

Clause 4.6 Exceptions to development standards written request – Height of Buildings

Construction of a new residential flat building containing thirty (30) dwellings, basement car parking and stratum subdivision pursuant to Division 1 – In-Fill Affordable Housing of *State Environmental Planning Policy (Affordable Rental Housing) 2009*



20-22 Mindarie Street and 30 Pinaroo Place, Lane Cove North
Lots 81-83, DP 35865

Prepared for: BCL2 Limited

Project No: C116

Date: December 2020

Document Control

Creative Planning Solutions works to a stringent Quality Assurance Program.

If this document has not been signed for review and approval then it is deemed a preliminary draft.

Prepared by:



Daniel Govers – Director

Reviewed by:



Tyson Ek-Moller - Principal Planner

Authorised by:



Daniel Govers - Director

© Copyright CREATIVE PLANNING SOLUTIONS PTY LIMITED 2020

This document is copyrighted; reproduction of this document or any part thereof is not permitted without prior written permission of Creative Planning Solutions Pty Limited.

Disclaimer:

In preparing this document, Creative Planning Solutions has relied upon information and documents provided by the Client or prepared by other Consultants within their various areas of expertise.

Creative Planning Solutions is unable and to, and does not, accept responsibility for any errors or omissions in any of the material provided by other parties.

**Clause 4.6 Written Request to Vary a Development Standard
Lane Cove Local Environmental Plan 2009**

| | |
|------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Applicant's name | BCL2 Limited |
| Site address | 20-22 Mindarie Street and 30 Pinaroo Place, Lane Cove North |
| Proposal | Construction of a new residential flat building containing thirty (30) dwellings, basement car parking, and stratum subdivision pursuant to the provisions of Division 1 – In-Fill Affordable Housing of <i>State Environmental Planning Policy (Affordable Rental Housing) 2009</i> |
| Environmental Planning Instrument | <i>Lane Cove Local Environmental Plan 2009</i> (LCLEP 2009) |
| Development standard to be varied | Clause 4.3 – Height of buildings The relevant subclause states: <i>(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map (i.e. 17.5 metres).</i> |

Below is the written request relating to the proposed variation to Clause 4.3 of LCLEP 2009 in accordance with the provisions of clause 4.6 of LCLEP 2009.

Details of development standard sought to be varied

Clause 4.3 of LCLEP 2008 prescribes the maximum height of buildings for land to which the plan applies. The entirety of clause 4.3 is reproduced below:

4.3 Height of buildings

(1) The objectives of this clause are as follows -

- (a) to ensure development allows for reasonable solar access to existing buildings and public areas,*
- (b) to ensure that privacy and visual impacts of development on neighbouring properties, particularly where zones meet, are reasonable,*
- (c) to seek alternative design solutions in order to maximise the potential sunlight for the public domain,*
- (d) to relate development to topography.*

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

Pursuant to clause 4.2(2), the Height of Buildings Map prescribes a maximum building height of 17.5 metres to the subject site.

The proposal includes a maximum building height limit of 21.38 metres to the south-east corner of the lift overrun. This represents a 3.88 metre (i.e. a 22.17%) variation to the development standard.

It is noted that the visible building height from the street level is 19.95 metres, being a maximum 2.45 metre (14%) variation to the height of buildings development standard. This is associated with the south-east portion of the Level 5 ceiling. The varying visible building height is a result of the significant northwest-to-southeast fall across the site.

