire stairs/toilet for the rooftop communal open space. The maximum height for residential levels is 18.7m to the south-eastern edge of Unit 502 being a variation of 1.2m or 6.8%.



Figure 20: Building Height Plane

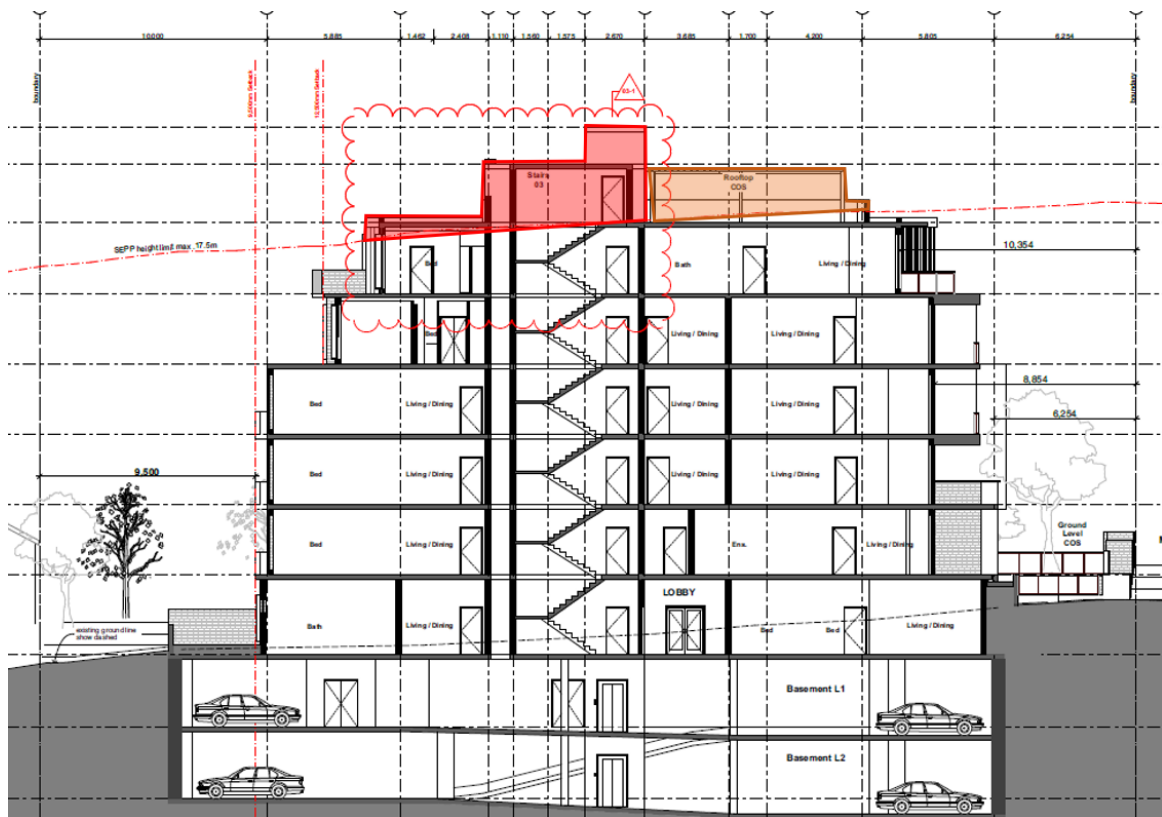


Figure 21: North/South Section Through Lift Overrun and Fire Stairs



Figure 22: South Elevation Showing Southern Edge Non-Compliance

B. Written Request

The applicant has submitted a Clause 4.6 written request to vary the maximum building height specified in Clause 4.3 of LCLEP 2009 (**Annexure 8**). The applicant's written request is required to demonstrate the following under Clause 4.6(3):

- (a) *That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

Comment: The applicant has sought to establish compliance with the objectives of the standard and zone which is an accepted test. The applicant's consideration of the objectives is summarised below.

