



Agenda  
Lane Cove Local Planning Panel Meeting  
15 June 2022



AGENDA

## Notice of Meeting

Dear Panel Members,

Notice is given of the Lane Cove Local Planning Panel Meeting, to be held in the Council Chambers on Wednesday 15 June 2022 commencing at 5pm. The business to be transacted at the meeting is included in this business paper.

Yours faithfully



Craig Wrightson  
**General Manager**

## Lane Cove Local Planning Panel Meeting Procedures

The Lane Cove Local Planning Panel (LCLPP) meeting is chaired by The Hon David Lloyd QC. The meetings and other procedures of the Panel will be undertaken in accordance with the Lane Cove Lane Cove Local Planning Panel Charter and any guidelines issued by the General Manager.

The order of business is listed in the Agenda on the next page. That order will be followed unless the Panel resolves to modify the order at the meeting. This may occur for example where the members of the public in attendance are interested in specific items on the agenda.

Members of the public may address the Panel for a maximum of 3 minutes during the public forum which is held at the beginning of the meeting. All persons wishing to address the Panel must register prior to the meeting by contacting Council's Office Manager – Environmental Services on 9911 3611. Speakers must address the Chair and speakers and Panel Members will not enter into general debate or ask questions during this forum. Where there are a large number of objectors with a common interest, the Panel may, in its absolute discretion, hear a representative of those persons.

Following the conclusion of the public forum the Panel will convene in closed session to conduct deliberations and make decisions. The Panel will announce each decision separately after deliberations on that item have concluded. Furthermore the Panel may close part of a meeting to the public in order to protect commercial information of a confidential nature.

Minutes of LCLPP meetings are published on Council's website [www.lanecove.nsw.gov.au](http://www.lanecove.nsw.gov.au) by 5pm on the Friday following the meeting. If you have any enquiries or wish to obtain information in relation to LCLPP, please contact Council's Office Manager – Environmental Services on 9911 3611.

Please note meetings held in the Council Chambers are Webcast. Webcasting allows the community to view proceedings from a computer without the need to attend the meeting. The webcast will include vision and audio of members of the public that speak during the Public Forum. Please ensure while speaking to the Panel that you are respectful to other people and use appropriate language. Lane Cove Council accepts no liability for any defamatory or offensive remarks made during the course of these meetings.

The audio from these meetings is also recorded for the purposes of verifying the accuracy of the minutes and the recordings are not disclosed to any third party under the Government Information (Public Access) Act 2009, except as allowed under section 18(1) or section 19(1) of the PPIP Act, or where Council is compelled to do so by court order, warrant or subpoena or by any other legislation.

AGENDA

DECLARATIONS OF INTEREST

APOLOGIES

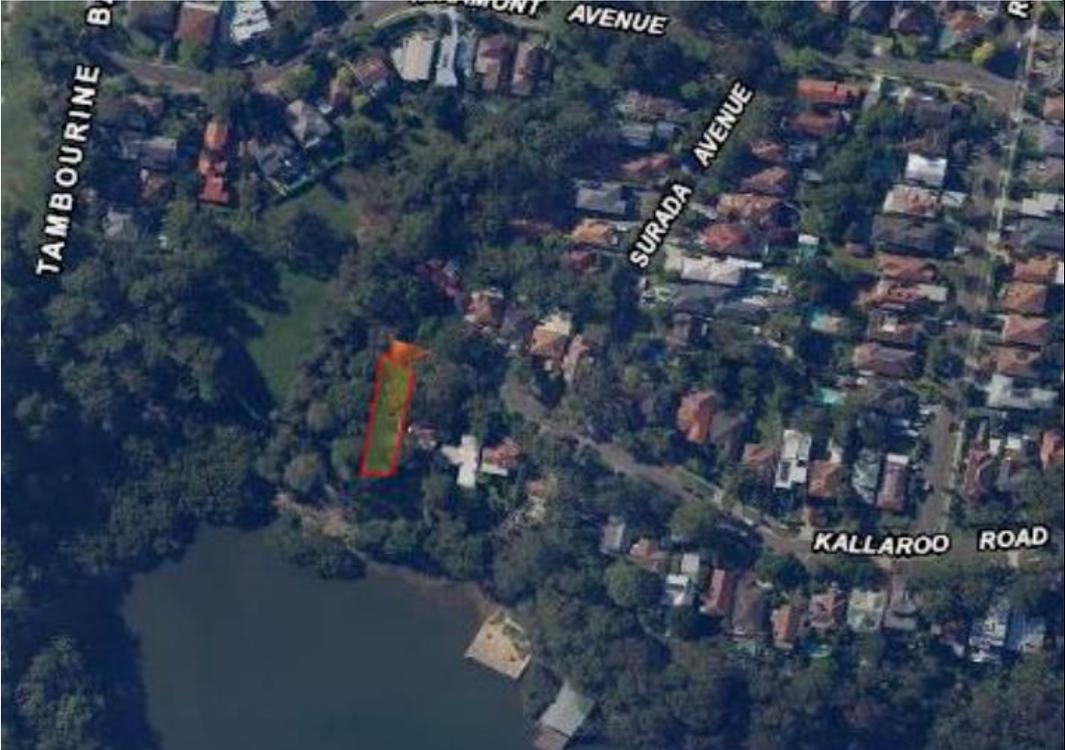
NOTICE OF WEBCASTING OF MEETING

LANE COVE LOCAL PLANNING PANEL REPORTS

1. 72 KALLAROO ROAD, RIVERVIEW ..... 4
2. S 4.55 AT 2 - 4 MERINDA STREET LANE COVE NORTH..... 39

**Lane Cove Local Planning Panel Meeting 15 June 2022  
72 KALLAROO ROAD, RIVERVIEW**

**Subject:** 72 Kallaroo Road, Riverview  
**Record No:** DA22/18-01 - 15216/22  
**Division:** Environmental Services Division  
**Author(s):** Greg Samardzic

Property:	No. 72 Kallaroo Road, Riverview
	
	<b>Figure 1: Aerial Photograph of Subject Property</b>
DA No:	DA18/2022
Date Lodged:	23 February 2022
Cost of Work:	\$450,000.00
Owner:	CM & BA Beck
Applicant:	Daniel Sutton

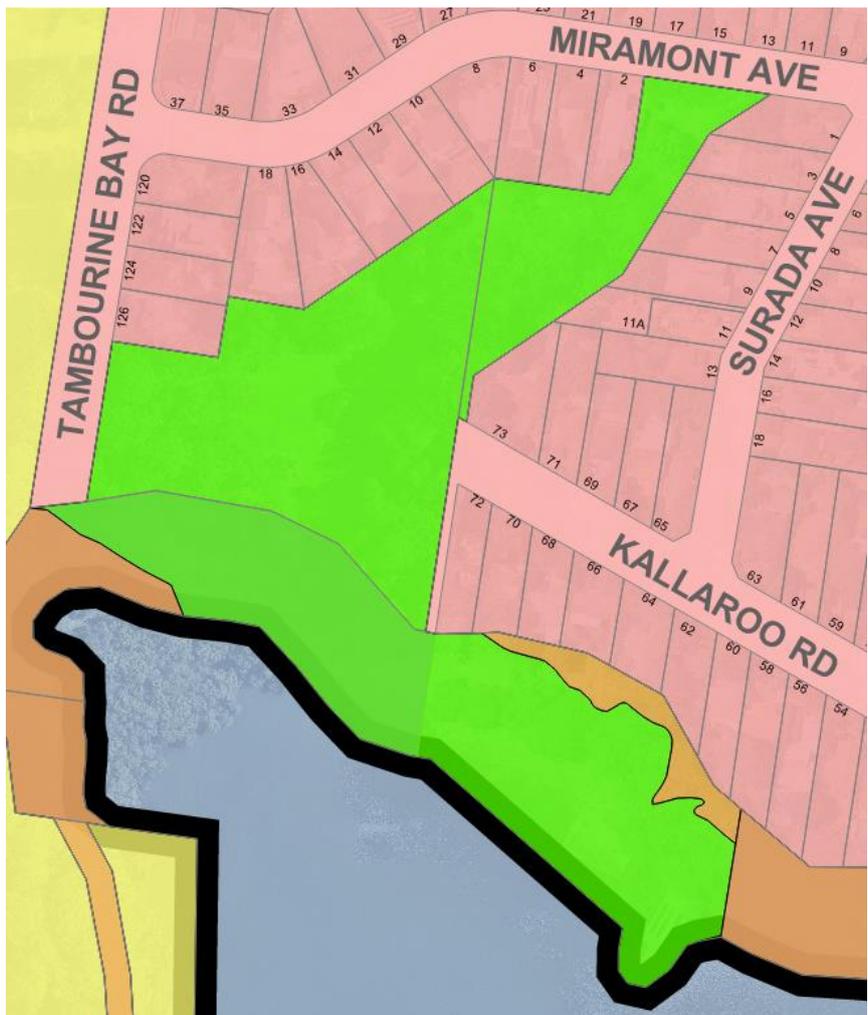
Description of the proposal to appear on determination	Alterations and additions to an existing dwelling
--	---



**Figure 2: Perspective of Proposal**

R2 Low Density Residential under Lane Cove Local Environmental Plan (LCLEP) 2009

Zone



**Figure 3: R2 Zoning of Subject Site**

Is the proposal permissible within the zone

Yes – a ‘dwelling house’ development is permissible with consent within the R2 zone

Is the property a heritage item

No – however the subject property adjoins Local Heritage Item I233, Tambourine Bay Baths to the south.



**Figure 4: Adjoining Heritage Site**

The development proposal will not have any significant adverse impact upon the heritage significance of this site.

Is the property within a conservation area	No
Is the property adjacent to bushland	No
BCA Classification	Class 1a, 10a and 10b
Stop the Clock used	No
Notification	Notified in accordance with Council's policy and no objections received

**REASON FOR REFERRAL**

The subject Development Application is referred to the Lane Cove Local Planning Panel as the applicant is proposing a maximum 16.9% breach to the Floor Space Ratio (FSR) development standard under LCLEP 2009.

**EXECUTIVE SUMMARY**

The Development Application is for alterations and additions to an existing dwelling.

**Lane Cove Local Planning Panel Meeting 15 June 2022**  
**72 KALLAROO ROAD, RIVERVIEW**

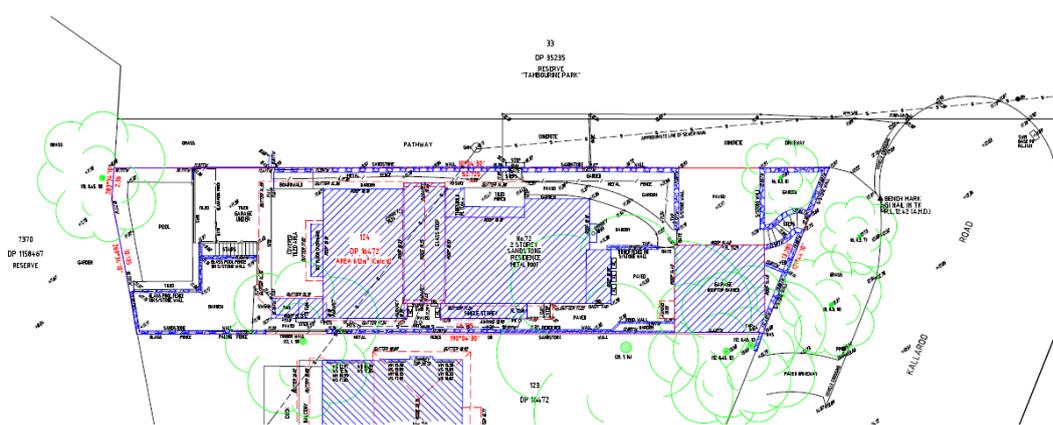
The Development Application has been assessed against LCLEP 2009 and is unsatisfactory as the proposed FSR of 0.584:1 (a 16.9% variation) exceeds the prescribed maximum floor space ratio of 0.5:1. It is considered that the submitted Clause 4.6 written request does not meet the relevant tests. The existing development is already over the permitted maximum FSR development standard resulting from a previous development consent and any further increases to this are not supported. The proposal would be of such a scale that it would be largely inconsistent with the controls set for this form of development under the LEP.

Further, the applicant has not adequately demonstrated full compliance with the maximum 9.5m LEP Building Height development standard and the applicant has not submitted a Clause 4.6 written justification claiming full compliance. Council's assessment has identified a maximum height of 9.7m and the breach cannot be approved in this instance.

The Development Application also has been assessed against Lane Cove Development Control Plan (LCDCP) 2010 and there are variations identified which have been addressed within this report.

The Development Application is reported to Panel with a recommendation for refusal primarily due to the extent of the FSR variation proposed where approval of the subject Development Application would create an undesirable and dangerous precedent within the immediate Kallaroo Road residential locality.

**SITE**

Property	Lot 124 DP 16472, No. 72 Kallaroo Road, Riverview
Area	612m <sup>2</sup>
Site location	Southern side of the Kallaroo Road at the western end of the road of the cul-de-sac adjacent to Tambourine Park Reserve – see Figures 1 and 3 above
Existing improvements	Part two and part three storey dwelling house with attached/detached garages and swimming pool  <p style="text-align: center;"><b>Figure 5: Site Survey</b></p>



**Figure 6: Satellite Image of Subject Site**

The existing dwelling on the site contains:

Sub-Ground Level

- Existing basement/boat garage
- Underground storage area (approved under Development Consent No 194/2015)
- Internal stairs to ground level.

Ground Level

- Existing side front entrance with tiled covered entrance porch.
- Home office, guest bedroom, bathroom, lounge and kitchen located in the front portion of the existing dwelling.
- Staircase to upper and lower levels.
- Open plan lounge and dining room located at the rear of the dwelling.
- Outdoor covered alfresco entertaining area with built in BBQ and external WC.

First Floor Level

- Bed 3, bed 2, bathroom, bed 4, bed 5, store/linen located in the front (northern) portion of the dwelling.
- Stairs to lower level with voids either side and walk-bridge.
- Master suits with walk in robes and ensuite at the rear (southern) end of the dwelling.

Front Setback

- Garage
- Stone block front fencing.
- Landscaped areas above garage and within front setback area.
- Driveway along western side of the site to the rear of the property.

Rear Setback

- Existing tiled rear POS area at ground level adjoining covered external alfresco area.
- Swimming pool, tiled coping with glass balustrades.
- Landscaped garden bed area to the east of the swimming pool adjacent to the boundary.

The site contains existing vegetation in the form of one tree within the front setback of the site and small shrubs and other vegetation within the landscaped beds within the front and rear setbacks. The site has a fall of approximately 3.9m from the north (front) to the south (rear) and a cross fall of approximately 2.3m from the east to the west.



**Figure 7: Subject Site Viewed from Kallaroo Rd**



**Figure 8: Subject Site Looking South Along the Western Boundary**



**Figure 9: Rear Outdoor Alfresco Area Looking South West**



**Figure 10: Rear of Subject Site Looking North West**



**Figure 11: Looking South West Across Existing Pool Towards Tambourine Reserve and Tambourine Bay**

Shape	Irregular
Dimensions	Northern boundary (front – Kallaroo Road): 13.285m Eastern (side) boundary: 46.135m Western (side) boundary: 52.725m Southern (rear) boundary: 10.135m
Adjoining properties	Existing development surrounding the site is primarily residential with one and two storey residential dwellings. A specific description of surrounding development is provided as below:

East – No. 70 Kallaroo Road which contains a twostorey rendered brick dwelling with a tile roof  
 West – Tambourine Bay Reserve which is a public reserve that adjoins Tambourine Bay  
 North – Across Kallaroo Road is No. 73 Kallaroo Road which contains a two storey brick dwelling with a tile roof  
 South – Tambourine Reserve which adjoins the southern boundary of the subject site and further to the south is Tambourine Bay.



**Figure 12: Aerial View of the Subject Site Showing the Reserve and Tambourine Bay in the Foreground**

**PREVIOUS APPROVALS/HISTORY**

DA351/2005	Approval for a double garage with vehicular access from Council land issued on 22 February 2006
DA80/2013	Approval for a swimming pool issued on 27 May 2013
DA194/2015	Approval for alterations and additions to the existing dwelling house including a part basement addition to provide a media room and a workshop with an access passageway issued on 27 April 2016.

**PROPOSAL**

The proposal is for alterations and additions to an existing dwelling to include:

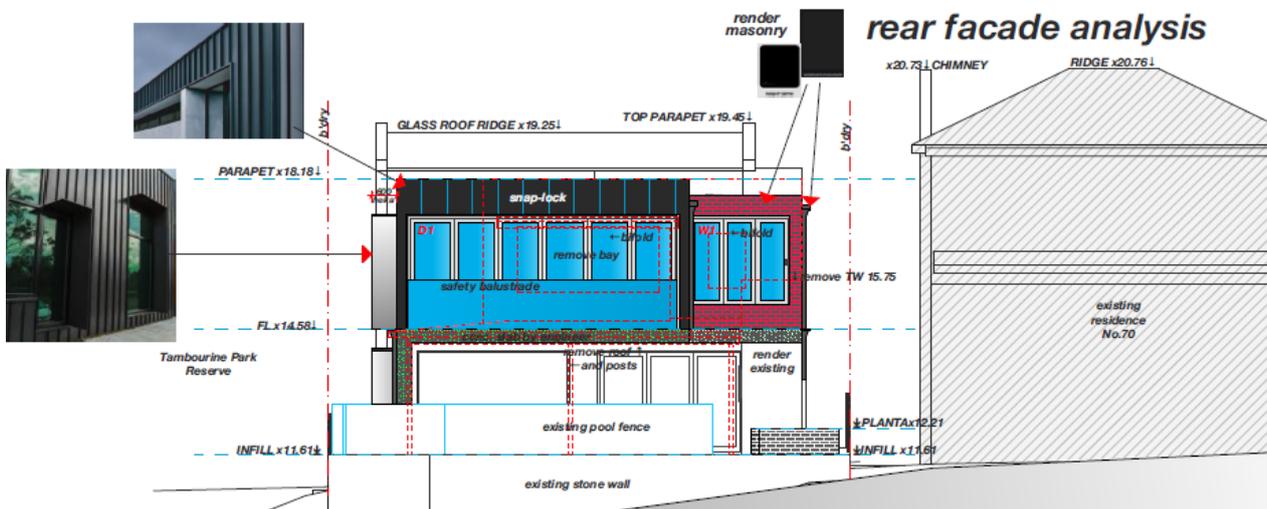
Ground Floor Level

- New hood above lounge room window in the western external wall.
- New structural column in south-western corner of the covered outdoor alfresco area.
- Render existing external walls.