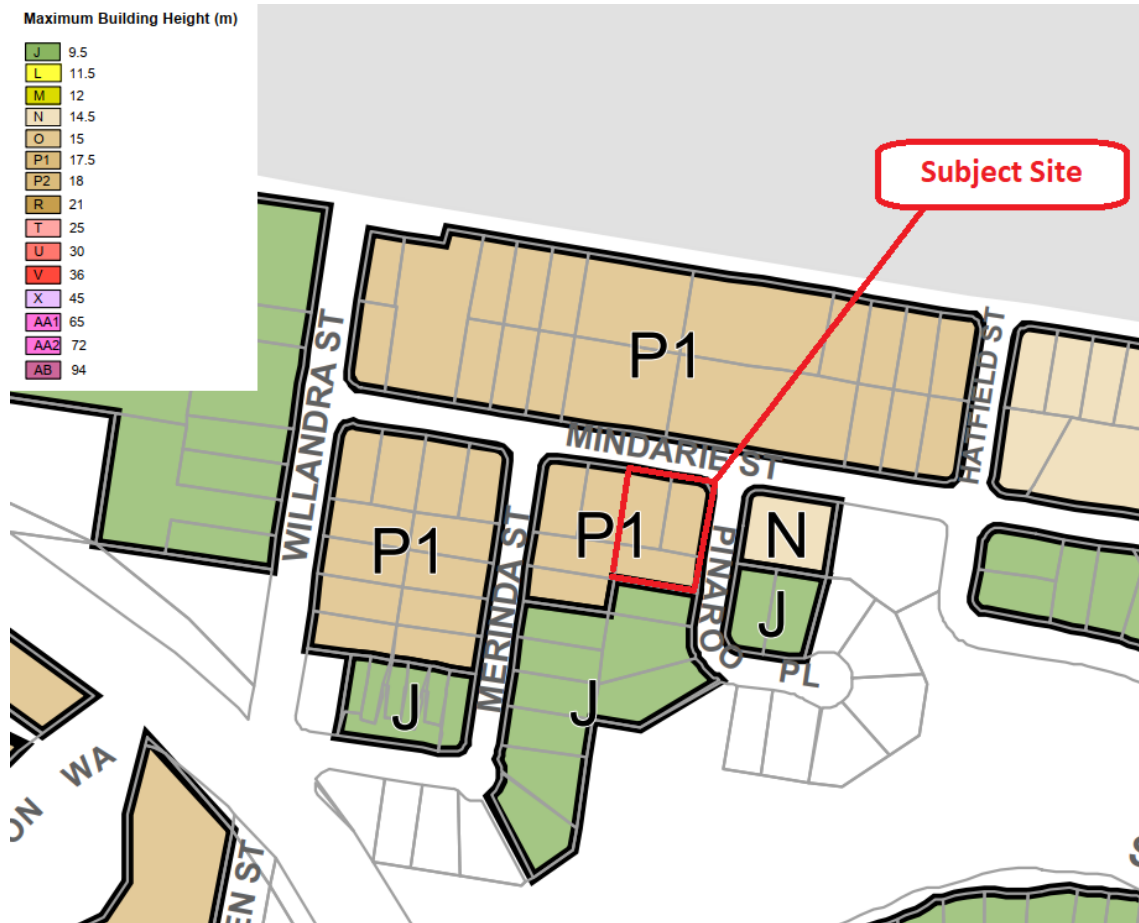


Figure 1: Height of Buildings Map Extract. Subject site identified in red outline.