- (b) *That there are sufficient environmental planning grounds to justify contravening the development standard.*

Comment: The applicant has provided nine (9) environmental planning grounds for the proposed variation which are summarised as follows:

1. **Building Separation:** Surplus building separation proposed to interface to E4 Environmental Living Zone (noting none compliance in south-eastern corner at Level 1 referenced in Clause 4.6 has been removed through amended plans);
2. **Objectives Achieved:** Compliance with the objectives of the development standard and zone are achieved;
3. **No Adverse Impact:** The proposed variation would have no adverse and unreasonable impacts on the amenity of the surrounding sites and the public domain in terms of privacy impacts, excessive solar access reduction, view loss and adverse streetscape impact.
4. **Character of Built Form:** The built-form is consistent with the high-density residential flat building development in the locality including immediately adjoining the west of the site where a residential flat building (with height variation) was approved by the Lane Cove Local Planning Panel.
5. **Visual Impact of Variation:** Building elements above the height standard are mostly limited to rooftop structures including an accessible bathroom, lightweight rooftop pergola, and circulation elements in the lift overrun and stairwell. Each of these elements has been deliberately located and recessed to limit their visibility and impact. The impacts are further mitigated by substantial deep soil zones provided.
6. **Site Topography:** The site cross-fall contributes to the building height non-compliance, particularly the south-east portion of the Level 5 ceiling.
7. **Social Benefits and Dwelling Yield:** Compliance with the standard would reduce the ability to provide for affordable housing. The proposal provides for a total of 15 affordable units and would greatly contribute to achieving Priority 5 of the Lane Cove Local Strategic Planning Statement to *plan for the growth of housing that creates a diverse range of housing types and encourages housing that is sustainable, liveable, accessible and affordable.*
8. **Siting Constraints:** The development standards established for the site do not factor in the site constraints being the north/south orientation, the topography and the zone

transition. The proposal has had particular regard to addressing these site constraints including a reduction in the FSR when compared to the maximum allowable, providing a high quality rooftop communal open space.

- 9. Alternative Building Envelope:** An alternative building envelope that is closer to the southern and western boundary would be required if the upper storey was removed. On balance the proposed building envelope is considered a better planning outcome.

C. Consent Authority Considerations

The consent authority cannot grant consent for development that contravenes a development standard unless it is satisfied that:

- (a) *The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

Comment: The proposal provides specific environmental planning grounds for the variation to building height including the provision of social housing, the increased building separation provided to the southern boundary, the major non-compliance being constrained to centrally or northerly located vertical circulation and lightweight communal open space elements. In addition subsequent amendments to the architectural plans have reduced Unit 502 from a 3 bedroom to a 1 bedroom unit reducing overshadowing, and recommendations of this report require deletion of south-facing balcony projections, further improving building separation to the south. The zone and standard objectives are addressed below and it has been demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. It is considered that the consent authority can be satisfied the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3).

- (b) *The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*

Comment:

Height of Building Objectives

Clause 4.3 (1) provides the following objectives:-

- (a) *to ensure development allows for reasonable solar access to existing buildings and public areas;*

Comment: Council had concerns with the extent of overshadowing from the height breach in Revision 1 plans (**Figure 23** below). The applicant was requested to reduce the overshadowing to be more consistent with that anticipated by the local planning provisions. The proposal was amended and the shadow reduced in Revision 3 plans (**Figure 24** below). The lift overrun and associated structures do not result in additional shadow and their shadow is contained to the roof form. The additional shadow is resultant from Unit 502 only. While the deletion of Unit 502 would remove any further overshadowing, the breach has been reduced to such a small extent that the impact is considered reasonable.