First Floor Level

- Demolition of the western external wall of the master suite.
- Extend the floor area toward the western boundary and construct new western external wall.

- Retention of the eastern external wall of the walk-in robe and ensuite and extend the eastern external wall to create new ensuite.
- Recreate the floor plan to create new master suite, large walk-in robe and dressing room and ensuite.
- Glass bifold doors the full length of the southern external wall of the master suite.
- Construct a new southern (rear) facing balcony 1.245m wide accessed directly via the master suits, running the full length of the master suite 6.4m in length.
- Privacy screen to be installed on the eastern end of the new balcony
- New hoods over the windows in the western wall.
- Skylights to roof over the alterations and additions servicing the walk-in robe, dressing room, and master suite. Materials of Construction
- Lysaght 'Klip-lok' roofing.
- Render existing masonry external walls in "Monument".
- 'Heka' hoods over new windows to western external walls.
- Snap-Lock to western external wall on first floor level in "Monument".
- New privacy screen to first floor balcony in silver battens.



**Figure 13: Proposed Rear Elevation**

Lane Cove Local Planning Panel Meeting 15 June 2022  
72 KALLAROO ROAD, RIVERVIEW

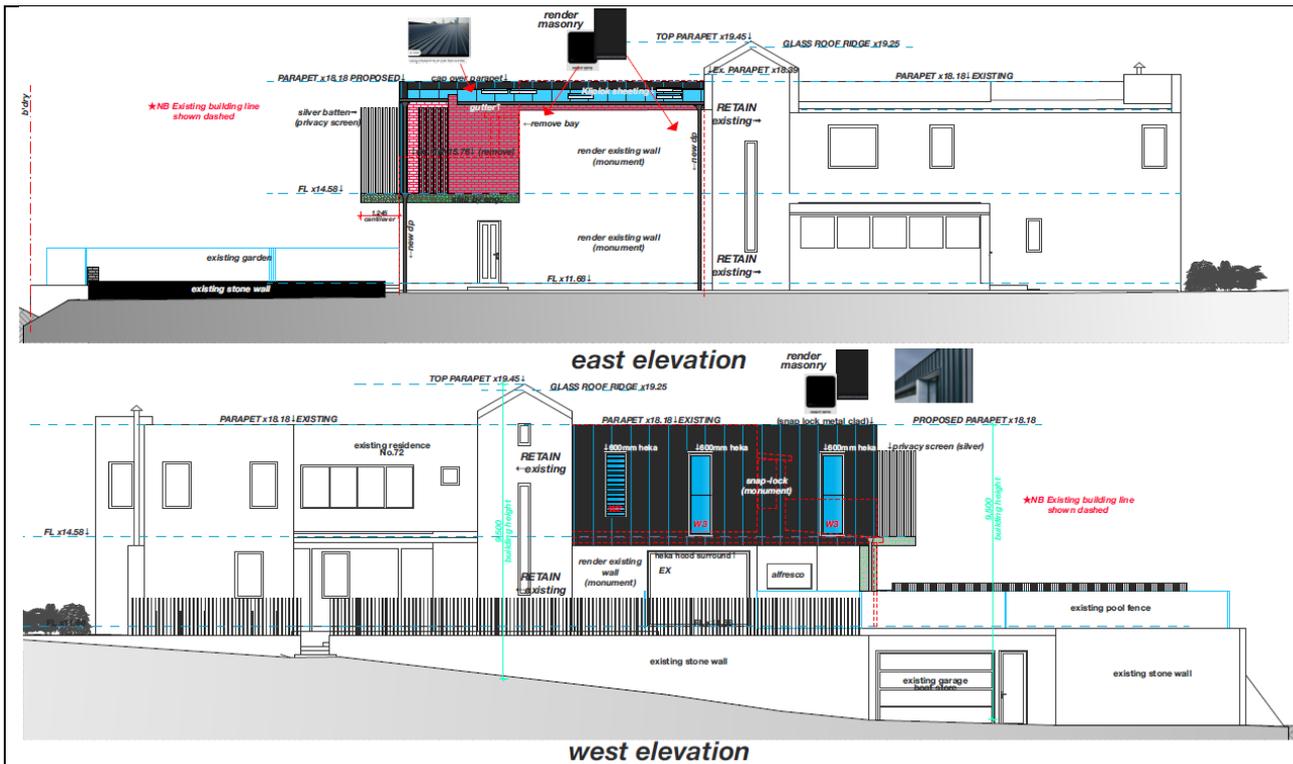
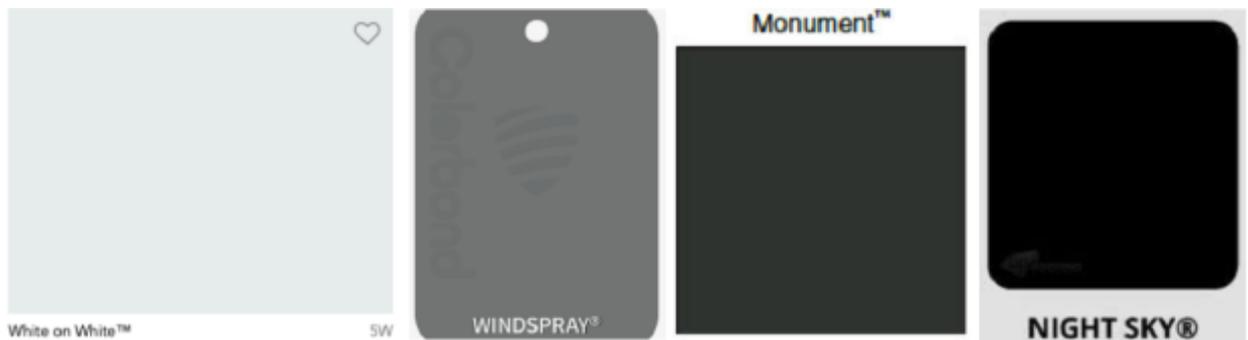


Figure 14: Proposed Side Elevations



Snaplock - Metal Cladding Systems  
metalcsystems.com.au



Exterior cladding, Facade architecture ...  
pinterest.com.au



Using LYSAGHT KLIP-LOK 700 HI-STRE...

Figure 15: Proposed Material and Finishes

The justification of the proposed development is to improve the amenity of the residents living at the subject site.

SECTION 4.15 ASSESSMENT

Any environmental planning instrument:

### **State Environmental Planning Policy (SEPP) (Building Sustainability Index: BASIX) 2004**

A valid BASIX certificate has been submitted with the application and confirms that the proposal (once operational) will comply with the water, thermal comfort and energy efficiency requirements of the policy.

### **State Environmental Planning Policy (SEPP) (Resilience and Hazards) 2021**

On 1 March 2022, the provisions of SEPP (Resilience and Hazards) 2021 had consolidated three state policies including SEPP 55 – Remediation and SEPP (Coastal Management) 2018 into one policy. The provisions of the SEPP are required to be considered for any development application to determine if the land:

- is suitable for the proposed development,
- if it is contaminated,
- if it is suitable for the proposed use, and
- if the contamination is required to be remediated before the land is used for that purpose.

The site has been developed from bushland into residential development over the years where it is therefore unlikely that the site has any contamination, further as the proposed development does not involve any excavation, no further investigation is necessary for the proposed development. The provisions of the SEPP also apply to the proposed development as the site is within the “proximity area for coastal wetlands” as shown by the figure below:



**Figure 16: Proximity to Coastal Wetlands**

The relevant clause reads as:

#### **2.8 Development on land in proximity to coastal wetlands or littoral rainforest**

##### **Note—**

*The Coastal Wetlands and Littoral Rainforests Area Map identifies certain land that is inside the coastal wetlands and littoral rainforests area as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” or both.*

- (1) *Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on—*
- (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
  - (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*
- (2) *This section does not apply to land that is identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map.*

The proposed development satisfies the provisions of the SEPP in that:

- (a) The development proposes alterations and additions to the existing dwelling where these alterations and additions are confined to the first floor of the dwelling and are within the existing building footprint. There will be no impacts upon the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest.
- (b) The development proposes additional roof area, of which the runoff from the roof will connect to the existing stormwater infrastructure on the site. The alterations and additions do not extend beyond the existing building footprint of the dwelling or propose any additional hard paved surfaces at ground level, excavation or the filling of soil on the site and in this regard the development will not have any impact the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.

The proposed development satisfies the provisions of the SEPP and no further consideration is required in this instance.

### **State Environmental Planning Policy (SEPP) (Biodiversity and Conservation) 2021**

On 1 March 2022, the provisions of SEPP (Biodiversity and Conservation) 2021 had consolidated 11 state and regional policies including Sydney Regional Environment Plan (Sydney Harbour Catchment) 2005 into one policy. The land is mapped as being within the Foreshores and Waterways Boundary Area and a minor portion of the site is mapped as a Wetlands Protection Area. An assessment has occurred against the relevant provisions of the SEPP as illustrated in Attachment 1.

<b>Clause</b>	<b>Provision</b>	<b>Proposal</b>	<b>Compliance</b>
<b>Chapter 10 Part 10.3 – Foreshore and Waterways Area – Division 2 – Matters for Consideration</b>			
<b>10.19 – Biodiversity, ecology and environment protection</b>	<p>The matters to be taken into consideration in relation to biodiversity, ecology and environment protection are as follows—</p> <p>(a) development should have a neutral or beneficial effect on the quality of water entering the waterways,</p> <p>(b) development should protect and enhance terrestrial and aquatic species, populations and</p>	<p>The proposal does not provide for excessive water flows to stormwater pits which are piped to Lane Cove River and has been assessed to be satisfactory by Council's stormwater engineer.</p> <p>The proposed overshadowing is satisfactory</p>	Yes

**Lane Cove Local Planning Panel Meeting 15 June 2022**  
**72 KALLAROO ROAD, RIVERVIEW**

Clause	Provision	Proposal	Compliance
	<p>ecological communities and, in particular, should avoid physical damage and shading of aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove communities),</p> <p>(c) development should promote ecological connectivity between neighbouring areas of aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove communities),</p> <p>(d) development should avoid indirect impacts on aquatic vegetation (such as changes to flow, current and wave action and changes to water quality) as a result of increased access,</p> <p>(e) development should protect and reinstate natural intertidal foreshore areas, natural landforms and native vegetation,</p> <p>(f) development should retain, rehabilitate and restore riparian land,</p> <p>(g) development on land adjoining wetlands should maintain and enhance the ecological integrity of the wetlands and, where possible, should provide a vegetative buffer to protect the wetlands,</p> <p>(h) the cumulative environmental impact of development,</p> <p>(i) whether sediments in the waterway adjacent to the development are contaminated, and what means will minimise their disturbance.</p>	<p>The proposal does not include works impacting upon the connectivity of aquatic vegetation.</p> <p>The proposal does not modify existing foreshore access.</p> <p>The proposal does not include works encroaching the foreshore area with no vegetation impacts.</p> <p>The foreshore area on the subject site is not mapped as riparian land.</p> <p>The proposal would not adversely impact the vegetative buffer through the appropriate stormwater infrastructure.</p> <p>As above.</p> <p>No known contamination.</p>	
<p><b>10.20 – Public access to, and use of, foreshores and waterways</b></p>	<p>The matters to be taken into consideration in relation to public access to, and use of, the foreshores and waterways are as follows—</p> <p>(a) development should maintain and improve public access to and along the foreshore, without adversely impacting on watercourses,</p>	<p>The proposal would not impact upon foreshore use or access.</p>	<p>Yes</p>

**Lane Cove Local Planning Panel Meeting 15 June 2022**  
**72 KALLAROO ROAD, RIVERVIEW**

Clause	Provision	Proposal	Compliance
	<p>wetlands, riparian lands or remnant vegetation,</p> <p>(b) development should maintain and improve public access to and from the waterways for recreational purposes (such as swimming, fishing and boating), without adversely impacting on watercourses, wetlands, riparian lands or remnant vegetation,</p> <p>(c) if foreshore land made available for public access is not in public ownership, development should provide appropriate tenure and management mechanisms to safeguard public access to, and public use of, that land,</p> <p>(d) the undesirability of boardwalks as a means of access across or along land below the mean high water mark if adequate alternative public access can otherwise be provided,</p> <p>(e) the need to minimise disturbance of contaminated sediments.</p>		
<p><b>10.21 – Maintenance of a working harbour</b></p>	<p>The matters to be taken into consideration in relation to the maintenance of a working harbour are as follows—</p> <p>(a) foreshore sites should be retained so as to preserve the character and functions of a working harbour, in relation to both current and future demand,</p> <p>(b) consideration should be given to integrating facilities for maritime activities in any development,</p> <p>(c) in the case of development on land that adjoins land used for industrial and commercial maritime purposes, development should be compatible with the use of the adjoining land for those purposes,</p> <p>(d) in the case of development for industrial and commercial</p>	<p>The proposal would not impact upon the maintenance of a working harbour.</p>	<p>Yes</p>

**Lane Cove Local Planning Panel Meeting 15 June 2022**  
**72 KALLAROO ROAD, RIVERVIEW**

Clause	Provision	Proposal	Compliance
	maritime purposes, development should provide and maintain public access to and along the foreshore where such access does not interfere with the use of the land for those purposes.		
<b>10.22 – Interrelationship of waterway and foreshore uses</b>	<p>The matters to be taken into consideration in relation to the interrelationship of waterway and foreshore uses are as follows—</p> <p>(a) development should promote equitable use of the waterway, including use by passive recreation craft,</p> <p>(b) development on foreshore land should minimise any adverse impact on the use of the waterway, including the use of the waterway for commercial and recreational uses,</p> <p>(c) development on foreshore land should minimise excessive congestion of traffic in the waterways or along the foreshore,</p> <p>(d) water-dependent land uses should have priority over other uses,</p> <p>(e) development should avoid conflict between the various uses in the waterways and along the foreshores.</p>	The proposal does not adversely impact upon the intended interrelationship of waterway and foreshore uses as intended by this clause.	Yes
<b>10.23 – Foreshore and waterways scenic quality</b>	<p>The matters to be taken into consideration in relation to the maintenance, protection and enhancement of the scenic quality of foreshores and waterways are as follows—</p> <p>(a) the scale, form, design and siting of any building should be based on an analysis of—</p> <p>(i) the land on which it is to be erected, and</p> <p>(ii) the adjoining land, and</p> <p>(iii) the likely future character of the locality,</p> <p>(b) development should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands, foreshores and tributaries,</p>	<p>The scale of the building is excessive as detailed in this report.</p> <p>The visual quality may be reduced from the waterways due to the uncharacteristic bulk to be created by the proposed development.</p>	<p><b>Not demonstrated.</b></p> <p><b>Not demonstrated.</b></p>

**Lane Cove Local Planning Panel Meeting 15 June 2022**  
**72 KALLAROO ROAD, RIVERVIEW**

Clause	Provision	Proposal	Compliance
	(c) the cumulative impact of water-based development should not detract from the character of the waterways and adjoining foreshores.	It is noted that no visual analysis from the water is provided by the applicant.  N/A	N/A
<b>10.24 – Maintenance, protection and enhancement of views</b>	The matters to be taken into consideration in relation to the maintenance, protection and enhancement of views are as follows—  (a) development should maintain, protect and enhance views (including night views) to and from Sydney Harbour,  (b) development should minimise any adverse impacts on views and vistas to and from public places, landmarks and heritage items,  (c) the cumulative impact of development on views should be minimised.	No significant loss of views to (if any) and from Sydney Harbour has occurred.  View loss impacts minimised where possible  Noted.	Yes  Yes
<b>10.25 – 10.27 – Boat storage facilities, Floating boat platforms, Mooring pens</b>	Not Applicable	Not Applicable	N/A
<b>Part 10.6 – Wetlands Protection</b>			
<b>Clause 10. 63 – Matters for consideration</b>	(1) The matters referred to in this clause (together with any other relevant matters)—  (a) are to be taken into consideration by consent authorities before granting consent to development under Part 4 of the Act, and  (b) are to be taken into consideration by public authorities and others before they carry out activities to which Part 5 of the Act applies. (2) The matters to be taken into consideration in relation to any development are as follows—  (a) the development should have a neutral or beneficial effect on the quality of water entering the waterways,	Relevant matters are addressed as there would be no significant impacts onto adjoining wetland areas subject to appropriate conditions should the proposal be approved	Yes

**Lane Cove Local Planning Panel Meeting 15 June 2022**  
**72 KALLAROO ROAD, RIVERVIEW**

Clause	Provision	Proposal	Compliance
	<p>(b) the environmental effects of the development, including effects on—</p> <ul style="list-style-type: none"> <li>(i) the growth of native plant communities,</li> <li>(ii) the survival of native wildlife populations,</li> <li>(iii) the provision and quality of habitats for both indigenous and migratory species,</li> <li>(iv) the surface and groundwater characteristics of the site on which the development is proposed to be carried out and of the surrounding areas, including salinity and water quality and whether the wetland ecosystems are groundwater dependent,</li> </ul> <p>(c) whether adequate safeguards and rehabilitation measures have been, or will be, made to protect the environment,</p> <p>(d) whether carrying out the development would be consistent with the principles set out in <i>The NSW Wetlands Management Policy</i> (as published in March 1996 by the then Department of Land and Water Conservation),</p> <p>(e) whether the development adequately preserves and enhances local native vegetation,</p> <p>(f) whether the development application adequately demonstrates—</p> <ul style="list-style-type: none"> <li>(i) how the direct and indirect impacts of the development will preserve and enhance wetlands, and</li> <li>(ii) how the development will preserve and enhance the continuity and integrity of the wetlands, and</li> <li>(iii) how soil erosion and siltation will be minimised both while the development is being carried out and after it is completed, and</li> <li>(iv) how appropriate on-site measures are to be implemented to ensure that the intertidal zone is kept free from pollutants arising from the development, and</li> </ul>		

Clause	Provision	Proposal	Compliance
	(v) that the nutrient levels in the wetlands do not increase as a consequence of the development, and (vi) that stands of vegetation (both terrestrial and aquatic) are protected or rehabilitated, and (vii) that the development minimises physical damage to aquatic ecological communities, and (viii) that the development does not cause physical damage to aquatic ecological communities,  (g) whether conditions should be imposed on the carrying out of the development requiring the carrying out of works to preserve or enhance the value of any surrounding wetlands.		

