

DATE OF DETERMINATION	21 April 2021
PANEL MEMBERS	Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Eugen Sarich, Deborah Sutherland
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held by teleconference on 21 April 2021, opened at 1.33pm and closed at 2.10pm.

MATTER DETERMINED

PPSSNH-188 – Lane Cove – PAN57704 at 20 Mindarie Street Lane Cove North for residential flat development (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

Application to vary a development standard

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Lane Cove Local Environmental Plan 2009 (LEP), that has demonstrated that:

- a) compliance with cl.4.3 Height of Buildings is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard

the Panel is satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl.4.3 Height of Buildings of the LEP and the objectives for development in the R4 zone; and
- c) the concurrence of the Secretary has been assumed.

Development application

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to uphold the Clause 4.6 variation to building height and approve the application for the reasons outlined below and in Council's Assessment Report.

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 proposal is for 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 proposed building height breach principally relates to the lift overrun and fire stairs/toilet for the rooftop communal open space. While the maximum building height for the site under Lane Cove LEP 2009 is 17.5m, the proposed building height to the lift overrun is 21.38m, being a variation of 3.88m or 22.17%. The proposed 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%.

The Applicant submitted a Clause 4.6 written request to vary the maximum building height and provided nine (9) environmental planning grounds for the proposed variation, as detailed in Council's Assessment Report. The

Panel concurs with Council that the Applicant's written request has adequately addressed matters required to be demonstrated by Clause 4.6(3) and 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 R4 High Density zone.

The Panel further notes that over recent years the Applicant extensively consulted with Council to address concerns with height, overshadowing, building separation, privacy, parking and vehicular access issues. As a result, the amended design and landscaping have produced a good outcome for the site.

In summary, the development is permitted by way of SEPP (Affordable Rental Housing) 2009 and the Panel concurs with Council that the proposal is in the community interest for the following reasons:



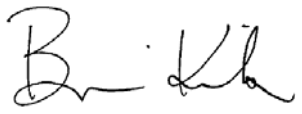


- The proposal provides for a density significantly less than the maximum allowed for under SEPP (Affordable Rental Housing) 2009. The SEPP would allow a maximum FSR of 2.226:1 whereas an FSR of 1.526:1 is proposed;
- Building separation is provided in excess of the Apartment Design Guide to the southern 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 Panel's reasons for deferring the Applicant's Concept Application.

CONDITIONS

The Development Application was approved subject to the conditions in Council's Assessment Report as amended by Council's email dated 21 April 2021.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the public meeting. Issues of concern included bulk, scale, height, overshadowing, visual privacy, vehicular access and construction impact on neighbours. The Panel considers concerns raised by the community were adequately addressed in Council's Assessment Report, by the Applicant and Council during the public meeting and in the conditions.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Julie Savet Ward
 Brian Kirk	 Eugene Sarich
 Deborah Sutherland	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-140 – Lane Cove – DA181/2020
2	PROPOSED DEVELOPMENT	Construction of a Residential Flat Building pursuant to SEPP (Affordable Rental Housing) 2009.
3	STREET ADDRESS	20-22 Mindarie Street and 30 Pinaroo Place, Lane Cove North
4	APPLICANT/OWNER	BCL2 Limited / NSW Land and Housing Corporation
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Affordable Rental Housing) 2009; State Environmental Planning Policy No.65 – Design quality of Residential Apartment Development and Apartment Design Guide (ADG); State Environmental Planning Policy (Building Sustainability Index) 2004; State Environmental Planning Policy (State and Regional Development) 2011; and Lane Cove Local Environmental Plan 2009 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Lane Cove Development Control Plan 2010 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 12 April 2021 Clause 4.6 request – height of building Council memo & revised conditions: 19 April 2021 Council memo & revised conditions: 21 April 2021 Written submissions during public exhibition: 8 Unique submissions received by way of objection: 8 Verbal submissions at the public meeting 21 April 2021: <ul style="list-style-type: none"> Community members – Jason Man, Guy Hallows on behalf of the Stringybark Creek Resident Association, Jay Ahuja, Jerry Syan Council assessment officer – Henry Burnett On behalf of the applicant – Ahmed Tarshan,
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 17 February 2021 <ul style="list-style-type: none"> <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Eugene Sarich, Michael Mason <u>Council assessment staff</u>: Philippa Frecklington (consultant for council), Henry Burnett, Rajiv Shankar, Mark Bisby, Chris Pelz Site inspection: Due to COVID-19 Risk Management measures, Panel members undertook site visits independently. Final briefing to discuss council's recommendation: 21 April 2021 <ul style="list-style-type: none"> <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Deborah Sutherland, Eugene Sarich <u>Council assessment staff</u>: Henry Burnett, Rajiv Shankar, Mark Bisby

9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report, and as amended 19 April 2021