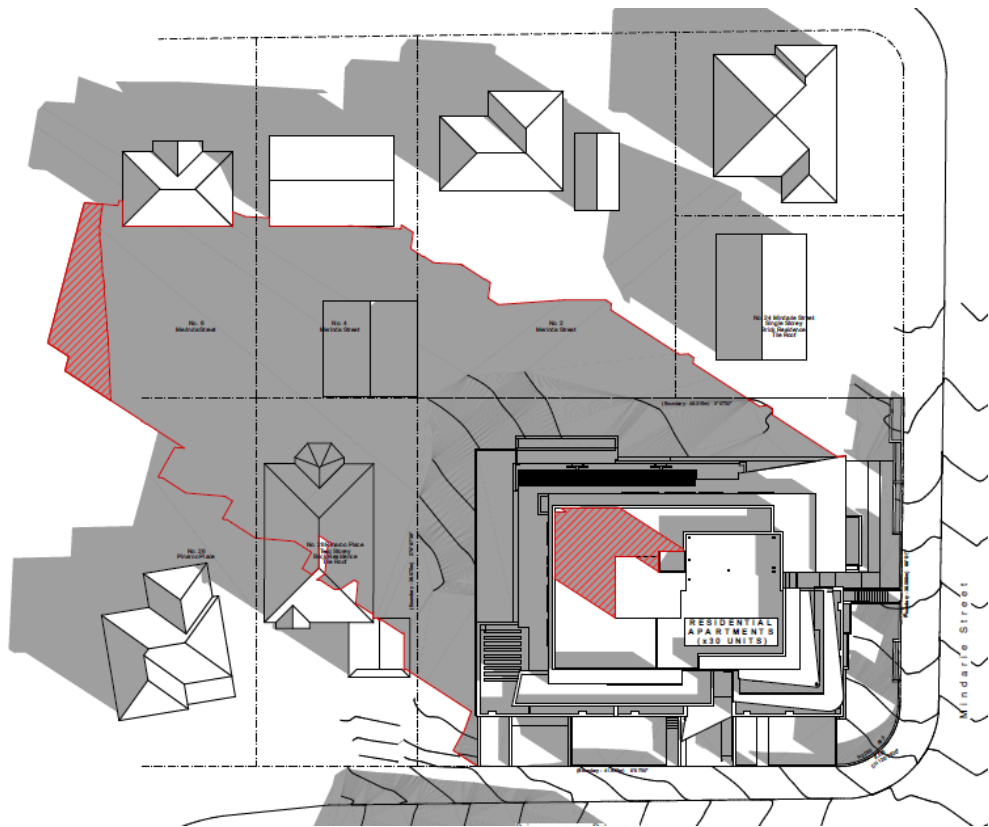


Figure 23: Original 9am Mid-Winter Shadow Diagram

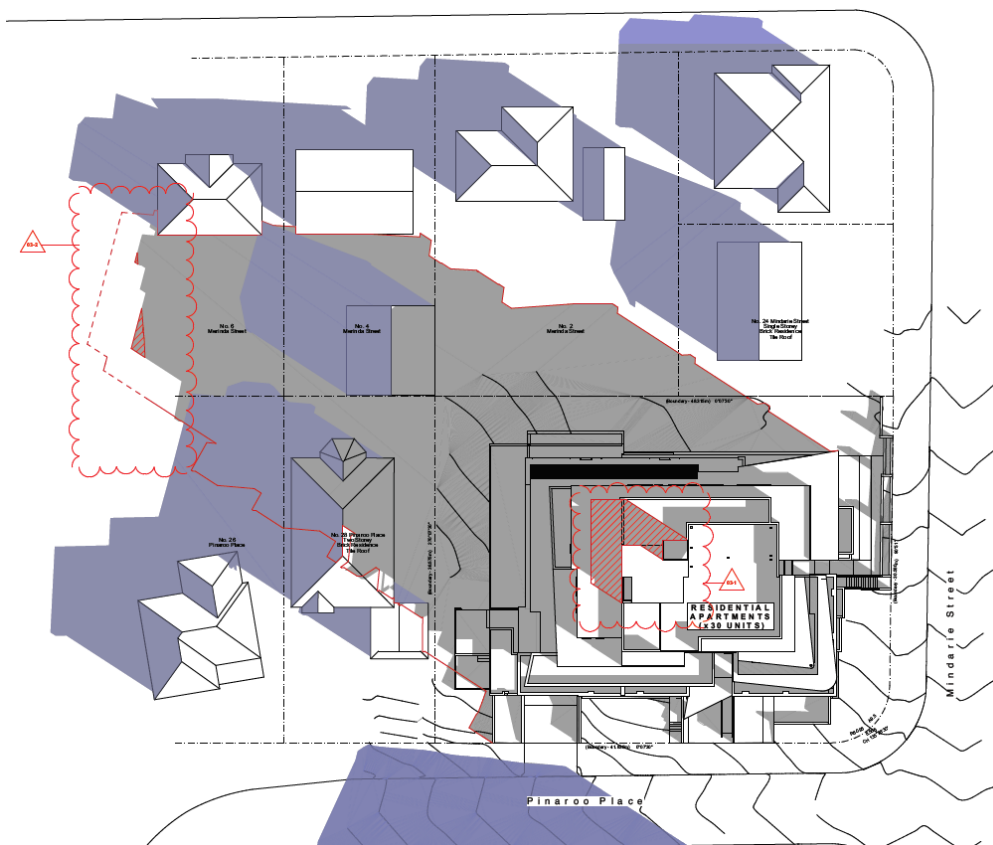


Figure 24: Amended 9am Mid-Winter Shadow Diagram

- (b) *to ensure that privacy and visual impacts of development on neighbouring properties, particularly where zones meet, are reasonable;*