**Lane Cove Local Environmental Plan 2009**

**Permissibility**

The land is zoned R2 Low Density Residential under Lane Cove Local Environmental Plan 2009 (see Figure 3 above in this report). The proposal is for alterations and additions to an existing dwelling house and dwelling houses are permissible with consent under the LEP.

**Aims and Zone Objectives**

The subject site is zoned R2 Low Density Residential and the immediate locality is zoned R2. To be discussed in further detail in this report below, the proposed additional floor space created would contain adverse local character or amenity impacts which does not satisfy the following Lane Cove LEP 2009 aim and zoning objective as follows:

- *to preserve and, where appropriate, improve the existing character, amenity and environmental quality of the land to which this Plan applies in accordance with the indicated expectations of the community.*
- *To retain, and where appropriate improve, the existing residential amenity of a detached single family dwelling area.*

It is considered that the location of the new floor space is not suitable where it would be inconsistent with the intended built form of the local R2 zoned catchment. Approval of the proposal would not assist in maintaining or improving current local amenity levels which are enjoyed by surrounding residents. The location of the spa would also be obtrusive when viewed from an adjoining property to the east.

**Development Standards**

The land is mapped on the Height of Buildings Map and Floor Space Ratio Map under Lane Cove Local Environmental Plan 2009. An assessment of the proposal against the building height and floor space development standard is provided in the table below.

<b>Lane Cove Local Environmental Plan 2009 – Development Standard Compliance</b>			
<b>Standard</b>	<b>Mapped Maximum</b>	<b>Proposed Maximum</b>	<b>Compliance</b>
Floor Space Ratio	0.5:1 (306sqm permitted)	Applicant Assessment: 0.584:1 (358sqm proposed, a 16.9% variation)  Council Assessment: 0.584:1 + additional areas within basement that ought to be counted as GFA	<b>No, Clause 4.6 unsatisfactory - see below.</b>
Building Height	9.5m	Applicant Assessment: Max. 9.5m  Council Assessment: Max. 9.7m	<b>No, not demonstrated and no Clause 4.6 submitted – recommended as a reason for refusal.</b>

**Clause 4.6 Written Request – Floor Space Ratio**

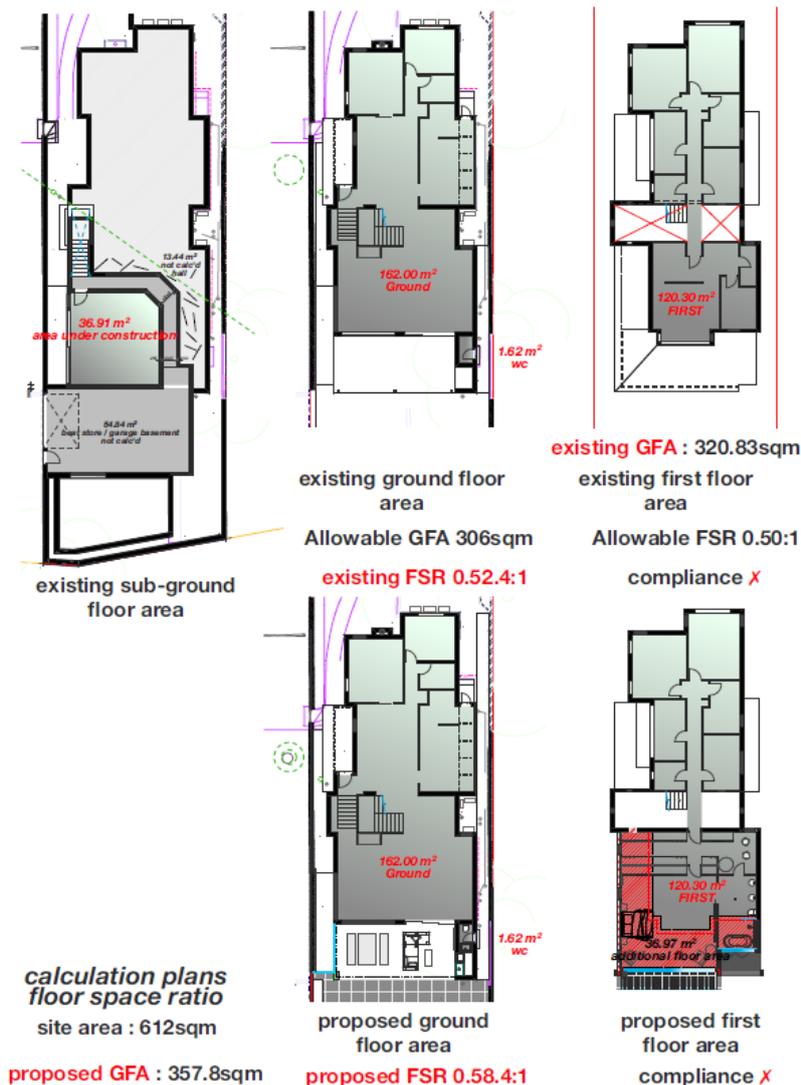
A maximum FSR of 0.5:1 applies to the site under LCLEP 2009.



**Figure 17: LEP FSR Map (0.5:1 hatched in blue)**

The proposal has a maximum FSR of 0.584:1 (a 16.9% variation) where a maximum of floorspace of 306m<sup>2</sup> is permitted and a maximum floor space proposed is 358m<sup>2</sup> (being 52m<sup>2</sup> over). The site has had previous application determinations made, most recently is Development Consent No. 194/2015 which was for alterations and additions to the existing dwelling including basement extension to provide a media room and a workshop with an access passageway approved by Council on 27 April 2016 under Delegated Authority. The applicant has stated that this application was approved with an FSR of 0.524:1 or 320.8m<sup>2</sup> which exceeded the maximum FSR of 0.5:1 under Clause 4.4 of LCLEP 2009.

The proposed alterations and additions which are the subject of this application seeks to further increase the floor space of the dwelling by 36.97m<sup>2</sup> to enable necessary changes to be made to the existing first floor plan in the rear half of the dwelling to improve the amenity of the master suite, ensuite and walk in robe/dressing room. A review of the approved delegated report has indicated that the approved FSR was 0.58:1 (355m<sup>2</sup>) which would mean that the proposed FSR would be at least approximately 0.64:1 as Council had counted parts of the basement level as floor space in addition the floorspace created by the media room. However, if one counted all the applicant's excluded areas, the maximum FSR would be approximately 0.69:1 Please see the applicant's method of calculation below:



**Figure 18: Applicant's FSR Calculation Diagrams**

The relevant GFA definition reads as follows:

**gross floor area** means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes—

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes—
- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement—

- (i) storage, and*
- (ii) vehicular access, loading areas, garbage and services, and*
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and*
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and*
- (h) any space used for the loading or unloading of goods (including access to it), and*
- (i) terraces and balconies with outer walls less than 1.4 metres high, and*
- (j) voids above a floor at the level of a storey or storey above.*

The areas not counted as floor space by the applicant ought to be counted as GFA as there is another double garage structure located at the front of the subject site which is not counted as floor space and any additional garaging floor space is technically required to be counted. It is considered that boat store and a workshop is not typical 'storage' space as defined by the LEP which would be excluded as floor space under the LEP definition of GFA as boat storage is not storage as such where it is used for parking purposed whether it is for a boat or for vehicles. The basement level is not a basement as such as it would now contain a media room and garaging space with a potential for a workshop as it was included under the previous development consent.

Further, the hallway would also need to be included as floor space as well as it would not be access to car parking to meet the parking requirements of Council. It is considered that there are excessive floor areas excluded that ought to be included.

#### **Clause 4.6 Exceptions to development standards**

Clause 4.6 of LCLEP 2009 allows exceptions to development standards. Consent must not be granted for development that contravenes a development standard unless the consent authority has considered and agrees with the written request from the applicant that seeks to justify the contravention of the development standard. This written request must demonstrate compliance with the relevant provisions of Clause 4.6 of LCLEP 2009. These matters are discussed below:

##### Written request provided by the applicant

The applicant has provided a written request seeking a variation to the development standard with the lodged application. A copy of the request is provided to the Panel (see Attachment 2). Under Clause 4.6(3) the applicant is required to demonstrate:

- (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.*

#### **1. Whether compliance with the development standard would be unreasonable or unnecessary in the circumstances of the case.**

The Clause 4.6 variation has argued that it is unreasonable or unnecessary for the same reasons provided under the building height development standard to require strict compliance with the development standard however provided the additional following reasons:

*Compliance with the development standard is unreasonable and unnecessary as the subject site has an existing non-compliance of 0.524:1 approved under Development Consent 194/2015. The additional GFA proposed under this application is to provide necessary improvements to the layout of the rear of the first-floor master bedroom, walk in robe and ensuite. There are no unreasonable environmental amenity impacts in terms of bulk and scale impacts, overshadowing, loss of views, privacy or visual amenity of the development.*

**Comment:**

The Clause 4.6 written request does not demonstrate that compliance with the development standard would be unreasonable or unnecessary and accordingly does not satisfy Clause 4.6(3)(a) of Lane Cove Local Environmental Plan 2009.

**2. Environmental planning grounds to justifying contravening the development standard.**

The applicant has provided the following additional environmental planning grounds justifications:  
*Strict technical compliance with the FSR development standard cannot be achieved due to the existing FSR non-compliance approved under DA 194/2015.*

- *The additional GFA proposed under this application is 36.97sqm and is required to make necessary improvements to the layout of the existing master suite, walk in robe, and ensuite at the rear of the first floor which will increase the quality of living for the current occupants of the dwelling.*
- *The proposed development achieves compliance with the relevant underlying objectives of the standard and of the zone as discussed in this submission.*
- *The proposal does not result in any adverse impacts upon adjoining properties by way of bulk, scale, privacy, noise or overshadowing impacts.*
- *The proposal does not create any view loss to adjoining properties or from any public space.*
- *The proposal will provide a suitable design and of suitable amenity in terms of the built environment which is identified as objects of the Act (Section 1.3 of the EP & A Act, 1979).*
- *The intensity of the development is appropriate and acceptable, having regard to existing development and adjoining/surrounding development.*

The environmental planning grounds are not supported as the proposal does not comply with both the LEP building height 9.5m contrary to the claim of compliance and LCDCP wall height control of 7m (9.7m above natural ground level which now includes the 'basement' level) whilst claiming a maximum wall height of 7.7m. The applicant has not demonstrated compliance with the relevant height controls partly by not correctly nominating what the natural ground levels are across the subject site and on the submitted plans. The controls seek to establish an appropriate wall height for flat roof dwellings to mitigate the impacts of bulk and scale.

Overall, the environmental planning grounds put forward in the Clause 4.6 written request are not considered to satisfy Clause 4.6(3)(b) of Lane Cove Local Environmental Plan 2009.

**3. Consistent with the zone objectives and objectives of the development standard.**

Development consent cannot be granted to vary a development standard unless a consent authority is satisfied that the proposed development would be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

The applicant has stated that:

*The proposal achieves the relevant objective of the FSR development standard as it is compatible with the character of the locality. Surrounding development is primarily residential in nature and consists mainly of two storey dwellings. The subject site is adjacent to a nature reserve and the waterfront, and the proposed additions do not create any visual impacts to or from the reserve or waterfront. The rear additions to the first floor of the dwelling have been carefully designed so that the materials and finishes are complimentary to the setting of the development, and the development is fully compliant with the maximum height of building development standard.*

An assessment against the objectives of FSR and the IN2 Light Industrial zone contained within LCLEP 2009 are provided as follows:

## **FSR Objective**

Clause 4.4(1) provides the following objective:-

- (a) *to ensure that the bulk and scale of development is compatible with the character of the locality.*

**Comment:** The additional floor space proposed to be created would contribute to the unnecessary bulk and scale to the overall building and in turn would adversely affect the character of the immediate Kallaroo Road/Riverview locality by not providing for a good planning outcome where it would set a dangerous or an undesirable precedent. The existing dwelling already has an FSR which is above the maximum FSR development standard and any further increases are not supported in this instance.

**In accordance with the above, it is contended that the development does not comply with the LCLEP 2009 objective of the FSR control and is not supported in this instance.**

## **R2 Low Density Residential Zone Objectives**

The applicant has provided the following justifications as to why the proposed development is consistent with the R2 zone objectives as follows:

*The proposal accommodates sufficient indoor living space and private open space to serve the housing needs of a typical family, in accordance with community standards and within a low-density residential environment. The proposal seeks to improve upon the existing residential amenity of a detached single-family dwelling. The proposed additions to the first-floor level which are the subject of the GFA variation are necessary to improve the functionality of the rear of the first-floor plan, including the master suite, walk in robe and ensuite area.*

*The proposed rear addition will be visible from the waterfront, however as they are located to the rear of the existing dwelling and are contained within the overall building envelope, i.e., do not increase the overall building height or change the existing building setbacks to side boundaries, there is a negligible impact to the visibility of the additions when viewed from the waterfront. The proposal seeks to improve upon the current degree of landscaped area on the site despite there being no requirement for this due to the proposed building works being confined to the rear of the first floor of the dwelling. The development proposes an additional 13.5sqm of landscaped area within the front setback of the site in the form of a landscaped garden bed.*

*As demonstrated above, the proposed development will be in the public interest because it is consistent with the objectives of the FSR development standard and the objectives of the R2 Zone.*

The R2 Low Density Residential Zone objectives are as follows:

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

**Comment:** The proposed FSR of the development would not be commensurate with the low-density residential environment in which it is proposed to be situated and is resultant from a development form not intended for lots of this size.

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

**Comment:** N/A

- *To retain, and where appropriate improve, the existing residential amenity of a detached single family dwelling area.*

**Comment:** The proposed bulk and scale is considered to reduce the residential amenity of a detached single-family area through providing a dwelling design that is larger than anticipated and over-bearing.

- *To encourage new dwelling houses or extensions of existing dwelling houses that are not highly visible when viewed from the Lane Cove River or Parramatta River.*

**Comment:** Not satisfactorily demonstrated by the applicant.

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

**Comment:** Landscaping is not adversely impacted by the proposed development.

**In accordance with the above, the development does not comply with the Lane Cove Local Environmental Plan 2009 objectives for the Floor Space Ratio standard or the R2 Low Density Residential zone and is therefore not in the public interest.**

#### **4. Concurrence of the Director General.**

The Local Planning Panel can assume concurrence for exceptions to development standards where the variation to the development standard is greater than 10%. As the proposal is referred to the Local Planning Panel for determination; concurrence is taken to be assumed.

#### **5. Conclusion**

**The objectives of Clause 4.6 are to provide an appropriate degree of flexibility in applying certain development standards and to achieve better outcomes for and from development by allowing flexibility in particular circumstances. The variation to the height standard of LCLEP 2009 is not well-justified in this instance. There are insufficient environmental planning grounds and the objectives of the standard are not met. The development does not satisfy the objectives and the criteria outlined in clause 4.6. As such, the variation is not considered satisfactory or in the public interest.**

#### **Building Height**

The submitted architectural drawings does not adequately demonstrated whether the proposal complies with the maximum 9.5m Building Height development standard by not indicating where the natural ground levels and the maximum building height plane are. The drawings have been reviewed with respect to the definition of Building Height contained within Lane Cove Local Environmental Plan 2009 being:

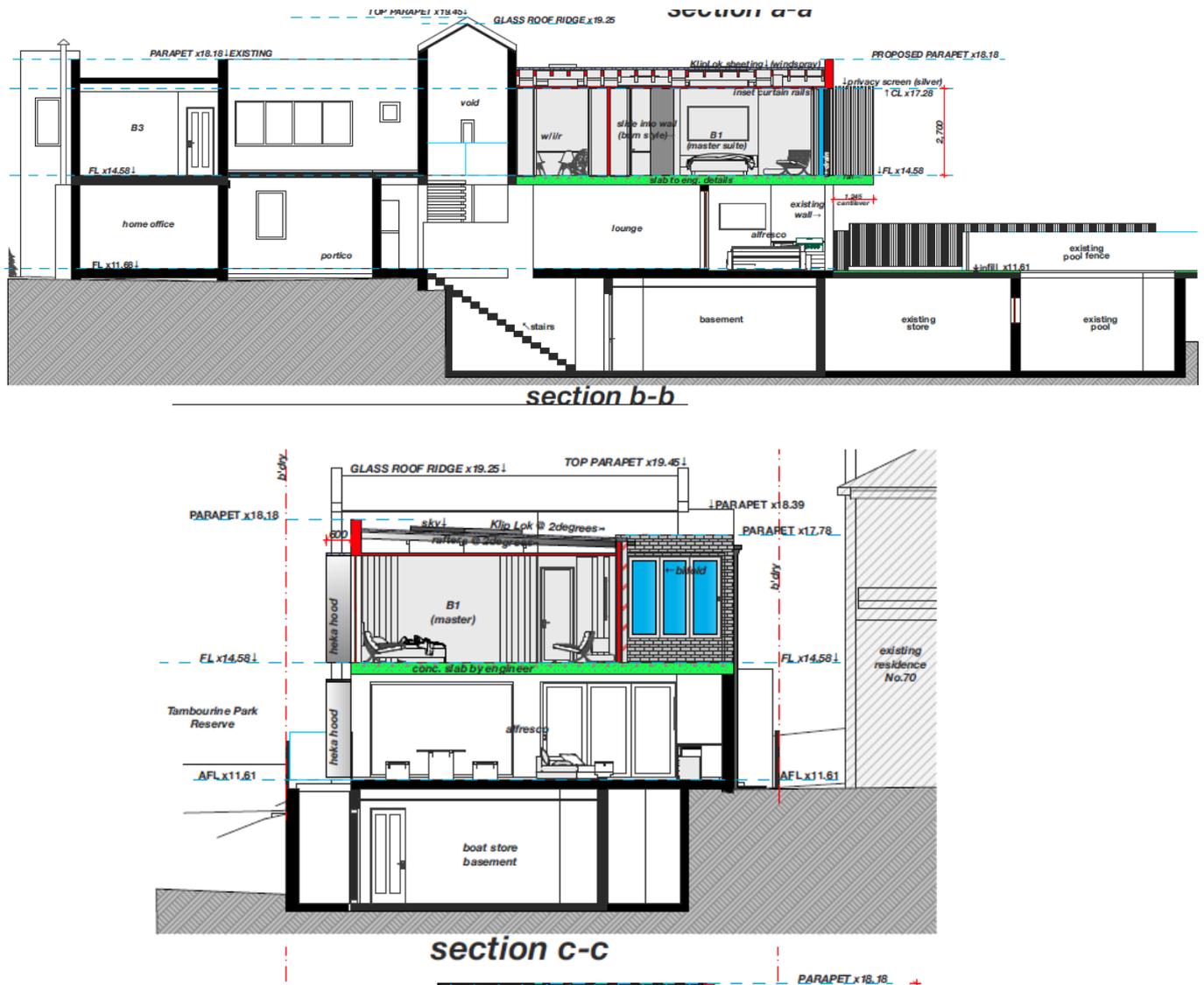
***building height (or height of building) means—***

- (a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or*
- (b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,*

*including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.*

**Lane Cove Local Planning Panel Meeting 15 June 2022**  
**72 KALLAROO ROAD, RIVERVIEW**

Whilst the applicant has claimed full compliance however Council's assessment has indicated that when you measure the highest point of the proposed addition from top of the parapet to the bottom of the basement level which is now the natural ground level, the maximum height is proposed is 9.7m when measuring off the submitted section plans.