Source: legislation.nsw.gov.au

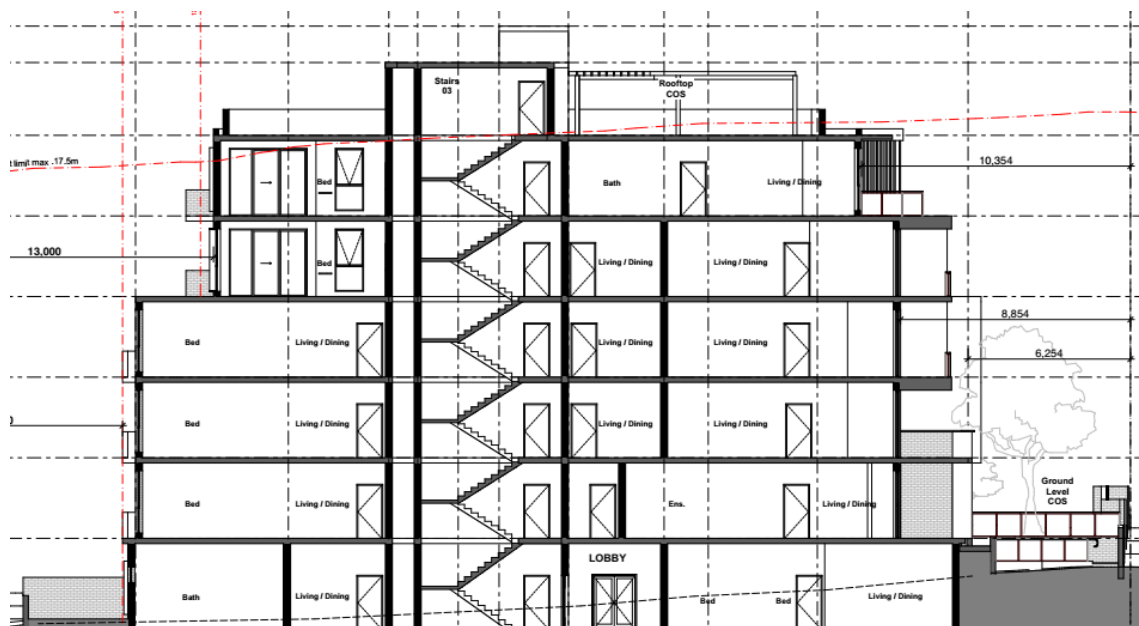


Figure 2: An extract of the north-to-south section plan of the proposed development; the 17.5-metre height plane is denoted by the dashed red line.

Source: Stanton Dahl Architects

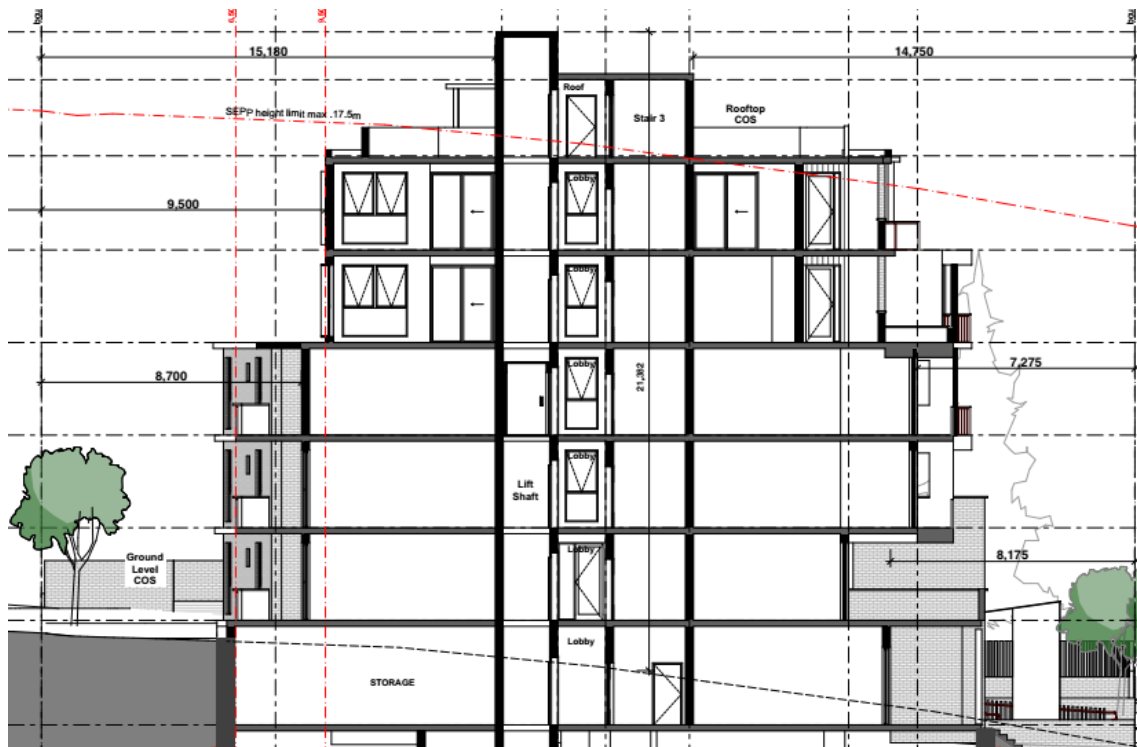


Figure 3: An extract of the north-to-south section plan of the proposed development; the 17.5-metre height plane is denoted by the dashed red line.