Comment: This clause is principally addressed through the significant building separation proposed. Further, the part of the development that exceeds the maximum building height is largely contained in the centre of the roof form and will be visually recessive. The visual privacy impacts of the proposal above the height standard are considered negligible as the communal open space opens to the north of the site and is orientated away from adjoining properties.

- (c) *to seek alternative design solutions in order to maximise the potential sunlight for the public domain; and*

Comment: The proposal principally overshadows private property. The public domain sunlight outcome is considered satisfactory.

- (d) *to relate development to topography*

Comment: The proposal relates to topography by stepping the building form in a north-south direction. The proposal through amended plans has sought to provide for further stepping to the south-east by amending the apartment layout of Unit 502.

R4 High Density Residential Zone Objectives

The R4 High Density Residential Zone objectives are as follows:

- *To provide for the housing needs of the community within a high-density residential environment*

Comment: The proposal provides for housing in a high-density residential form and environment.

- *To provide a variety of housing types within a high-density residential environment.*

Comment: The proposal provides private, affordable and social housing and a suitable apartment mix of 1, 2 and 3 bedroom units.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment: N/A

- *To provide for a high concentration of housing with good access to transport, services and facilities.*

Comment: The proposed site is zoned R4 High Density Residential and is an accessible area as defined by SEPP (Affordable Rental Housing) 2009.

- *To ensure that the existing amenity of residences in the neighbourhood is respected.*

Comment: The existing amenity of residences in the neighbourhood is considered to be reasonably addressed through visual privacy measures on the southern elevation, building

separation, the 9m driveway setback, the reduced density when compared with previous schemes and a high quality landscape interface.

- *To avoid the isolation of sites resulting from site amalgamation.*

Comment: The proposal does not result in the isolation of sites.

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

Comment: Landscaping is a major element in the proposal largely enabled by greater building setbacks allowed for by a taller building.

The proposal satisfies the relevant provisions of Lane Cove Local Environmental Plan 2009.

5.2 Any proposed instrument (Draft LEP, Planning Proposal)

5.2.1 Housing Diversity SEPP

An Explanation of Intended Effect was notified for a proposed Housing Diversity SEPP from 29 July 2020 until 9 September 2020. The EIE includes a list of changes proposed to SEPP (Affordable Rental Housing) 2009 as it is consolidated into the Housing Diversity SEPP. The main changes to SEPP (Affordable Rental Housing) 2009 have already been incorporated in SEPP (Affordable Rental Housing) 2009 ahead of consolidation including mandating a minimum 20% affordable housing which the proposal provides for. **The proposal is not inconsistent with the Draft Housing and Diversity SEPP.**

5.2.2 Draft Environment SEPP

The Draft Environment SEPP was subject to public exhibition between 31 January and 13 April 2018. The new draft measures primarily relate to scenarios where more complex remediation/ongoing management is required, and where the certification of remediation works is undertaken as development not requiring consent. While the Draft does consider introducing planning guidelines for the assessment/preparation of preliminary site investigations, such as the one lodged with the subject Development Application, the report has been reviewed in detail and is sufficient for its purpose. **The proposal is not inconsistent with the Draft Environment SEPP.**

5.2.3 Draft Design and Place SEPP

An Explanation of Intended Effect is being notified for a proposed Design and Place SEPP until 28 April 2021. The Draft Design and Place SEPP EIE will be further followed by a public exhibition of the proposed SEPP and Guide. The potential changes to SEPP 65 and the ADG incorporated within these documents have been reviewed and the proposal is considered satisfactory. For example, the proposal provides well in excess of the minimum 7% deep soil required under the current Apartment Design Guide and would comply if the minimum area was doubled as proposed. **The proposal is not inconsistent with the Draft Design and Place SEPP.**