**Figures 19 & 20: Relevant Section Indicating a Maximum 9.7m Building Height from Top of Parapet (Coloured in Red) to the Bottom of the Basement Level**

As there is no submission of a Clause 4.6 written justification by the applicant, the proposed breach to building height cannot be approved in this instance and along with the proposed extent of the FSR variation, the subject Development Application is recommended to be refused despite the proposed height breach of the dwelling house being minimal with the applicant merely attempting to match the existing parapet roof line of the existing dwelling. It is noted that it would also appear to be below the existing height of the glass void/clerestory roof ridge structure in the middle section of the building.

**Other Considerations**

Lane Cove Local Environmental Plan 2009 – Other Relevant Provisions	
Provision	Assessment
Clause 5.10(5) - Heritage Conservation	The proposal is subject to Clause 5.10 of LCLEP 2009 due to the land being adjacent to a local heritage item to the south (I233 - Tambourine Bay Baths, see Figure 4). Clause 5.10(5) states the following:

**Lane Cove Local Planning Panel Meeting 15 June 2022  
72 KALLAROO ROAD, RIVERVIEW**

<b>Lane Cove Local Environmental Plan 2009 – Other Relevant Provisions</b>	
<b>Provision</b>	<b>Assessment</b>
	<p><i>(5) <b>Heritage assessment</b> The consent authority may, before granting consent to any development—</i></p> <p><i>(a) on land on which a heritage item is located, or</i></p> <p><i>(b) on land that is within a heritage conservation area, or</i></p> <p><i>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</i></p> <p>Council's Heritage Advisor has reviewed the proposal and has concluded that the development as proposed would not have an unacceptable impact on the item. Accordingly, the proposal is considered to satisfy Clause 5.10(5) of LCLEP 2009.</p>

**Any proposed instrument (Draft LEP, Planning Proposal)**

N/A

**Any development control plan**

Lane Cove DCP 2010

**Parts B and C1 – General Controls, Dwelling Houses and Dual Occupancies**

A full assessment of the proposal under LCDCP 2010 Parts B and C1 has occurred and the non-compliances identified in the table are assessed below.

<b>LCDCP 2010 - Dwelling House – Table of Compliance</b>			
<b>Part</b>	<b>Control</b>	<b>Proposed</b>	<b>Complies</b>
Front setback (min)	Consistent with area or 7.5m	There are no changes to the existing front setback	N/A - existing
Side setback (min)	1200mm single storey 1500mm two storey	<p>The first floor of the existing dwelling has setbacks as follows: Eastern: 1.145m Western: 1.125m</p> <p>The proposed alterations and additions to the rear existing first floor of the dwelling proposes the following side setbacks:</p> <p>Eastern: 1.145 – following on from existing building line. Western: 1.615m</p>	<b>No, whilst extension of wall is consistent with existing building setbacks however would contribute to the unnecessary overall increased bulk or scale of the development</b>
Rear setback (min)	<1000m <sup>2</sup> : 8m or 25% whichever is the greater. The subject site has an irregular shape the eastern boundary measures 46.135m and the western boundary measures 52.725m	The proposed alterations and rear addition to the first floor have a rear setback of 8.675m on the eastern boundary and 10.475m on the western boundary.	<b>No, the rear setbacks would be inconsistent with the rear setback of the adjoining property</b>

**Lane Cove Local Planning Panel Meeting 15 June 2022**  
**72 KALLAROO ROAD, RIVERVIEW**

	where the average is 49.43m  Setback required: 12.4m		
Wall Height (max) (max parapet of 600mm)	7.0m	9.7m – flat roof parapet design	<b>No, see Building Height discussion in the main report</b>
Maximum Ridge height	9.5m	See above	<b>No, not adequately addressed by the applicant</b>
Undercroft height (max)	1m	No change to existing	N/A - existing
Number of Storeys (max)	2	Part 2 and 3	Existing variation however the extent of the 3 storey component of the development has been increased by the subject proposal
Maximum Number of Storeys in Elevation Profile	3	3 along the western and rear elevations	Yes
Landscaped area (min) (Minimum width of 1m required to be included in area)	35%  The site has an area of 612sqm and therefore is required to have 35% or 214.2sqm landscaped area.	143.35sqm being an increase of 13.5sqm (23.4%)	Existing landscaped area maintained however it is an indicator of the already overdeveloped nature of the site
Foreshore Building Line (min)	See DCP for details	The proposal does not pass the 1st test where the new first-floor level setback would not match the first-floor level of the adjoining dwelling to the east	<b>No, the variation along with the other variations proposed would adversely contribute to the relevant bulk and scale concerns raised</b>
Cut and Fill (max)	1m	No cut and fill proposed	Yes
Solar Access	3 hrs as per DCP.	Achieved	Yes
Provide for view sharing	See DCP for details	Further encroachments to the rear may affect some existing views to the Tambourine Bay Bushland Reserve from the adjoining to the east	Whilst not a reason for refusal as the majority of views would be maintained however the additional works does contribute to the overdeveloped nature of the proposal
Heritage Conservation	See heritage referral assessment.	See heritage referral assessment.	Yes
Deck/Balcony depth (max)	3m	Max. 1.25m	Yes

**Lane Cove Local Planning Panel Meeting 15 June 2022**  
**72 KALLAROO ROAD, RIVERVIEW**

Rooftop Terraces	No rooftop terraces allowed.	None proposed	N/A
Private open space	24 m <sup>2</sup> (min) 4m minimum depth	Achieved	Yes
Off-street spaces (min)	2	Achieved	Yes
Driveway width	3m at the lot boundary	Consistent with existing.	N/A
% of Allotment Width (garages & carports)	50% of lot width or 6m, whichever is the lesser	Unchanged - existing	N/A
Pool Setback to Neighbour's House (min)	3m to waterline	Unchanged - existing	N/A
Pool Height (max) (steeply sloping sites)	1.0m 1.8m	Existing	N/A
Pool Setback from boundary if coping is above ground level (existing) (min)	Coping to be set back at a ratio of 1:1	Existing	N/A
Front fence height (max)	Solid: 900mm Lightweight: 1.2m	Existing	N/A
Front fence setback from front boundary if > 1.2m	1m	Existing	N/A
Side and rear fences	1.8m	Not proposed.	N/A

### DCP Objectives

The relevant objectives for dwelling houses and dual occupancies are as follows:

#### Clause 1.1

- *Ensure new dwellings and alterations & additions to existing dwellings are well designed and compatible with the surrounding context and enhance the streetscape within the area.*
- *Achieve a reasonable level of amenity for both development sites and neighbouring dwellings.*

### Variations

The following section of the report addresses the proposed variations to the prescriptive DCP measures sought to be varied having regard to the applicant's submitted justification and the objectives of the prescriptive measure sought to be varied:

The relevant DCP setbacks objective is as follows:

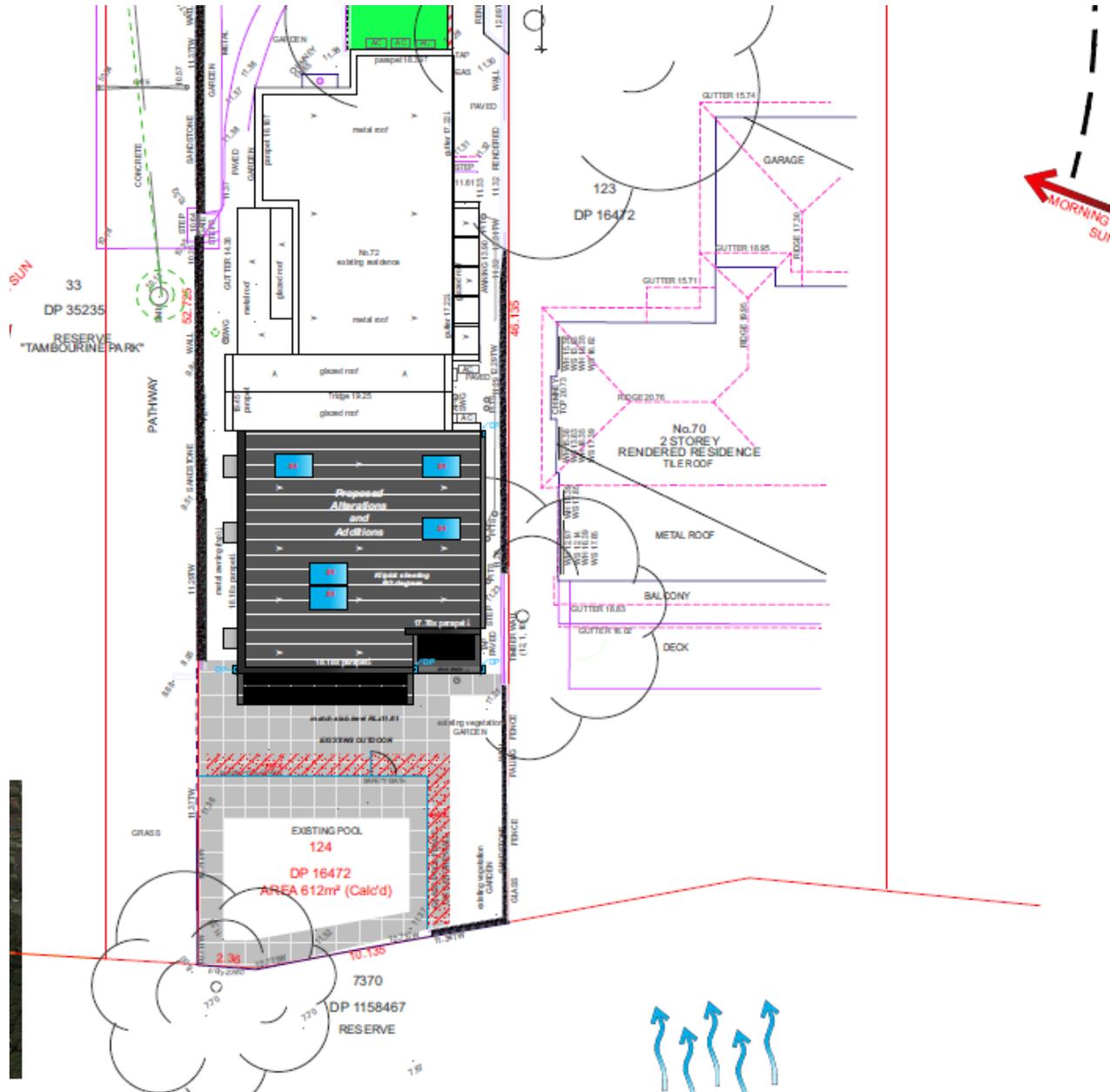
#### Clause 1.3

- *Side and rear setbacks are to provide building separation, sunlight, landscaping, ventilation, public views (if appropriate) for the dwelling and its neighbours.*

**i. Side First Floor Setback** – The DCP required a minimum 1.5m setback on the first-floor level. The existing first floor setbacks are a minimum of 1.145m to the eastern boundary and 1.125m to the western boundary. It is proposed to have minimum setbacks of 1.145m to the eastern boundary to match the existing setback and 1.615m to the western boundary. Whilst not a reason to refuse in isolation, the proposed variation along with the other proposed variations including the proposed large variation to FSR cumulatively contribute to the unnecessary created bulk or scale of the development in particular to the adjoining dwelling to the east by further minimising building separation and public views.

**ii. Rear Setback** – The DCP requires a minimum 12.4m rear setback. The proposed alterations and rear addition to the first floor would have a rear setback of 8.675m on the eastern boundary and

10.475m on the western boundary. It is noted that the existing rear setback of both the ground and first floors matches the existing setbacks of the dwelling to the east and the proposed upper level addition including new balconies would now be well forward of the existing ground level deck and well forward of the upper level including the balcony of the adjoining dwelling.



**Figure 21: Proposed Roof Plan of the New Works Adjacent to the Existing Adjoining Dwelling**

Along with the above side first floor setback variation, this variation also contributes to the concerns posed by the large FSR variation involved being the overdeveloped nature of the proposal by not maintaining a consistent rear setback with the adjoining dwelling and reasons provided above under the side setback variation section of this report.

The relevant DCP building design objectives are as follows:

Clause 1.7

- *Ensure new dwellings and alterations and additions to existing dwellings reinforce the typical bulk and scale of existing dwellings within the street and the area.*
- *Ensure elevations to the street and public domain are well proportioned and designed.*
- *Minimise impact in terms of overshadowing, loss of privacy, light spillage to adjoining properties, loss of views and amenity.*

**iii. Wall Height** – The DCP stipulates a maximum wall height of 7.0m where a wall height of 9.7m inclusive of the proposed parapet structure on a flat roofed design, which had not been addressed by the applicant (see the Building Height section above in this report for further details) claiming full compliance. Again, the proposed extension with this proposed breach would contain some additional unnecessary bulk and scale issues which could be easily addressed with a minor redesign to fully comply and to minimise impacts on the adjoining property.

The relevant DCP B5 Development in Foreshore Areas objective is as follows:

Clause 5.1

- *Maintain or enhance existing residential amenity and visual character of foreshore residential development by:*
  - i. *Minimising the impact and prominence of foreshore development when viewed from the Lane Cove and Parramatta Rivers.*
  - ii. *Ensuring that the architecture of development that is highly visible from the rivers is not visually prominent, in character with the locality and minimises its bulk and scale.*

**iv. Foreshore Building Line (1st Test)** – As a guide only, the DCP requires that the foreshore setback line is to be kept parallel to the foreshore where there is only one neighbour. The proposal does not demonstrate technical compliance with the second test being that the proposed upper level extension does not match the existing upper levels of the adjoining dwelling as discussed in this report and as shown under **Figure 21** above. It is considered that the proposal's inconsistency with the adjoining dwelling upper level setbacks would also contribute to the additional potential adverse impacts resulting from the substantial FSR and rear building setback variations being proposed.

**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 on both the natural and built environments of the locality have been considered and addressed in the report and are unsatisfactory.

**The suitability of the site for the development**

The proposed development does not respond appropriately to the site constraints and therefore the site is not suitable for the development in this instance.

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

The proposed development was notified in accordance with Council policy and one submission was received from the adjoining dwelling to the east at No. 70 Kallaroo Road. The submissions main points are summarised and addressed below.

*This is a substantial extension from the existing upper level footprint. Although there is a privacy screen, there still would be adverse privacy impacts into the adjoining property. The extensions would impact the views to Tambourine Bay Bushland Reserve. The proposed extension is based on*

*further increasing on the permitted land to building ratio permitted which is already over from the recent approval granted for the basement media room under the house.*

**Comment:** The proposed increase in floor space would further add to the already existing non-compliance with Council's maximum 0.5:1 FSR development standard and no further increases in floor space proposed on the subject site ought to be approved in this instance. It is considered that the maximum development potential or yield on the site has been fully achieved and approval would create a precedent for the immediate Kallaroo Road locality where there have been no substantial variations approved. It is recommended that the subject application be refused to maintain the existing residential amenity to be maintained in particular to the adjoining property to the east.

### **Public Interest**

The proposal would be contrary to the public interest if approved as it provides for an overdevelopment of a residential site that departs from the envisaged/existing built form of the low-density residential character of the immediate Kallaroo Road locality and its potential adverse impacts to an adjoining property.

### **CONCLUSION**

The matters in relation to Section 4.15 of the Environmental Planning and Assessment Act 1979 have been addressed in the report. The Development Application is for alterations and additions to an existing part two and part three storey dwelling house. The proposed development is of such a bulk and scale that it is largely inconsistent with the controls set for this form of development under Lane Cove Local Environmental Plan 2009 and Lane Cove Development Control Plan 2010. The FSR variation of 16.9% is demonstrative of this. The resulting impacts on the locality and on an adjoining property are considered unsatisfactory. The Development Application is reported to the Lane Cove Local Planning Panel with a recommendation for refusal for the reasons outlined below.

### **RECOMMENDATION**

That the Lane Cove Local Planning Panel refuse a variation to the floor space ratio prescribed by Clause 4.4 of the Lane Cove Local Environmental Plan 2009, as it is not satisfied that the applicant's request has adequately addressed the matters required to be demonstrated by Clause 4.6 of that Plan, and the proposed development would be contrary to the public interest as it is inconsistent with the objectives of that particular standard and the objectives for development within the zone.

That pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act, 1979 the Lane Cove Local Planning Panel at its meeting of 15 June 2022, exercising the functions of Council as the consent authority, refuse Development Application DA18/2022 for the alterations and additions to an existing dwelling at No. 72 Kallaroo Road, Greenwich for the following reasons:

#### **1. Aims of Lane Cove Local Environmental Plan 2009:**

The proposed development does not meet the aims of Lane Cove Local Environmental Plan 2009.

#### Particulars:

- a) The proposed development would not preserve and improve the existing character, amenity and environmental quality of the land and the expectations of the community.