Source: Stanton Dahl Architects



Figure 4: An extract of the height plane view; areas beneath the 17.5-metre height plane is denoted by the red shading.

Source: Stanton Dahl Architects

Clause 4.6 Exceptions to Development Standards – Lane Cove Local Environmental Plan 2009

Clause 4.6 of the LCLEP 2009 is the mechanism by which the consent authority is able to grant consent to a development despite a non-compliance(s) with a prescribed development standard. Clause 4.6 is reproduced below:

- (1) The objectives of this clause are as follows—*
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—*
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) Development consent must not be granted for development that contravenes a development standard unless—*
 - (a) the consent authority is satisfied that—*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) 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, and*
 - (b) the concurrence of the Planning Secretary has been obtained.*
- (5) In deciding whether to grant concurrence, the Planning Secretary must consider—*
 - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) the public benefit of maintaining the development standard, and*
 - (c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.*
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production*

Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if—

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

Note— When this Plan was made it did not include Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E3 Environmental Management or Zone E4 Environmental Living.

- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following—*
 - (a) a development standard for complying development,*
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
 - (c) clause 5.4,*
 - (ca) clause 4.1A,*
 - (cb) Part 7, except clauses 7.1(4)(e) and 7.2.*

Note: The development application does not propose a variation to any of the provisions referred to within clause 4.6(8).

The statutory obligations of the applicant and Council

The authority established within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, provides that a Clause 4.6 variation need not establish that a development containing a variation provides a better or even neutral outcome for a development site compared with that which would be provided by a compliant development.

In light of this judgement, it is also necessary to distinguish between the obligations of the applicant, and the obligations of Council. The applicant is required only to address the matters required by clause 4.6(3). Note however that for completeness and to assist Council in its assessment, this variation request has addressed clauses 4.6(3) and 4.6(4). Given the inevitable overlap between these matters however, this request should be read in its entirety as generally fulfilling the applicant's obligations as they are described by 4.6(3).

4.6(3) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and there are environmental planning grounds to justify the contravention of the standard

The authority established by *Four2Five Pty Ltd v Ashfield Council* (2015) NSWCA 248, necessitates that environmental planning grounds for the proposed variation must be established aside from the consistency of the development with the objectives of the standard and the objectives of the zone.

In *Wehbe V Pittwater Council* (2007) NSW LEC 827, Preston CJ set out the following 5 different ways in which an objection (variation) may be well founded:

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

It is generally understood that Clause 4.6(3) can be satisfied if it is established that a development satisfies one or more of points 2-5 above.

Having regard for the authority within *Wehbe*, compliance with the maximum height of buildings development standard has been determined to be unreasonable and unnecessary in the circumstances of the case, and the following outlines the environmental planning grounds for the proposed variation:

1. Objectives of the standard and zone:

Where they are applicable, the proposal satisfies the objectives of both the building height standard and the R4 High Density Residential zone within LCLEP 2009 (refer to the assessment of clause 4.6(4)).

2. Minimal impacts on the surrounding area

As demonstrated by the submitted Statement of Environmental Effects, 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.

3. Surplus building separation proposed to interface to E4 Environmental Living zone

The subject site located within an R4 High Density Residential zone and directly adjoins the E4 Environmental Living zoned land to the south. As such, the proposed development is subject to additional 3m building separation requirements as guided by the Apartment Design Guide, beyond the separation distances required by the design criteria.

Refer to the relevant extract of the Apartment Design Guide (ADG) for the diagrammatic example of the required additional 3m building separation.