5.3 Any development control plan

Sydney North Planning Panel Meeting 21 April 2021
20-22 MINDARIE STREET AND 30 PINAROO PLACE, LANE COVE NORTH

The relevant sections of Lane Cove Development Control Plan 2010 have been addressed through **referrals** as outlined in the following table:

Table 12 - Referrals		
Referral	DCP	Comment
Landscaping	Part J – Landscaping	<p>Complies - The proposed landscaping scheme was amended during the course of the application with the amended landscape documentation package attached to the report (Annexure 5).</p> <p>The revised landscape documentation package provides the required detail, greater native planting, and greater canopy replacement through the provision of larger tree pot sizes up to 200L (at time of planting) and greater height at maturity with 12 trees planted with a mature height of between 10m-15m.</p> <p>Council's Landscape Officer is satisfied the proposal would provide a high-quality landscaping outcome complying with the objectives of Part J - Landscaping.</p> <p>No objection raised to the proposal subject to draft recommended conditions of consent (refer condition nos. 30 to 42).</p>
Tree Preservation	Part J – Landscaping	<p>Complies - Council's Tree Preservation Officer has reviewed the proposal and the revised arborist report (Annexure 15).</p> <p>The proposal was amended to allow for the retention of an additional tree no. 13 (large banksia) which is an established tree within the front setback to Pinaroo Place.</p> <p>The proposal would provide for replacement tree planting at a ratio of 2:1 (which is beyond the 1:1 required by Part J – Landscaping).</p> <p>No objection raised to the proposal subject to draft recommended conditions of consent (refer condition nos. 17 to 29).</p>
Development Engineer	Part O – Stormwater Management	<p>Complies - The proposal incorrectly states that it is exempt from the provision of OSD being within the Stringybark Creek Catchment as shown on the Stormwater Management Plan (Annexure 20). The OSD exemption applies to dwelling houses and dual occupancy development only.</p> <p>Notwithstanding, Council's Development Engineer is satisfied the proposal can reasonably cater for</p>

Table 12 - Referrals		
Referral	DCP	Comment
		OSD on the site and comply with Part O and has recommended a number of conditions in this regard in addition to other standard engineering conditions (refer condition nos. 43 to 83) .
Traffic, Transport and Parking	Part R – Traffic, Transport and Parking	<p>Complies - Council's Traffic, Transport and Parking Officer has reviewed the submitted and amended Traffic Impact Assessment (Annexure 12).</p> <p>The provisions of SEPP (Affordable Rental Housing) 2009 prevail of Council's DCP. The proposal complies with the parking provisions contained within the SEPP as outlined in Annexure 2.</p> <p>The proposed traffic and parking complies with the relevant provisions and Council's Traffic, Transport Officer has no objections subject to draft recommended conditions of consent (refer condition nos. 84 to 92).</p>
Waste Management	Part Q – Waste Management and Minimisation	Complies - The proposal provides on-site waste collection from the basement in accordance with Council's DCP including the provision of a waste chute system, bulky goods store and recycling bin storage on each residential level. Waste conditions are imposed by Council's Manager Environmental Health (Refer below).
Environmental Health	Part B – General Controls (Part B6/B7)	<p>Complies - Council's Environmental Health Manager has reviewed compliance with SEPP No. 55 (as detailed in Section 5.1.4 of this report).</p> <p>An assessment has also been made in relation to, the acoustic environment during construction and for future residents, and environmental protection during construction.</p> <p>No objection is raised to the proposed development subject to draft conditions of consent. (Refer condition nos. 95 to 119).</p>
NSW RFS	Rural Fires Act 1997	Complies – NSW RFS have provided S100B concurrence (Attachment 25). No objection is raised to the proposed development subject to draft conditions of consent. (Refer condition no. 3) .
Accessibility	Part F – Access and Mobility	Complies - The proposal has been reviewed and compliance with the accessibility provisions of Part F. The proposal provides for 20% adaptable, 80%

Table 12 - Referrals		
Referral	DCP	Comment
		visitable units in accordance with the SEPP and has a detailed regard to accessibility in its design. Minimum adaptable and visitable units are recommended to be conditioned (refer condition no. 13).