#### **2. Objectives of Lane Cove Local Environmental Plan 2009:**

The proposed development does not meet the objectives of the Zone R2 Low Density Residential of the Lane Cove Local Environmental Plan 2009.

Particulars:

- a) To retain, and where appropriate improve, the existing residential amenity of a detached single family dwelling area.

**3. Floor Space Ratio**

The proposed floor space ratio exceeds the standard and the Clause 4.6 written request is unsatisfactory.

Particulars

- a) Clause 4.4 of LCLEP applies a maximum floor space ratio of 0.5:1 to the land.
- b) The proposed floor space ratio is 0.584:1 being a variation of 16.9%.
- c) The calculation should likely include additional areas within the basement level.
- d) The Clause 4.6 written request is considered unsatisfactory as it does not demonstrate the matters to be established under Clause 4.6(3).
- e) Approval of the floor space ratio variation would be contrary to the public interest as it does not comply with the objectives of the standard or zone.

**4. Building Height**

The proposed building height does not meet the objectives of the standard or zone under LCLEP 2009.

Particulars

- f) Clause 4.3 of LCLEP applies a maximum height of building of 9.5m to the land.
- g) The proposed maximum height of building is 9.7m.
- h) No written Clause 4.6 written request has been submitted to demonstrate whether the matters to be established under Clause 4.6(3).
- i) The height variation would be contrary to the public interest as it does not comply with the objectives of the standard or zone.

**5. Wall Height**

The wall height is unsatisfactory as it would exacerbate the height of the flat roofed building.

Particulars

- a) Part C1.7.1(a) of LCDCP 2010 stipulates a maximum wall height of 7m where a wall height of 9.7m is proposed.
- b) The wall height is resultant from a protruding existing basement level in the south-western corner of the building.
- c) The proposed wall height does not meet the objective of the control relating to providing a typical bulk and scale, to ensure elevations to the public domain are well proportioned and designed and to minimise impact in terms of loss of privacy, loss of views and amenity.

**6. Rear Setback**

The rear setback element for the first-floor addition would not be consistent with the adjoining dwelling to the east.

Particulars

- a) Part C1.3.4(d) of LCDCP 2010 allows for a minimum rear setback of 12.4m.
- b) The proposed alterations and rear addition to the first floor have a rear setback of 8.675m on the eastern boundary and 10.475m on the western boundary.
- c) The rear setbacks would be inconsistent with the rear setback of the adjoining property and would adversely contribute to the relevant bulk and scale concerns raised.
- d) The proposed rear setback does not meet the objective of the control relating to rear setbacks are to provide building separation and public views for its neighbours; ensuring alterations/additions to existing dwellings are well designed and compatible with the surrounding context and to achieve a reasonable level of amenity for both development sites and neighbouring dwellings.

**7. Foreshore Setback Line – 1<sup>st</sup> Test (DCP)**

As a guide only, the proposed development will encroach into the foreshore setback area between the existing dwelling and the existing adjoining dwelling on the first-floor level.

Particulars

- a) Part B5.1.3(2)(c) of LCDCP 2010 sets a Foreshore Setback Line according to the following test that the foreshore setback line is to be kept parallel to the foreshore where there is only one neighbour.
- b) The proposal does not demonstrate technical compliance with the second test being that the proposed upper level extension does not match the existing upper levels of the adjoining dwelling.
- c) It is considered that the proposal's inconsistency with the adjoining dwelling upper level setbacks would also contribute to the additional potential adverse impacts resulting from the substantial FSR and rear building setback variations being proposed.
- d) The proposed rear setback does not meet the objective of the control relating to maintaining or enhancing existing residential amenity and visual character of foreshore residential development by minimising the impact and prominence of foreshore development when viewed from the rivers and ensuring that the development when visible from the river is not visually prominent, in character with the locality and minimises its bulk and scale.

**8. Side Setback**

The side eastern boundary of the development requires a setback of 1500mm under Part C1.2.2(a) of LCDCP 2010 on the upper floor level and whilst the extension of wall is consistent with existing building side building setback of 1.145m however it would contribute to the unnecessary overall increased bulk or scale of the development. The proposed side setback does not meet the objective of the control relating to side setbacks are to provide building separation and public views for its neighbours.

**9. Public Interest**

The proposal would be contrary to the public interest as it provides for a form of overdevelopment of the site that departs from the envisaged low-density residential character of the locality.

**10. Site Suitability**

The proposed development does not respond appropriately to the site constraints and therefore the site is not suitable for the proposed development.

### **11. Sydney Harbour Catchment – Lack of Information**

Insufficient information is provided to determine compliance with SEPP (Biodiversity and Conservation) 2021 in relation to visual impacts from the waterways (given no analysis is provided from the waterway itself).

### **12. Undesirable Precedent**

The proposal development would set an undesirable precedent for a similar development in low density residential areas in relation to excessive floor space area being located on a R2 zoned allotment.

Mark Brisby  
**Executive Manager**  
**Environmental Services Division**

#### **ATTACHMENTS:**

AT-1 [View](#) Clause 4.6 Submission to Vary Clause 4.4 Floor Space Ratio - 72 Kallaroo Road, Riverview - DA18/2022 9 Pages

**Lane Cove Local Planning Panel Meeting 15 June 2022  
S 4.55 AT 2 - 4 MERINDA STREET LANE COVE NORTH**

**Subject:** S4.55 at 2 - 4 Merinda Street Lane Cove North  
**Record No:** DA21/18-01 - 26048/22  
**Division:** Environmental Services Division  
**Author(s):** Christopher Shortt

Property:	S 4.55 at 2 - 4 Merinda Street Lane Cove North
DA No:	DA18/2021
Date Lodged:	5 April 2022
Cost of Work:	No change
Owner:	Marian Street Pty Ltd
Applicant:	Ms Amber Ingleton – Designcorp Architects Pty Ltd

Description of the proposal to appear on determination	Section 4.55(2) modification to approved residential flat building
Zone	R4 High Density Residential
Is the proposal permissible within the zone	Yes
Is the property a heritage item	No
Is the property within a conservation area	No
Is the property adjacent to bushland	No
BCA Classification	Class 2 and 7a
Stop the Clock used	No
Notification	Notified in accordance with Council Policy and ten (10) submissions received by way of objection.

**REASON FOR REFERRAL**

The proposal is referred to the Lane Cove Local Planning Panel as ten (10) public submissions were received as a result of the notification period. The proposal is therefore considered to be a contentious development application.

**EXECUTIVE SUMMARY**

The application proposes alterations and additions to an approved residential flat building. The s4.55 (2) proposed modifications include:

- An increased area of the roof top communal space by 125.37sqm;
- Southern lift overrun height increase to allow all residents access to the roof;
- Reconfigured mechanical service area on roof;
- Raise stepped section to southern roof of level 5 by 500mm from RL65.7 RL66.2 to achieve 2.7m floor to ceiling height;
- New substation and fire hydrant booster on Merinda Street;
- Change balustrades 108, 208 and 308 to balconies of units from clear to opaque glazing as per condition (1A) to increase privacy to 6 Merinda and 28 Pinaroo Place;

- Changes to window configurations on north elevation facing Mindarie Street. Larger single pane windows divided to small multi-pane windows to accommodate for wind loading impacts;
- Windows added to east elevation of unit 102, 202 and 303 bedrooms as per recommendations of Condition (3) of the development consent;
- Ground Floor courtyard dividing fences modified as per Conditions 4 of the development consent;
- internal changes to bathrooms for adaptable units, service rooms in basement, basement and lower ground floor RLs

The proposed changes to the rooftop communal space would vary the LEP2009 height control. As the consent authority, Lane Cove Council cannot apply clause 4.6 to the subject section 4.55 application.

Despite the above, the applicant has provided a clause 4.6 variation assessment to justify the proposed variations to the 17.5m LEP height control.

The variations to the height standard of LCLEP 2009 are considered justified and supported in the circumstances of this case. The development would satisfy the objectives of the control despite the non-compliance with the height control. The proposal results in a better planning outcome. The elements of the building which vary the height controls do not result in unacceptable shadows additional shadows as compared to the original approval, but would provide access for residents to a high amenity roof top communal open space area.

## **SITE**

The consolidated development comprises four (4) allotments legally known as Lots 67, 68, 69 and 70 in DP 35865 with a street address known as 2 – 4 Merinda Street and 24 – 26 Mindarie Street, Lane Cove North as shown in Figure 1 below.

The site has an area of 2324.7 sqm. The site has a moderate fall in natural ground level from northern boundary (Mindarie Street) to southern boundary of approximately 4m. The site is relatively flat from western boundary (Merinda Street) to eastern boundary.

To the north are sites containing completed and currently-under-construction residential flat buildings. East and west are sites zoned R4 High Density Residential and currently-under-construction and yet to be developed sites. To the south and south-east are lower density dwelling houses zoned E4 Environmental Living. The E4 area provides a lower built form transition buffer between the residential flat buildings and Stringybark Creek Reserve.

Directly east of the northern portion of the site are single dwelling houses known as 20 and 22 Mindarie Street and 30 Pinaroo Place. These sites are zoned R4 and proposed to be re-developed for the construction of a new 5-storey residential flat building containing thirty (30) dwellings, basement carparking and stratum subdivision.

Directly east of the southern portion of the site is a dwelling house at 28 Pinaroo Place zoned E4. Directly south of the site is a dwelling house at 6 Merinda Street zoned E4.

On the western side of Merinda Street are single dwellings fronting Mindarie Street on land zoned R4 High Density Residential yet to be developed.

On the south-western side of Merinda Street is a six (6)-storey residential flat building containing 106 apartments, cafe and basement parking for 174 vehicles



Figure 1: Subject Site. Roof plan of approved RFB overlaid.

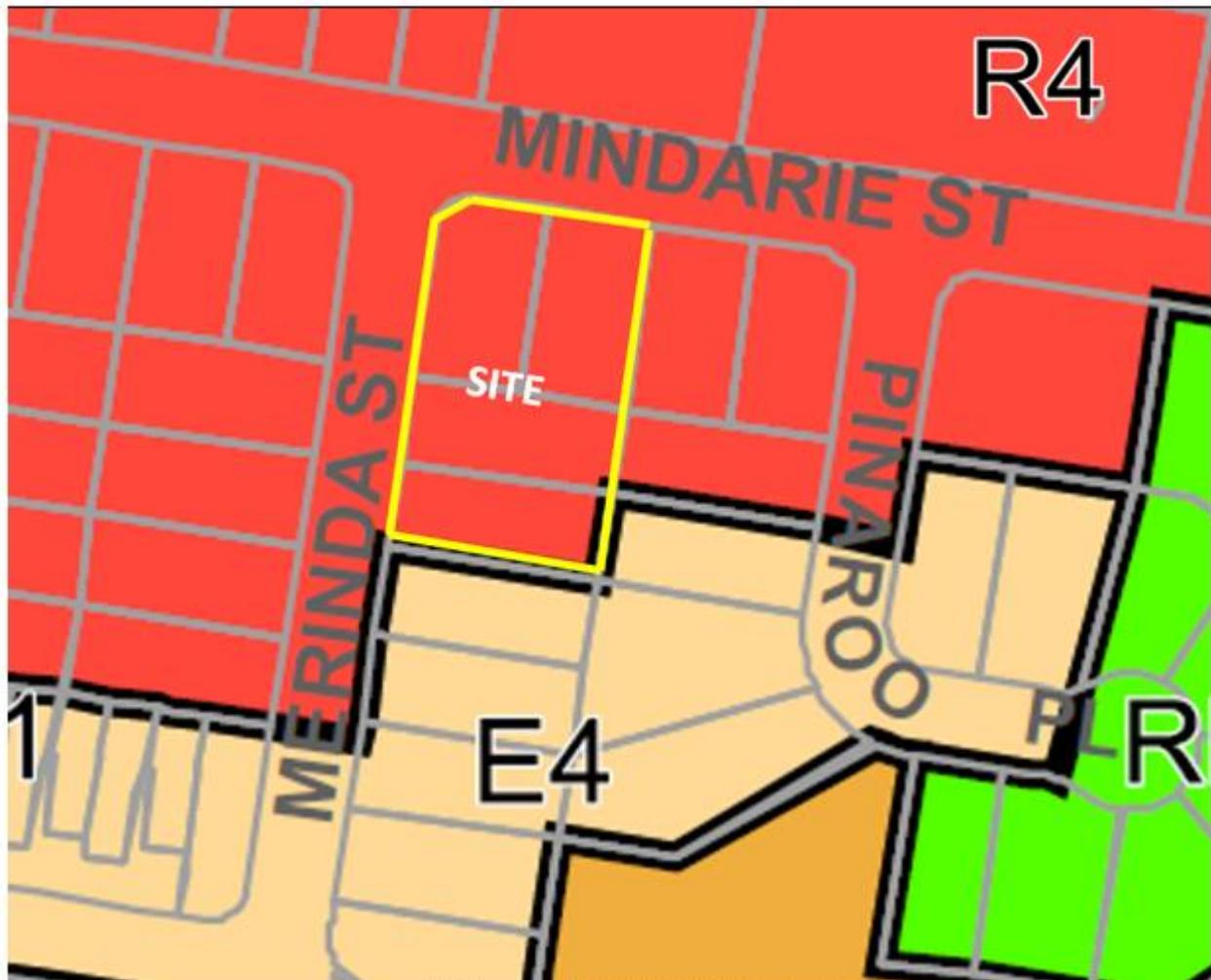


Figure 2: Extract of LCLEP 2009 Zoning Map

### PREVIOUS APPROVALS/HISTORY

On 6 April 2021 the Lane Cove Local Planning Panel at its meeting of 6 April 2021, exercising the functions of Council as the consent authority, granted consent to Development Application DA18/21 for the demolition of existing structures and construction of a residential flat building on Lots 67, 68, 69 and 70 in DP 35865, known as 2–4 Merinda Street and 24–26 Mindarie Street, Lane Cove North.

The Lane Cove Local Planning Panel approved a variation to the height prescribed by Clause 4.3 of the Lane Cove Local Environmental Plan 2009, and was satisfied that the applicant's request had adequately addressed the matters required to be demonstrated by Clause 4.6 of that Plan.

Condition (1A) of the development consent required:

- *The balustrades on the eastern perimeters of the balconies of units 108, 208 and 308 are to be constructed with either opaque glass or solid upstand structures to prevent views to 28 Pinaroo Place.*

Condition (2) of the development consent required:

1. (a) *The proposed roof top communal open space is to be increased in area by approximately 70% of its current size. The increased size shall not create any impacts on privacy of adjoining properties.*
2. (b) *The amended communal area is to include a planter box around the perimeter. The adjacent rooftop service area will be required to be rearranged to suit. The amended area must not include any feature which exceeds the 17.5m height limit and must not involve movement or alteration of the existing features of the rooftop communal area that are the subject of the cl4.6 request, namely the pergola, lift overrun 1, accessible WC roof, fire stairs roof and lift overrun 2.*

*Condition (3) of the development consent required:*

*The plans and elevations are to be amended to ensure bedroom 2 of Units 102, 202 and 302 have a window.*

*Condition (4) of the development consent required:*

*The private courtyard on the eastern side of the ground floor is to be amended so that it cannot be accessed by both Unit G02 and Unit G03.*

*The adjacent private courtyard on the eastern side of the ground floor is to be amended so that it cannot be accessed by both Unit G07 and Unit G11.*

*The plans are to be amended and fences or walls at a height of 1.8m are to be erected within these courtyards to fully separate the outdoor space of each unit.*

## **PROPOSAL**

The section 4.55 modifications to the approved residential flat building. Proposed changes include:

- Roof top communal space proposed to be enlarged with the southern lift core extended to roof level to enable the communal open space to be accessed and utilised by all residents.
- A substation easement and FH booster assembly adjacent to the Merinda Street frontage;
- Basement RL and Lower ground floor RL have been amended to suit structural design while complying with traffic/access requirements;
- Southern side of Level 4 (1m deep section) stepped includes a stepped 2400mm ceiling height. The application proposes to raise this stepped section to 2700mm ceilings by increasing the roof height by 500mm from RL65.7 to RL66.2;
- Internal layout changes for unit around the lift shafts – size of lift shaft have enlarged to suit the manufacturer's specification;
- A general revision in the bathroom layouts to meet access requirements for Visitable and Adaptable units;
- The installation of opaque glazing to the balustrades on the eastern perimeter of the balconies of Units 108, 208 and 308 in accordance with Condition 1A of the development consent;
- Service rooms in basements have been updated to meet requirements from various consultants; and
- Window configuration changes on the north elevation facing Mindarie Street for ease of façade design (wind loading). Also, windows added as per Conditions 3 of the development consent.

- The proposed s4.55 also proposes the deletion/modification of the following conditions:

-

- **Condition 1 - Approved Plans and Documents** - This condition has been requested to be modified to reflect the amended architectural and landscape plans;
- **Condition 1A - Balustrades** - This condition has been requested to be deleted as the requirements have been incorporated in the modified plans.
- **Condition 2 - Roof top communal open space** - This condition has been requested to be deleted as the requirements have been incorporated in the modified plans.
- **Condition 3 - Windows** - This condition has been requested to be deleted as the requirements have been incorporated in the modified plans.
- **Condition 4 - Ground floor courtyard** - This condition has been requested to be deleted as the requirements have been incorporated in the modified plans.

**PROPOSAL DATA/POLICY COMPLIANCE**

**SECTION 4.55 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (the Act)**

The proposal has been assessed in relation to the relevant matters under s.4.55 of the Act as discussed below.

**s4.55 (2)(a) Other modifications - The modified development is to be substantially the same**

Yes: The s.4.55(2) The proposed modifications include changes to approved roof top communal area, roof, additional substation, basement RLs and other internal changes. The proposal is categorised as (2). The proposed modifications are substantially the same as approved.

**s4.55(2) (c) and (d)** the application was notified in accordance with Council policy and has considered any submission made concerning the proposed modification.