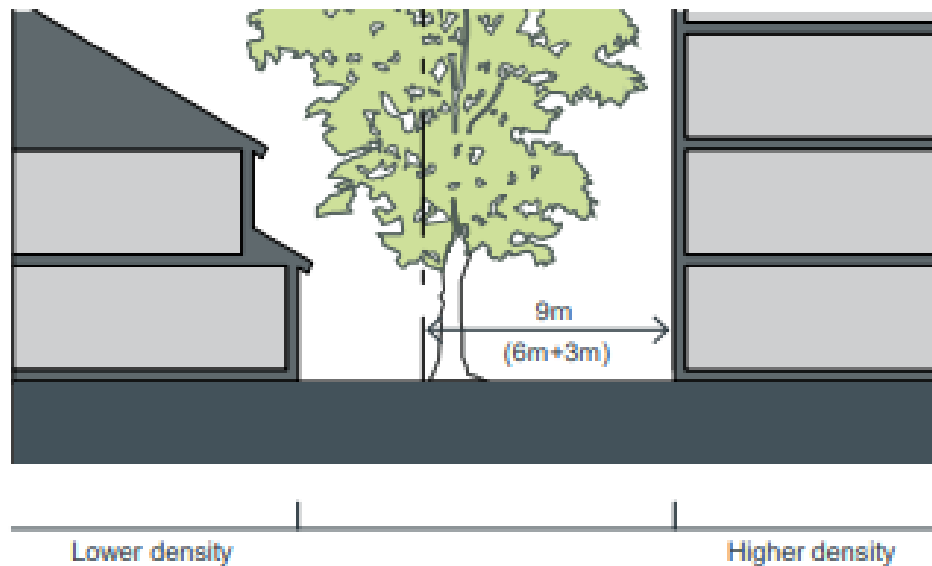


Figure 3F.5 To resolve amenity impacts, apartment buildings should increase the building separation distance (+3m) when adjacent to a different zone that permits lower density residential development

Figure 5: Additional building separation requirements

Source: Apartment Design Guide

While a small building component within ground and level 01 at the south-eastern corner is to be set back six metres from the southern boundary owing to its integration with the basement entrance, the remainder of the building has gone beyond minimum requirements and provides setbacks that are larger than the additional 3 metre building separation distances.

Refer to the following table that demonstrates the surplus building separation distances:

| South Elevation surplus building separation distances | | | |
|-------------------------------------------------------|-------------------------------------|----------------------------------------------------------------------|---------------------------------------------------------------|
| Storey | ADG Requirement: Design Criteria | ADG Requirement: Design Guidance for zone transition sites. | Proposed |
| Basement 2 | N/A | N/A | N/A |
| Basement 1 | N/A | N/A | N/A |
| 1 st Storey | 6m | 9m | 9.7m (6m to structure associated with vehicle entry) |
| 2 nd Storey | 6m | 9m | 10m – 11.02m* |
| 3 rd Storey | 6m | 9m | 10m – 11.02m* |
| 4 th storey | 6m | 9m | 10m – 11.02m* |
| 5 th Storey | 9m | 12m | 13m* |
| 6 th Storey | 9m | 12m | 13m* |

*Excludes minor balcony encroachment.

Based on providing a maximum separation to the E4 Environmental Living zone to enable an appropriate transition, a nominal increase in building height is subsequently required.



Figure 6: West elevation demonstrating surplus building separation requirements to interface with E4 zoned land adjoining to the south. 28 Pinaroo Place is depicted in the bottom right hand side of the image.

Source: Stanton Dahl Architects

4. Character of the built form

The proposed building height is considered to be appropriate both for the site and the locality more broadly. The majority of existing development within the surrounding area consists of high-density residential flat buildings, with additional development applications either recently approved, or under assessment in the immediate vicinity of the subject site.

Approval of the proposed development would be consistent with other similar approvals within the surrounding area and would therefore not set an undesirable development precedent.