The proposal complies with the relevant provisions of Lane Cove Development Control Plan 2010.

5.4 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 of the development have been considered and addressed by the applicant revisions and now demonstrates no adverse impact either to the natural and built environments, social and economic or amenity of the locality as detailed within this report.

5.5 The suitability of the site for the development

The site suitability has been established as the site constraints have been addressed as outlined within this report.

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

The proposal was notified in accordance with Lane Cove Council's Notification Policy.

i. Notification Extent

The Development Application was notified to the extent shown in the Public Notification Map included as **Annexure 23** to this report.

ii. Notification Periods

The notification periods for each of the plan revisions, and the number of submissions received, are summarised in the following table:

Table 13 – Public Notification			
Plan Revision	Lodgement Date	Notification Period	Submissions Received
Revision 1	22 December 2020	12 May 2020 – 28 May 2020	8
Revision 2	16 March 2021	17 March 2021 – 2 April 2021	4 (3 repeat)
Revision 3	30 March 2021	Nil*	Nil*

	Total	9
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The Revision 3 plans were not renotified as allowed for under Council's notification policy:

4.7 Renotification

*Amended plans that address those concerns raised by objectors and that are considered not to be significantly different from the original proposal, **or amended plans that are considered to have a reduced impact**, no significant impact on the enjoyment of the adjoining land may not be renotified to neighbouring property owners or occupiers.*

Revision 3 plans reduced Unit 502, retain tree no. 13 and reduced the podium wall to the southern boundary and are considered to have a reduced impact compared with a previously notified design. Accordingly, renotification was not required under Council's Notification Policy.

iii. Summary of Submissions

The 8 submissions received are summarised and addressed in **Annexure 24** to this report.

(e) Public Interest

The proposal is in the public interest as it provides for ground floor commercial floor area and residential accommodation for seniors or people with a disability with an adequate balance between the amenity of future occupants and that of adjoining properties.

6. Contributions

6.1 Section 7.11 Contributions

The proposal is subject to the provisions of the Lane Cove Section 94 (now 7.11) Contributions Plan which levies new developments to assist in catering for the demand placed on existing Council community facilities and/or infrastructure. The Section 7.11 contribution payable is calculated in accordance with the Plan being the average number of persons per dwelling size as detailed in the following table:

No. bedrooms	Average occupancy	Amount of contribution per dwelling	No. of Dwellings	Total contribution
1 Bedrooms	1.2 persons	$\$10,942.00 \times 1.2 =$ $\$13,130.40.00$ per dwelling	7 x \$13,130.40	\$91,912.80
2 Bedrooms	1.9 persons	$\$10,942.00 \times 1.9 =$ $\$20,789.80$ per dwelling Capped Rate \$20,000.00 per dwelling	19 x \$20,000.00	\$380,000.00
3 Bedrooms	2.4 persons	$\$10,942.00 \times 2.4 = \$26,260.80$ Capped Rate \$20,000.00 per dwelling	4 x \$20,000.00	\$80,000.00
			TOTAL	\$ 551,912.80

The development site contains three existing dwellings which would provide a **credit** of **\$60,000.00**

The Section 7.11 contribution payable is **\$ 491,912.80**.

6.2 Special Infrastructure Contributions

The proposal is not subject to a Special Infrastructure Contribution Levy.

7. Conclusion

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

The applicant has responded to the Sydney North Planning Panel concerns raised in the assessment of the preceeding Concept Application by improving building separation, driveway location and providing a detailed design to give greater certainty to the Panel in their decision making.

The Development Application meets with the provisions of SEPP (Affordable Rental Housing) 2009 with the exception of landscaped area. The proposal would provide for 15 affordable housing units and 15 private housing units in a high-density residential environment.

The Development Application meets with the provisions of LCLEP 2009 with the exception of the maximum building height. The Clause 4.6 written request received by the applicant is considered to be well-founded including specific environmental planning grounds and the amendments made during the assessment of the Development Application to reduce overshadowing and improve the E4 Environmental Living interface.

The submissions received in response to the Development Application have been considered and addressed in the report.

The Development Application is reported to the Sydney North Planning Panel with a recommendation for approval subject to draft conditions of consent provided as **Annexure 1** to this report.

(LAST PAGE).