**s4.55 (2) (3) Assessment of the proposed modifications**

**Local Environmental Plan 2009**

**Zoning: R4 High Density**

LANE COVE LEP 2009	Proposed	Complies
4.4 Floor Space Ratio 1.8:1	0.5:1	Yes
Height of Buildings  17.5m	<p><b>Proposed southern lift overrun: Maximum height of 21.29m (3.79 m or 21.6% variation).</b></p> <p><b>The southern foyer roof: Maximum height of 19.64m (2.14m or 12.2% variation).</b></p> <p><b>The southern edge of the Level 4 roof form exceeds the 17.83m. (330cm or 1.8% variation).</b></p>	<p><b>No</b></p> <p><b>Refer to clause 4.6 variation section.</b></p>

**Clause 4.3 - Height of Buildings**

A maximum building height of 17.5m applies to the site under LCLEP 2009.

- The approved building has a maximum building height of 20.044m (2.544m or 14.6% variation) to the northern lift overrun.
- The s4.55(2) modifications propose a maximum building height of 21.29m (3.79 m or 21.6% variation) to the southern lift overrun.

The height control diagrams shown in Figures 5 and 6 below depict the extent of the approved and proposed height variations.

### **Clause 4.6 variation**

The proposal includes additional works which vary the 17.5m LEP height control. A clause 4.6 variation statement is not relevant in this instance as:

- The requirement to justify departures to development standards under clause 4.6 only applies when development consent is granted, not when a modification application is made.
- As the consent authority, Lane Cove Council cannot apply clause 4.6 to the subject section 4.55 modification application.

Despite the above, the applicant has provided a clause 4.6 variation assessment to justify the proposed variations to the 17.5m LEP height control.

#### **1. Whether compliance with the development standard would be unreasonable or unnecessary in the circumstances of the case.**

The Clause 4.6 variation has argued that it is unreasonable or unnecessary to require strict compliance with the development standard for the following reasons:-

- *The objectives of the standard are achieved notwithstanding the non-compliance with the numerical standard (First Method established in Wehbe v Pittwater Council [2007] NSW LEC 287).*

#### **2. Environmental planning grounds to justifying contravening the development standard.**

The decision in *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90* demonstrates that the requirement in Clause 4.6(3)(b) of the LEP to justify there are sufficient environmental planning grounds for the variation, requires identification of grounds particular to the circumstances of the proposed development, and not simply grounds that apply to any similar development on the site or in the vicinity.

The applicant has argued that:

- *“The extent of the breach is considered relatively minor and confined to lift overruns, rooftop terrace pergola and a minor portion of the south west corner of the building. The breaching elements do not give rise to any amenity impact with regard to privacy, view loss or overshadowing. The breaching elements are located in the centre of the building which will not be readily discernible from the street. In that regard, the non-compliant elements do not contribute to any perceived unreasonable bulk and scale or visual impact concerns.*
- *There are sufficient environmental planning grounds to justify the contravention of the height of buildings development standard.*

- *The architectural plans and sections demonstrate that all habitable floors sit comfortably below the 17.5 metre height standard with the primary areas of non-compliance being the lift and stair core extension and shade structure associated with the rooftop communal open space. In this regard, I note that clause 3.9(a) - Design of Roof Top Areas of LCDCP states that roof top areas including podium area are to be designed for use as recreation facilities where practicable and should be of high standard of finish and design.*
- *The building height breaching elements facilitate compliance with this DCP control with the proposed communal open space being of exceptional design quality given its northern orientation, size, geometry and integrated landscape elements and compliant with Condition 2 of the development consent. Lane Cove Council has routinely requested/suggested that communal open space should be located on the roof of nearby developments (640-646 Mowbray Road, 23 Mindarie and 614/616 Mowbray, 594-598 Mowbray and 5/7 Mindarie) with variations to the height standard accepted to achieve the superior amenity outcomes associated with rooftop communal open space. In this regard, Council has applied the height standard with a degree of flexibility as it relates to the provision of rooftop communal open space within this precinct.*
- *The south east corner of the site would have been a logical ground level location for the COS, however that would have placed it in the immediate proximity of houses on the zone boundary thereby impacting their amenity. The proposed location on the roof does not have any impact on the neighbours from a privacy or acoustic perspective and the shadow impact is negligible.*
- *The building could be made to comply by deleting the communal rooftop open space and excavating the building further into the ground or by stepping the building floor plates however these alternatives which would make the building compliant are considered to be contrary to objective 1.3(g) of the EP&A Act which is "to promote good design and amenity of the built environment".*

**The building massing does not result in unacceptable impacts to the properties to the south. The environmental planning grounds provided are considered satisfactory and supported. Clause 4.6(3)(b) is considered to be satisfied.**

### **3. Consistency with the zone objectives and objectives of the development standard**

Under the original DA, development consent could not be granted to vary a development standard unless a consent authority is satisfied that the proposed development would 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. An assessment against the objectives of building height and the R4 High Density Residential zone contained within LCLEP 2009 are provided as follows:

An assessment as to the consistency of the proposal when assessed against the objectives of the standard is as follows:

#### **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:** The applicant has provided shadow diagrams and sun view diagrams from 9.00am through to 3.00pm in midwinter. The diagrams demonstrate the level of

overshadowing the proposed modifications would have on the existing surrounding residential properties.

- No additional shadows fall on the sites that receive less than the standard hours of sun as a result of the original approval.
- Sites that receive additional shadows as result of this s4.55 modification achieve a minimum 2 hours solar access and comply.

The largest variations to the height controls are limited to the southern lift overrun which is centrally located within the site. The minor variation of an additional 500mm of the south west edge of the roof would not result in unacceptable overshadowing impacts compared to the approved building envelope as demonstrated in the shadow diagrams.

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

**Comment:** The variation to the lift overruns, fire exit roof, pergola and SE corner of building roof uppermost residential level do not result in any privacy and visual impacts to surrounding developments. The roof top terrace is significantly setback from all building perimeters with privacy suitably addressed through planter boxes and balustrade setbacks.

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

**Comment:** The proposed development provides a high level of solar access to the public domain.

- (d) *to relate development to topography*

**Comment:** The site has only a moderate slope from north to south. The proposed building responds to the gentle slope of the site. The slight slope does not necessitate the need for a significant step-down of part of the upper floor. The development relates appropriately to site topography with excavation limited to that necessary to accommodate the basement parking and service areas. The bulk of the building (excluding lift overruns/fire exit pergola) is within the 17.5m height control. The building height breach is limited to the lift overruns, pergola over the rooftop terrace and a minor portion of the top of the south east corner of the building where the topography of the land falls away.

#### **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 approved development provides 50 apartments to meet the housing needs of the growing community in accordance with the established strategic planning for the locality. No changes are proposed to approved number of units.

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

**Comment:** The approved development provides for a variety of unit types within a high-density residential environment (11 x 1 bedroom, 29 x 2 bedroom and 10 x 3 bedroom). No changes are proposed to the unit mix.

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

**Comment:** Not applicable.

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

**Comment:** The approved development provides 50 new dwellings with good access to Epping Road, Mowbray Road and public transport services. The site has good access to a public reserve with café, sporting and child play equipment facilities at Mindarie Park

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

**Comment:** The approved building design has regard to the existing amenity of residences in the neighbourhood and in particular residential land and properties to the south.

The Apartment Design Guide (ADG) permits non-habitable rooms at ground and 1<sup>st</sup> floor within 6m of the boundary with lower density zones. The first 4 levels of the proposed building would be setback 9m from property boundaries adjacent to E4 zones.

Therefore, the design has not only setback levels 1-4 but also has setback the ground floor an additional 3m from the boundary. The 5<sup>th</sup> floor would be setback 12m from property boundaries adjacent to the E4 zone. These setbacks allow adequate separation to reduce solar access and overlooking impacts.

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

**Comment:** The proposal does not result in isolation of any site. The site is the amalgamation of 4 lots.

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

**Comment:** The proposal provides for landscaped areas well in excess of Apartment Design Guide requirements (33.7% at ground floor where ADG requires 15%) including appropriate streetscape and boundary plantings. The resulting landscape scheme would contribute to local amenity and the broader landscaped character of the residential environment by increasing the overall quantum and quality of landscaping for residential apartment development.

**In accordance with the above, the development complies with the LEP 2009 objectives for the R4 High Density Residential zone.**

## **5. Conclusion**

**The objectives of Clause 4.6 are to provide an appropriate degree of flexibility in applying certain development standards and to achieve better outcomes for and from development by allowing flexibility in particular circumstances. The variations to the height standard of LCLEP 2009 are considered justified and supported in the circumstances of this case. The**

development would satisfy the objectives of the control despite the non-compliance with the height control. The elements of the building which vary the height controls do not result in unacceptable shadow impacts as compared to the approved development but would provide access for residents to a high amenity roof top communal open space area. The development satisfies the objectives and the criteria outlined in clause 4.6. As such, the variation is considered well founded, results in a better planning outcome and is in the public interest.

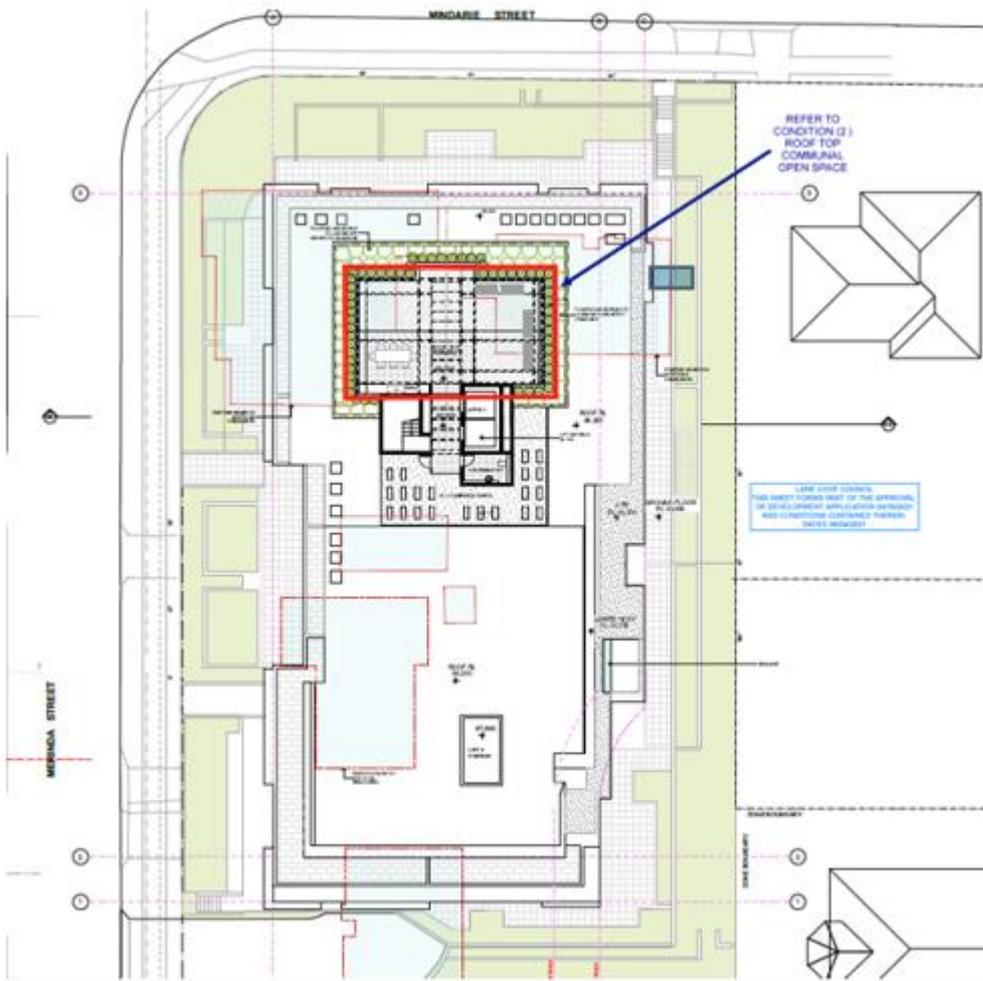


Figure 3: Approved rooftop terrace area.

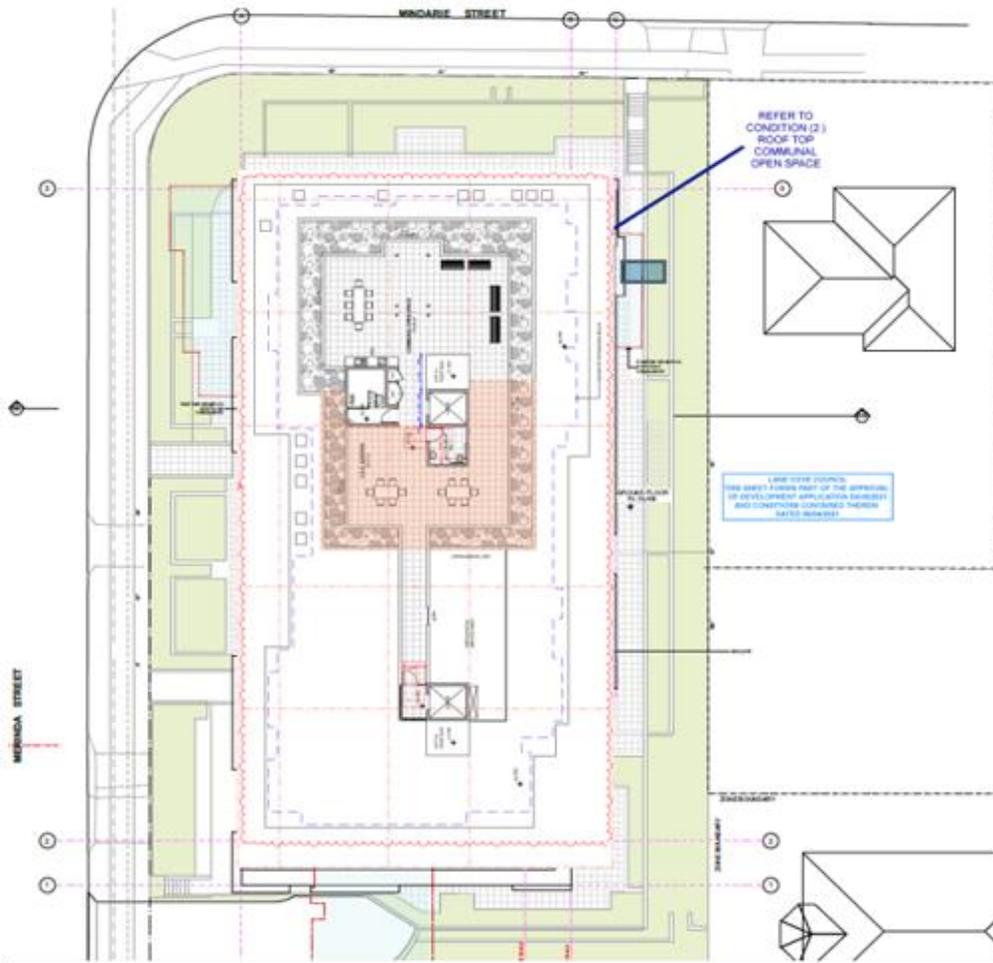


Figure 4: Proposed extension to rooftop terrace area.

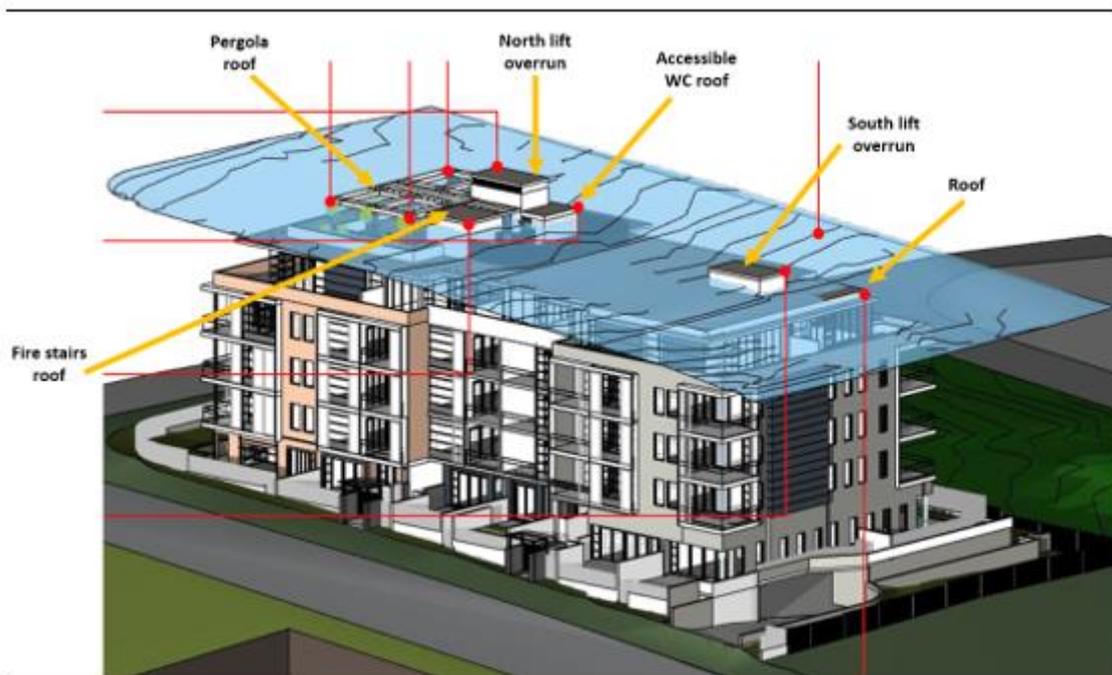


Figure 5: Previously approved works above 17.5m height control (blue layer).