5. Visual impact of the variation

Building elements located above the prescribed height standard are mostly limited to rooftop structures including an accessible bathroom and lightweight rooftop pergola associated with the rooftop communal open space, and circulation elements such as the lift overrun and stairwell. Each of these elements have been deliberately recessed to the centre of the building footprint in order to limit their visibility from the public domain.

The roof level itself is sited towards the northern site boundary in order to increase separation from neighbouring dwellings within the E4 zone, and reduce visual impacts to these residences. Both street frontages are highly articulated, and upper levels along both street frontages are to be progressively stepped back; the heights of areas closest to both street frontages are well within the building height limit, thereby limiting impacts on the streetscape.

Other elements which breach the height standard include small parts of the top floor and ceiling, which is consequence of the significant slope across the site.

Furthermore, the highly articulated design of the building and landscaped setting within which it is to be located, also serve to minimise the visual impact of the additional building height. It is also noted that substantial deep soil area, in excess of minimum requirements, is proposed at the southern boundary in order to accommodate large trees that would progressively filter and screen the development as they mature.

6. Site Topography

The site slopes steeply from the north-western corner adjacent to Mindarie Street at RL 51.2 down to the south-eastern corner on Pinaroo Place at RL 44.08. Accordingly, the natural sloping topography of the site contributes to the building height non-compliance, particularly the south-east portion of the Level 5 ceiling.

7. Social benefits and dwelling yield

As the proposed development is to be occupied by social and affordable housing, dwelling yield is critical to maximising the social benefit to be gained by such a project. This is line with Planning Priority 5 of the Lane Cove Local Strategic Planning Statement ('LSPS') which requires Council 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'*.

Compliance with the building height standard would require the removal of a floor of the building and a reduction in the amount of social and affordable housing on the subject site. This is contrary to the Planning Priority and Action contained in the Lane Cove LSPS.

It is therefore submitted that a building with minor breaches of the height standard would result in a better planning outcome, in that the dwelling yield is maximised (thereby providing better social outcomes through the provision of more affordable housing) while also providing high levels of amenity to the apartments.

Given the need for affordable housing within the Lane Cove LGA, as referenced in the Lane Cove LSPS (specifically Planning Priority 5 and its associated actions), it is submitted that compliance with the development standard in this instance would be unreasonable and unnecessary. Given that the relatively minor breaches would have minimal adverse impact on the surrounding area, in particular the adjoining southern property, for the consent authority not to support the minor non-compliance with building height standard, it would:

- Reduce the amount of housing available for the vulnerable members of the community and key workers; and/or
- Likely reduce the amenity (i.e. solar access and natural ventilation) that could otherwise be affordable to the proposed apartments.

8. Development constraints associated with zoning

Under the LCLEP 2009, all residential sites located to the south of Mowbray West, around the subject site, were initially zoned as R4 High Density Residential with a maximum building height of 12 metres. Subsequent revisions to the LEP have reduced the number of R4-zoned allotments to the south of Mindarie Street and increased the height of those sites; it is important to note however that such revisions allowed greater height limits to the east of Pinaroo Place and Hatfield Street (i.e. sites that included both the subject site and sites to the north and west). As such, the LEP envisages higher residential flat buildings within western portions of R4-zoned areas along Mowbray Road and Mindarie Street.

Sites along the southern side of Mindarie Street are heavily constrained due to the north-south orientation, the topography sloping from north to south and adjoining the E4 zone. It is not possible for development on the site to fully utilise the applicable development standards, in a compliant manner, without significantly affecting dwelling yield and apartment amenity.

Whilst noncompliant, the height of the building is a response to such issues. The modest building footprint and height enable the development to:

- Provide sufficient separation between the proposed building and lower-density forms of development on sites to the south, thereby mitigating potential visual privacy impacts between sites and enabling large deep soil space around the site periphery (particularly adjacent to the western and southern boundaries) that significantly exceeds minimum requirements,

- Provide good internal amenity, noting that most dwellings address the eastern, western and northern elevations, thereby meeting and/or exceeding targets relating to solar access, cross ventilation, etc., and
- Provide suitably-sited communal open space. Due to the slope, orientation and dimensions of the consolidated site, it is not possible to provide communal open space at ground level that would obtain adequate solar access *and* visual privacy (noting that the only parts of the site at ground level that obtain meaningful solar access are also located immediately adjacent to the adjoining road reserves).