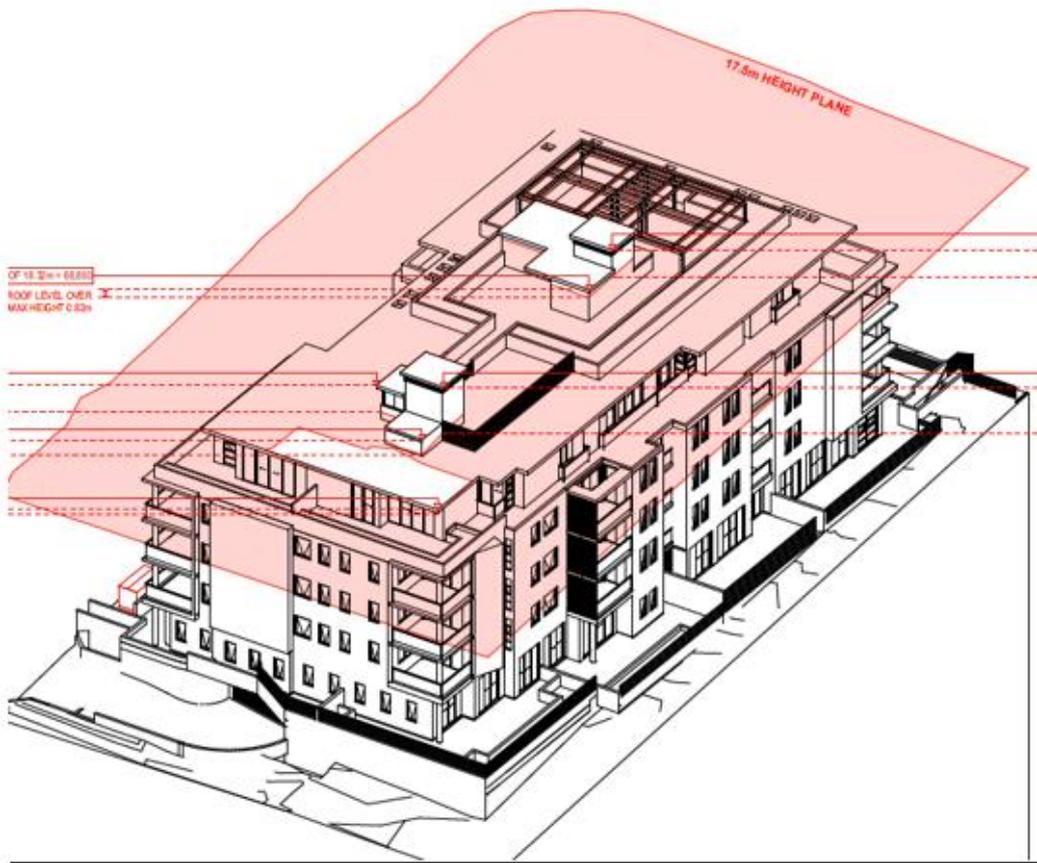


Figure 6: Proposed works above 17.5m height control (pink layer).

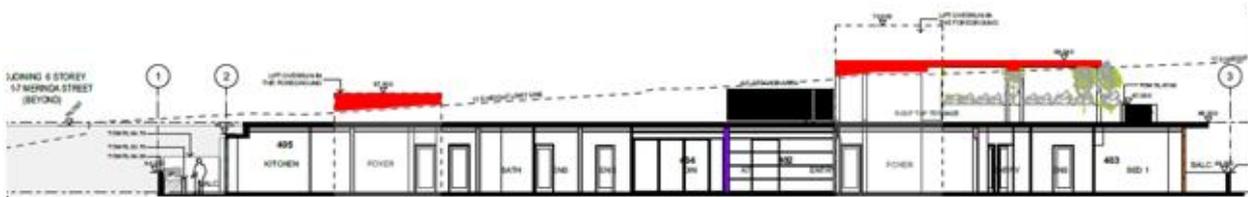


Figure 7: North /south section of approved variations to the height control (in red).



Figure 8: North/ south section of proposed variations to the height control (in red).

**Comprehensive DCP** Section 4.55 assessment

Control C.3 Residential Flat Buildings	Proposed	Complies
3.9 Design of Roof Top Areas  (a) Roof top areas including podium area are to be	Roof top area includes recreational facilities including: <ul style="list-style-type: none"> <li>• BBQ area</li> <li>• Accessible toilet</li> </ul>	YES

<p>designed for use as recreation facilities where practicable and should be of high standard of finish and design. A detailed landscape design and plan of roof top design is to be submitted with the DA.</p> <p>-</p>	<ul style="list-style-type: none"> <li>• Seating area</li> <li>• Landscaped planter box around the perimeter minimum of 1.8m in depth and 1.1m in height</li> </ul> <p>The s4.55 included amended landscaping plans with full species listing for the planters including banksias, frangipanis which have mature heights up to 5m to add vegetation screening.</p>	
<p>3.9 Design of Roof Top Areas</p> <p>(b) the design of exterior private open space such as roof top gardens is to address visual and acoustic privacy, safety, security and wind effects</p>	<p>The original DA approval included a roof top area of approximately 170.59sqm which was only accessible from the northern lift core. A condition in the DA consent included: <i>The proposed roof top communal open space is to be increased in area by approximately 70% of its current size.</i></p> <p>The proposed s4.55 includes an extended roof top communal open space area of approximately 125.37sqm. The extended communal area is generally contained in the central portion of the building and away from the single dwelling houses on adjacent sites to the south and south-east.</p> <p>The southern lift overrun and 1.6m wide passage to the main communal area are located at least 18m to the south and south east boundaries. This element is considered to be a transitional area where persons are not anticipated to occupy for extended periods.</p> <p>The main trafficable area would be:</p> <ul style="list-style-type: none"> <li>• Approx. 31m from the southern boundary and approx. 33.5m from the building at 6 Merinda Street;</li> <li>• Approx. 22m from the closest property boundary and approx. 30m from the dwelling house at 28 Pinaroo Place.</li> </ul> <p>(Refer to Figure 7 in this report).</p> <p>The perimeter of the main communal area also includes 1.8m deep and 1.1m high planter boxes.</p> <p>Beyond the planters and vegetation, the trafficable areas are a minimum 4m from the building edge which will reduce sightlines to downward to the nearest neighbouring</p>	<p style="text-align: center;">YES</p>

	<p>dwelling houses. Views will largely be over the roofs of these dwellings.</p> <p>The large separation of the extended roof top communal area is not considered to result in unreasonable acoustics or visual privacy impacts.</p>	
<p>3.14 Solar Access</p> <p>(c) Where adjacent dwellings and their open space already receive less than the standard hours of sun, new development should seek to maintain this solar access where practicable.</p> <p>(d) Council may accept a reduction in solar access for the subject site and adjacent development if the topography and lot orientation (as distinct from a preferred design) are such that the standard is considered unreasonable.</p>	<p>The approved development included compliant building separation, and further separation at the upper-storey to reduce total shadows. The setbacks were increased by an additional 3m to accommodate the zone transitions</p> <p>The s4.55 modification includes some additional roof top elements which exceed the 17.5m height control.</p> <p>The applicant has provided updated shadow diagrams from 9.00am through to 3.00pm in midwinter.</p> <p>The diagrams confirm:</p> <p><b>9.00am:</b> Additional shadows on Merinda Street carriageway, the front footpath, and setback of the (Hyecorp) residential flat building at 1 - 7 Merinda Street</p> <p><b>10:00am:</b> Additional shadows to front footpath/yard and roof of 10 Merinda Street. (No impacts to open space or north facing windows)</p> <p><b>11:00am:</b> Additional area shadows fall on roof of 10 Merinda Street (potentially additional shadows on northern elevation/windows)</p> <p><b>12:00pm:</b> Additional area shadows on side property boundary of 10 Merinda Street and 8 Merinda Street (adjacent to pool patio) – majority of rear yard receives full solar access. Small area of shadow on the roof of 28 Pinaroo Place.</p> <p><b>1:00pm:</b> Additional area of shadows on rear yard of 26 Pinaroo Place. – However majority of rear yard receives solar access at 1.00pm.</p> <p><b>2:00pm:</b> Additional area of shadows on rear yard and roof of 26 Pinaroo Place. Approx. 50% of rear yard still receives full sun.</p> <p><b>3:00pm:</b> Additional shadows on front yard of 24 Pinaroo Place, Council footpath and street in front of 24 Pinaroo Place.</p> <p>The LEP controls permitted a 5-storey RFB to be approved on the site. The site</p>	<p>YES</p>

	<p>topography and orientation make maintaining the existing solar access for the two southern adjoining properties unreasonable.</p> <p>As a result of the changes proposed in the s4.55 modification:</p> <ul style="list-style-type: none"> <li>• No additional shadows fall on the sites that receive less than the standard hours of sun as a result of the original approval.</li> <li>• Sites that receive additional shadows as result of this s4.55 modification achieve a minimum 2 hours solar access and comply.</li> </ul>	
<p><b>3.17 Communal Open Space</b></p> <p>a) A minimum of 25% of the site area is to be provided as communal open space.</p> <p>b) For mixed use sites, communal open space can be provided on podiums and roof terraces subject to achieving privacy for adjoining users.</p>	<p>The application proposes to increase the roof top area by an additional 125.37sqm (total – 295.96sqm) The proposal roof terrace achieves adequate privacy for adjoining users.</p> <p>Refer to DCP section 3.9 which addresses privacy measures which have been incorporated into the amended design.</p>	<p><b>YES</b></p>

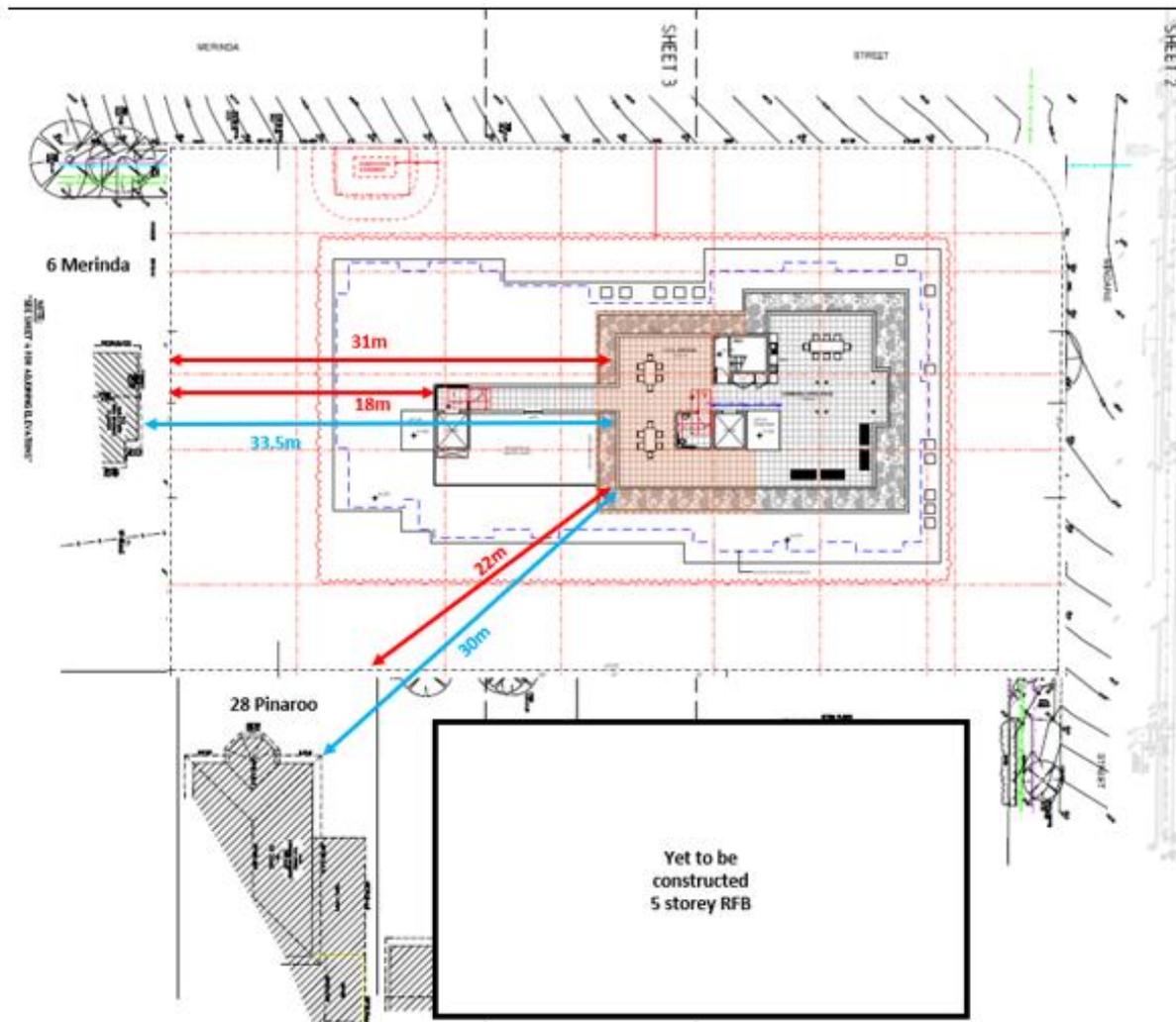


Figure 9: Distance from rooftop terrace to nearest single dwellings.

### LANE COVE LOCAL ENVIRONMENTAL PLAN 2009 (Section 79C(1)(a))

The proposal is permissible, complies with the development standards for Floor Space Ratio. The proposal would result in a variation to the Height controls as required in the Lane Cove Local Environmental Plan 2009.

A clause 4.6 variation statement is not relevant in this instance, however the applicant has submitted a clause 4.6 statement which is considered well founded and justifies the variations of the height controls against the standards of the control, objectives of the R4 zone and height do not raise any issues in regard to the Lane Cove Local Environmental Plan 2009.

### OTHER PLANNING INSTRUMENTS

#### SEPP 55 Remediation of Land

The subject site and adjoining sites are zoned for residential purposes. Given the types of uses permissible within the residential zones, it is unlikely that the site would be contaminated.

## APPLICABLE REGULATIONS

The Environmental Planning and Assessment Regulation 2000 indicates that the standards for demolition and removal of materials should meet with AS 2601-2001 and therefore any consent will require the application of a relevant condition seeking compliance with the Standard.

## RESPONSE TO NOTIFICATION (Section 79C(1)(d))

As a result of the notification period there were 10 submissions. Concerns raised in the submission are summarised below:

Concern	Comment
Concerns raised with additional visual and acoustic privacy impacts due to the expansion of rooftop terrace.	The proposed expansion of the roof top terrace is not anticipated to result in unreasonable amenity impacts. The main trafficable areas with seating facilities/BBQ/ toilet are located at the north and central sections of the building. They are approximately 30m from the boundary closest neighbouring single dwellings to the south and south east (6 Merinda Street and 28 Pinaroo Place) . The expanded roof terrace includes a 1.1m high and 1.8m wide planter box. The revised landscaping plans include a full species listing for the planters including banksias, frangipanis which have mature heights up to 5m to add vegetation screening. The southern lift core and connecting 1.6m wide passage would be a transitional area which persons are not anticipated to occupy for extended periods.
Concerns with non-compliance with LEP 17.5m height control.	Although not required under legislation, the applicant included a 4.6 variation statement which is considered well founded.  The proposed variation to the height control is confined to lift overruns, rooftop terrace pergola and a minor portion of the south west corner of the building. The breaching elements do not give rise to any significant amenity impacts with regard to privacy, view loss or overshadowing as compared to a compliant building. The breaching elements are located in the centre of the building which would not be readily visible from either of the street frontages. In that regard, the non-compliant elements do not contribute to any perceived unreasonable bulk and scale or visual impact concerns.
Concerns that the proposal is out of character with the area.	The site is zoned R4 High density. The building is generally similar in scale to other residential flat building (RFB) in the area. <ul style="list-style-type: none"> <li>• Directly west of the site is a RFB at 1- 7 Merinda Street which included a 19.9m height of lift overrun or 13.7% variation to the height control.</li> <li>• North west of the site is an approval for a RFB at 28 – 34 Mindarie Street which included a lift overrun up to 22.2m in height or 26.86% variation.</li> </ul>
Concerns with additional shadows and solar access	The LEP controls permitted a 5-storey RFB to be approved on the site. The site topography and orientation make maintaining the existing solar access for the two southern adjoining properties unreasonable.  As a result of the changes proposed in the s4.55 modification:

	<ul style="list-style-type: none"> <li>• No additional shadows fall on the sites that receive less than the standard hours of sun as a result of the original approval.</li> <li>• Sites that receive additional shadows as result of this s4.55 modification achieve a minimum 2 hours solar access and comply.</li> </ul>
<p>Concerns on shadows on solar panels of 26 Pinaroo.</p>	<p>The solar access controls in the DCP relate to windows of habitable rooms and private open space. The solar access controls do not prohibit shadows on solar panels which can be erected as exempt development. Some additional shadow would fall on the solar panels at 2.00pm as a result of the s4.55 modifications. Refer to Figure 10.</p> <p>Regardless of the controls, the solar panels would achieve 4 hours solar access as no additional shadows would fall on the solar panels of 26 Pinaroo Place between 9.00am at 1.00pm at mid-winter as a result of the s4.55 modifications. The proposal is considered acceptable.</p>
<p>Concerns with privacy impacts from the approved windows and balconies on the south and east elevations.</p>	<p>As per the original DA condition (1A) the balconies balustrades of units 108, 208 and 308 on the southeast corner of the approved building have been modified to be constructed with opaque glazing rather than clear glazing. The adjoining living rooms of units have blank walls facing south-east. The above design measures would help restrict overlooking to the nearest rear yards of the dwelling houses of 6 Merinda and 28 and 26 Pinaroo Place. The east-facing balconies of units 107, 207 and 307 have full height screens on the southern perimeter to prevent views to 26 Pinaroo Place. These design options were considered acceptable as part of the original approval.</p> <p>To further address the concerns of neighbours, the applicant has agreed to a condition to delete the south facing kitchen widows to units 108, 208 and 308. Refer to figure 13. These windows have would be located closest to the south-east corner. The kitchens have secondary light sources from the glass balcony doors. Deleting the windows would not prevent the kitchens from comply with the BCA, but would prevent any southward overlooking from the kitchens to rear yards of 6, 8 and 10 Merinda Street, and 28, 26 Pinaroo Place</p> <p>It is considered onerous to require other windows of bedrooms on the southern and eastern facades to require high sill windows as the south-facing rooms require adequate light and ventilation.</p> <p>The other properties mentioned in the submission are significantly further away from the subject site:</p> <ul style="list-style-type: none"> <li>• 8 Merinda approx. 17m further distance from the boundary of the site.</li> <li>• 10 Merinda approx. 34m further distance from boundary of the site</li> <li>• 12 Merinda approx. 48m further distance from the boundary of the site.</li> </ul>