9. Alternative building envelope

Noting the sort of development that is envisioned by the LEP and with regard to the above, to enforce compliance would result in a smaller building, such an alternative would have detrimental outcomes that include:

- Reducing the number of dwellings; noting the social housing component of this proposal, to do so will have significant and adverse social outcomes, and
- Noting that transition (i.e. setback) requirements for development on the edge of zones is linked to building height, a lower apartment building would likely occupy a larger building footprint to offset some of the loss of dwelling yield. Issues with a lower building with a wider footprint are as follows:
 - Such a design will require deeper apartments; this would subsequently lower natural light penetration and levels of internal amenity,
 - A larger footprint would reduce the side and rear building setbacks, which will subsequently reduce deep soil area, and
 - Due to the site's downhill slope towards the south, a reduction in setbacks will largely negate any solar access benefits gained through a reduction of the building.

With regard to the above, an alternative building footprint incorporating these amendments would have adverse social and amenity outcomes.

Summary

In summary, the proposal seeks to utilise the development potential afforded by the applicable development standards; the constraints of the site however necessitate a breach of the building height standard to provide a suitable number of dwellings and associated facilities (thereby maximising the social benefit of the proposal), maximise the amenity of both the dwellings and communal facilities, and to minimise impacts on adjoining sites.

To enforce compliance with the building height standard will reduce dwelling yields and associated social and affordable housing provision; any reduction to yield will also necessitate design changes that will likely result in reduced amenity and deep soil planting. Further, the proposed variation to the building height standard will have minimal adverse impact on the surrounding sites and the locality more broadly, and would not present to surrounding areas in a manner that would be inconsistent with the existing and future character of the area.

As such, there are substantive environmental planning grounds which demonstrate why strict application of the development standard in this instance would be both unnecessary and unreasonable. Noting the importance of maximising the number of affordable dwellings on the site, permitting minor breaches of the height standard would enable a sufficient dwelling yield for social and affordable housing to be realised.

Clause 4(a)(ii) 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.

Consistency with objectives of the development standard

In the recent judgement within *Initial Action*, Preston CJ indicated that a consent authority only needs to be satisfied that an applicant has adequately addressed the matters within clause 4.6(3), and that, pursuant to 4.6(4)(a)(ii), the development is consistent with the objectives of the standard and consistent with the objectives of the zone. Although not strictly required, this variation has addressed the reasons that the development satisfies 4.6(4)(a)(ii).

The objectives of the building height development standard, and a planning response to each demonstrating that such objectives would be satisfied are as follows:

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

Comment: The proposal has been designed to limit impacts to solar access afforded to existing properties and the public domain. While the proposal will result in reduced solar access to neighbouring sites located immediately to the south of the subject site, these impacts are deemed reasonable given the stepped profile of the southern elevation and the site's topography. Further, additional solar access impacts resulting from building elements located above the height limit are deemed negligible.

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

Comment: The significant building separation afforded to neighbouring properties, specifically those located within the E4 zone to the south of the subject site, will ensure any privacy visual impacts resulting from the proposal are minimised. In order to limit privacy impacts to residences located on Pinaroo Place, balconies have not been sited on the southern elevation with the exception of minor wrap around corners. As such, opportunities for overlooking and associated privacy concerns are negligible. Further, proposed breaches of the height standard are limited to very minor encroachments by the rooftop communal open space, parts of ceilings associated with level 05 dwellings, and circulation spaces such as the lift overrun and stairwell. These elements have been sited centrally within the building footprint, and towards the site's northern boundary to limit visual impacts on the surrounding locality.

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

Comment: The public domain surrounding the subject site is limited to the Mindarie Street and Pinaroo Place road reserves. The design has focussed on limiting solar access impacts to public domain by incorporating compliant setbacks to these frontages at the ground plane, and increasing setbacks at higher levels.

(d) to relate development to topography.

Comment: The site's highest point is within the north-west corner adjacent to the Mindarie Street frontage, which falls along a steep gradient of approximately seven metres to the lowest point within at the southeast corner adjacent to the Pinaroo Place frontage. The additional height proposed correlates to the site's steeply sloped topography; the higher points and bulk of the building are to be sited towards the north of the site in order to both maximise solar access and limit privacy impacts to surrounding sites, in addition to maximising deep soil areas within the southern part of the site so that large trees can assist in mitigating any visual impact of the building.

Consistency with objectives of the zone

The objectives of the R4 High Density Residential zone, and a planning response to each demonstrating that such objectives would be satisfied are as follows:

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

Comment: The proposal will deliver a mixed-tenure, high density residential development within an accessible area that provides for the housing needs of a diverse community including those with a lower-income and/or those experiencing financial and social disadvantage. The scale and nature of the development is consistent with that found within the surrounding high-density residential environment.

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

Comment: The proposal will deliver a range dwelling sizes in the form of one, two, and three-bedroom apartments within a high-density residential development, characteristic of the surrounding R4 zone. The proposal will also deliver a 50/50 mix of private and affordable/social housing. This best practice approach supports the needs of the community in providing tangible benefits for residents, such as secure housing, and improved employment, educational and health outcomes.

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

Comment: The proposed development will not affect the ability of surrounding allotments to provide services and/or facilities that would serve the daily needs of local residents.

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

Comment: The proposal will concentrate housing in close proximity to a number of frequent public transport services, including frequent daily bus services from Mowbray and Epping Roads. The site is defined as within an 'accessible area' under the provisions of the ARH SEPP and will provide future residents with short and direct travel routes to railway stations, commercial services, employment opportunities, and community facilities within both Lane Cove, Northern Sydney, Macquarie Park and the Sydney CBD.

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

Comment: The proposal has been designed to limit impacts to the amenity of existing residences, and has appropriately responded to constraints such as zone transition and site topography. While the proposal will result in reduced solar access to the neighbouring sites immediately to the south of the subject site, such impacts are reasonable for reasons detailed both above and within the submitted SEE.

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

Comment: The proposal would not fragment surrounding sites in a manner that would prevent the future development of high-density residential developments on those sites. It instead seeks to consolidate three allotments to a suitable corner allotment which can appropriately accommodate high-density residential development.

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

Comment: As detailed in the accompanying Landscape Plan prepared by Stanton Dahl Architects, significant landscaped and deep soil areas are proposed throughout the site. Proposed landscaping will comprise a combination of trees and shrubs, lawn, paved areas and walkways in order to enhance the overall appearance and amenity of the development and its surroundings. Large deep-soil areas are also proposed around the periphery of the site to enable the establishment and growth of large trees and vegetation that will both improve residential amenity and filter and screen the development from surrounding areas.

In summary, irrespective of the height variation, the consent authority can be satisfied that the proposed development will satisfy the objectives of both the building height standard and R4 High Density Residential zone. The proposed development is therefore in the public interest.

Conclusion

It is acknowledged that the proposed development does not comply with the building height standard imposed by clause 4.3(2) of LCLEP 2009.

As demonstrated above, the breach of the standard is not significant and would have minimal adverse impact to the surrounding sites and the public domain. The scale of the proposed development is also envisioned by the zoning and associated development controls which apply to the site; this is reflected by approvals for similar such development within the surrounding area. The development is therefore consistent with the existing and desired future character of the area and will not set an undesirable development precedent.

Aside from being consistent with the objectives of the R4 High Density Residential zone and building height standard and subsequently being in the public interest, this written request has demonstrated that compliance with the standard in this instance would be unnecessary and unreasonable; there are also sound environmental planning grounds to justify the contravention of the development standard.

As such, it is submitted that the requirements of Clause 4.6 have been satisfied and that the proposed variation to the building height development standard can be supported.