	<ul style="list-style-type: none"> <li>• 14 Merinda approx. 63m further distance from the boundary of site</li> <li>• 16 Merinda approx. 77m further distance from the boundary of the site.</li> <li>•</li> </ul>
<p>Concerns with additional windows and changes to windows. Concerns raised to privacy impacts on 6 Merinda Street.</p>	<p>No additional windows are proposed on the south elevation towards 6 Merinda Street.</p> <p>The original DA had no windows to bedrooms of units 102, 202 and 302 which are required under the BCA for light and ventilation. A condition was imposed in the original DA approval requiring these bedrooms to include windows. The proposed windows would face the east elevation toward the approved 5-storey RFB at 20 and 22 Mindarie Street and 30 Pinaroo Place. These windows would not overlook 28 Pinaroo Place or 6 Mindarie Street.</p> <p>As stated above, the applicant has agreed to a condition requiring 3 kitchen windows on the southern elevation on levels 1, 2 and 3 to be deleted to increase privacy measures and address the concerns of neighbours to the south. Refer to Figure 13 in this report.</p>
<p>Concerns that the proposal does not reflect the transition between the R4 high density zone and the E4 low density zone.</p> <p>Request for a 'graded building stepping down with the southern end of the site.</p>	<p>The original DA approval included design measures to accommodate the zone transition between R4 and E4 zones.</p> <p>The LCDCP 2010 requires development applications at the interface between the high and low-density residential zones to demonstrate that the amenity of adjacent houses has been a design consideration by stepping the building in at least 3m after the second level.</p> <p>The site adjoins E4 to the southern boundary and the southern section of the eastern boundary. Under the Apartment Design Guide (ADG) the zone transition habitable rooms at ground and 1<sup>st</sup> floor are permitted within 6m of the boundary with lower density zones.</p> <p>The approved building (habitable rooms) are set back an additional 3m (total 9m) from the southern and south eastern boundary from GF up to 4<sup>th</sup> level, and setback 12m at 5<sup>th</sup> level.</p> <p>The setbacks comply. Therefore, the approved design would not only setback levels 1-4 but also has setback the ground floor an additional 3m from the boundary.</p>
<p>Concerns with impacts of common retaining walls between the site and 28 Pinaroo Place.</p>	<p>An additional draft condition is recommended requiring boundaries of adjoining properties 6 Merinda and 28 Pinaroo be secured by temporary fences throughout the demolition and construction period.</p>
<p>Concerns with the 2m setback of the driveway from the southern boundary with 6</p>	<p>The setback controls in the DCP relate to building setback (external walls) only. The proposal building complies with the DCP setbacks. There is no requirement for the driveway to be</p>

**Lane Cove Local Planning Panel Meeting 15 June 2022**  
**S 4.55 AT 2 - 4 MERINDA STREET LANE COVE NORTH**

Merinda Street. Including noise, safety.	setback a minimum 6m from the neighboring property as the submission requests.
Recommendation that the carpark entrance be relocated to Mindarie Street.	The s4.55 modification does not include changes to the approved vehicle access driveway location on Merinda Street. Vehicle access is generally located at the lowest location on site to minimise excavation.
Concerns with the landscaping between the driveway and the southern boundary	The amended landscape plans include a vegetation buffer in the 2m setback between the driveway and the boundary of 6 Merinda Street including 3 Grey Myrtle trees with a mature height of 4m - 6m and 9 Lilly Pilly shrubs with a mature height up to 3m. The landscaping is considered acceptable. Refer to figure 11 below:
Concerns with the proposed location of the substation/ fire hydrant booster	The substation easement would be located approximately 11.8m from the southern boundary with 6 Merinda Street. A standard substation has specified height of approximately 1.8m. It is not anticipated to result in adverse amenity impacts.
Concerns with traffic/parking impacts of the development.	No additional units are proposed as part of this application. The originally approved apartment building is within the planned density for the site and is a permissible use. The proposed car parking has been provided in accordance with Council controls and was reviewed by Council's traffic engineers who determined the road network can accommodate the development of the site for a residential flat building.
Concerns with approved colourbond fence on southern boundary	Concerns raised that colorbond fence would not provide adequate noise insulation from the driveway entrance. The fence material is considered acceptable.
Concerns raised for alleged lack of information for assessment.	A schedule of materials and finishes is shown on the elevational plans. The transition between the R4 and E4 zones and setbacks have been addressed in both the original and s4.55 report.  There is no requirement for a feasibility study for population growth to be submitted with the DA. Increased population growth was taken into consideration when the site and surrounding area were rezoned to R4 High Density Residential under the provisions of Lane Cove LEP 2009, and the Mowbray Road Precinct Master Planning Study in 2011, following requirements from the state government to increase residential populations in the local government area.



Figure 10: Solar access diagrams at 2.00pm during mid-winter



Figure 11: Landscaping between vehicle entrance at boundary of 6 Merinda.



Figure 12: Additional windows proposed on east elevation.

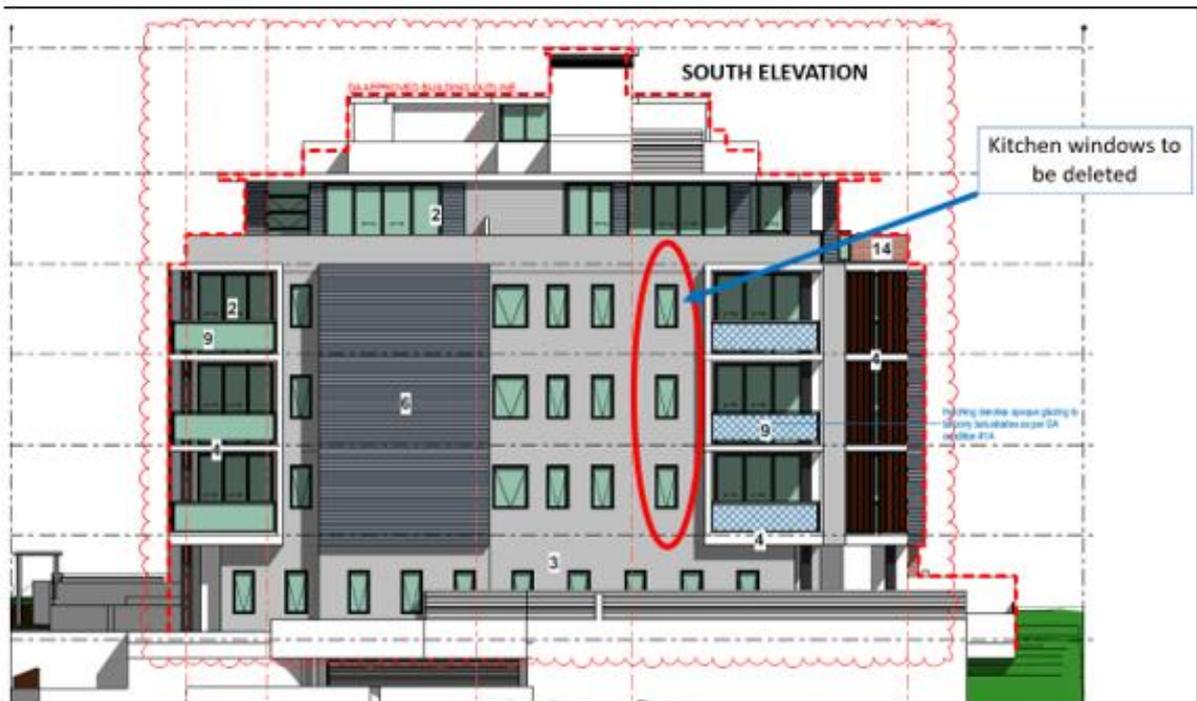


Figure 13: South elevation -kitchen windows to be deleted as per recommended draft condition.

## CONCLUSION

The matters for consideration under section 4.15 of the Environmental Planning and Assessment Act 1979 have been satisfied.

The application complies with the Floor Space Ratio control which remains unchanged. The proposal would result in a variation to the Height controls as required in the Lane Cove Local Environmental Plan 2009.

A clause 4.6 variation statement is not strictly required in this instance, however the applicant has submitted a clause 4.6 statement which is considered well founded and justifies the variation of the height controls against the standards of the control, and objectives of the R4 zone. The proposed variations to the height control would be confined to lift overruns, rooftop terrace pergola and a minor portion of the roof of the south west corner of the building. The breaching elements do not give rise to any significant amenity impacts with regard to privacy, view loss or overshadowing as compared to the approved building. The breaching elements are predominantly located in the centre of the building and would not be readily visible from either street frontage. In that regard, the non-compliant elements do not contribute to any perceived unreasonable bulk and scale or visual impact concerns.

The proposal generally meets with the Part C Residential Development Objectives in the Lane Cove Development Control Plan.

On balance the proposed development as amended would be reasonable and therefore is recommended for approval.

## RECOMMENDATION

That pursuant to the provisions of Section 4.55 of the Environmental Planning and Assessment Act, 1979 (as amended), the Lane Cove Local Planning Panel at its meeting of 15 June 2022, exercising the functions of Council as the consent authority, grant consent to the Section 4.55 modification to Development Application DA18/21 for the demolition of existing structures and construction of a residential flat building on Lots 67, 68, 69 and 70 in DP 35865, known as 2–4 Merinda Street and 24–26 Mindarie Street, Lane Cove North, subject to attached updated draft conditions below:

### A: Amend Condition (1) conditions of consent to modify approved plans:

#### Approved Plans and Documents

That the development be in accordance with the following approved plans and documents:

<b>Drawing No :</b>	<b>Title</b>	<b>Rev:</b>	<b>Prepared by:</b>	<b>Dated:</b>
DA01	Lower Basement		Wolski Coppin Architecture Project No: 21903	29/01/2021
DA02	Basement		Wolski Coppin Architecture Project No: 21903	29/01/2021
DA03	Ground Floor		Wolski Coppin Architecture Project No: 21903	29/01/2021
DA04	Level 2 Typical (L1 + 3 SIMILAR)		Wolski Coppin Architecture Project No: 21903	29/01/2021
DA05	Level 4		Wolski Coppin Architecture	29/01/2021

**Lane Cove Local Planning Panel Meeting 15 June 2022  
S 4.55 AT 2 - 4 MERINDA STREET LANE COVE NORTH**

			<del>Project No: 21003</del>	
DA06	Roof Plan + site plan	A	Wolski Coppin Architecture <del>Project No: 21003</del>	<del>11/02/2021</del>
DA07	Cross + Long Section		Wolski Coppin Architecture <del>Project No: 21003</del>	<del>29/01/2021</del>
DA08	Driveway & Ramp Section		Wolski Coppin Architecture <del>Project No: 21003</del>	<del>29/01/2021</del>
DA09	Mindarie & Merinda Street Elevation	A	Wolski Coppin Architecture <del>Project No: 21003</del>	<del>10/02/2021</del>
DA10	South and East Elevation		Wolski Coppin Architecture <del>Project No: 21003</del>	<del>29/01/2021</del>
SA01	Site Analysis		Wolski Coppin Architecture <del>Project No: 21003</del>	<del>29/01/2021</del>
SA02	Site Context Analysis		Wolski Coppin Architecture <del>Project No: 21003</del>	<del>29/01/2021</del>
CA01	Landscape Area Calculations		Wolski Coppin Architecture <del>Project No: 21003</del>	<del>29/01/2021</del>
FH01	Finishes 01		Wolski Coppin Architecture <del>Project No: 21003</del>	<del>29/01/2021</del>
FH02	Finishes 02		Wolski Coppin Architecture <del>Project No: 21003</del>	<del>29/01/2021</del>
PH01	Adaptable 01		Wolski Coppin Architecture <del>Project No: 21003</del>	<del>29/01/2021</del>
PH02	Adaptable 02		Wolski Coppin Architecture <del>Project No: 21003</del>	<del>29/01/2021</del>
PH03	Adaptable 03		Wolski Coppin Architecture <del>Project No: 21003</del>	<del>29/01/2021</del>
CC200370 E1	Cover Sheet & Notes	A	ACOR Consultants (CC) Pty Ltd	05/01/2021
CC200370 E2	Erosion & Sediment Control Plan	A	ACOR Consultants (CC) Pty Ltd	05/01/2021
CC200370 E3	Erosion & Sediment Control Detail Sheet	A	ACOR Consultants (CC) Pty Ltd	05/01/2021
CC200370 C1	Cover Sheet & Notes	C	ACOR Consultants (CC) Pty Ltd	12/01/2021
CC200370 C2	Stormwater Management Plan – Ground (Part 1)	C	ACOR Consultants (CC) Pty Ltd	12/01/2021
CC200370 C3	Stormwater Management Plan – Ground (Part 2)	C	ACOR Consultants (CC) Pty Ltd	12/01/2021

**Lane Cove Local Planning Panel Meeting 15 June 2022  
S 4.55 AT 2 - 4 MERINDA STREET LANE COVE NORTH**

CC200370 C4	Stormwater Management Plan – Basement	C	ACOR Consultants (CC) Pty Ltd	12/01/2021
CC200370 C5	Stormwater Management Plan -Lower Basement	C	ACOR Consultants (CC) Pty Ltd	12/01/2021
CC200370 C6	Stormwater Management Details Sheet No. 1	C	ACOR Consultants (CC) Pty Ltd	12/01/2021
CC200370 C7	Stormwater Management Details Sheet No. 2	C	ACOR Consultants (CC) Pty Ltd	12/01/2021
<b>DOCUMENT</b>		<b>REV</b>	<b>AUTHOR</b>	<b>DATED</b>
BASIX Certificate No. <del>1165735M_03</del> <b>1284587M</b>			<del>Senica Consultancy Group Pty Ltd</del> <b>Green Star Energy Solutions</b>	<del>28 January 2021</del> <b>17 March 2022</b>
Site Waste Minimistaion and Operational Waste Management Report SW20/11212		C	Senica Consultancy Group Pty Ltd	09/012/2020

As amended by the following plans

<b>Drawing No:</b>	<b>Title:</b>	<b>Rev:</b>	<b>Prepared by:</b>	<b>Dated:</b>
DA01	Basement 2 Floor Plan	J	design corp	26/04/22
DA02	Basement 1 Floor Plan	J	design corp	26/04/22
DA03	Ground Floor Plan	H	design corp	17/03/22
DA04-A	Level 1 Floor Plan	H	design corp	17/03/22
DA04-B	Level 2 Floor Plan	H	design corp	17/03/22
DA04-C	Level 3 Floor Plan	H	design corp	17/03/22
DA05	Level 4 Floor Plan	H	design corp	17/03/22
DA06- A	Roof Plan	H	design corp	17/03/22
DA06- B	Upper Roof Plan	H	design corp	17/03/22
DA07-A	Section 1	H	design corp	17/03/22
DA07-B	Section 2	H	design corp	17/03/22
DA08	Section 3	H	design corp	17/03/22
DA09	Elevations	H	design corp	17/03/22
DA10	Elevations 2	H	design corp	17/03/22
DA11	Elevations 3	G	design corp	17/03/22
LPC22 – 289 Page 1	Hardscape / Site Plan	C	Conzept	21/03/22

LPCC 22 – 289 Page 1	Landscape Plan Ground Floor	C	Conzept	21/03/22
LPCC 22 – 289 Page 1	Landscape Plan Level 4 & Roof Top	C	Conzept	21/03/22
LPCC 22 – 289 Page 4	Irrigation Plan	C	Conzept	21/03/22
LPCC 22 – 289 Page 5	Sections	C	Conzept	21/03/22
LPCC 22 – 289 Page 6	Specifications and Details	C	Conzept	21/03/22
LPCC 22 – 289 Page 7	Details	C	Conzept	21/03/22

*(Condition amended June 2022)*

**B: Delete Conditions (1A), (2), (3) and (4)**

~~1A. **Balustrades** – The balustrades on the eastern perimeters of the balconies of units 108, 208 and 308 are to be constructed with either opaque glass or solid upstand structures to prevent views to 28 Pinaroo Place.~~

~~Details are to be provided on amended plans to the PCA Principal Certifying Authority (PCA) for approval **PRIOR TO SUBMISSION OF A CONSTRUCTION CERTIFICATE.**~~

~~**Reason:** To reduce privacy impacts to the neighbour at 28 Pinaroo Place.~~

*(Condition deleted June 2022)*

~~**2. ROOF TOP COMMUNAL OPEN SPACE**~~

~~3. (a) The proposed roof top communal open space is to be increased in area by approximately 70% of its current size. The increased size shall not create any impacts on privacy of adjoining properties.~~

~~4. (b) The amended communal area is to include a planter box around the perimeter. The adjacent rooftop service area will be required to be rearranged to suit. The amended area must not include any feature which exceeds the 17.5m height limit and must not involve movement or alteration of the existing features of the rooftop communal area that are the subject of the e14.6 request, namely the pergola, lift overrun 1, accessible WC roof, fire stairs roof and lift overrun 2.~~

~~5. The landscape drawings must be amended and submitted to Council's Landscape Principal Certifying Authority (PCA) for approval prior to issue of Construction Certificate.~~

~~**Article 1. Reason:** Communal amenity.~~

*(Condition deleted June 2022)*

~~**3. WINDOWS**~~

~~The plans and elevations are to be amended to ensure bedroom 2 of Units 102, 202 and 302 have a window.~~

~~Details are to be provided to the PCA Principal Certifying Authority (PCA) for approval **prior to submission of a Construction Certificate.**~~

~~**Reason:** Light and ventilation.~~

*(Condition deleted June 2022)*

~~4. GROUND FLOOR COURTYARD~~

~~The private courtyard on the eastern side of the ground floor is to be amended so that it cannot be accessed by both Unit G02 and Unit G03.~~

~~The adjacent private courtyard on the eastern side of the ground floor is to be amended so that it cannot be accessed by both Unit G07 and Unit G11.~~

~~The plans are to be amended and fences or walls at a height of 1.8m are to be erected within these courtyards to fully separate the outdoor space of each unit. Details are to be provided to the Principal Certifying Authority (PCA) for approval prior to submission of a Construction Certificate.~~

~~Reason: Privacy and amenity.~~

*(Condition deleted June 2022)*

**C: Add Conditions (4A) and (4B) to delete kitchen windows and erect temporary fences to property boundaries.**

*Condition (4A) South facing kitchen windows to units 108, 208 and 308 are required to be deleted. Details to submitted on plans to the Principal Certifying Authority (PCA) prior the issue of a Construction Certificate.*

*(Condition added: June 2022)*

*Reason: Improve privacy and amenity.*

*Condition (4B) A temporary fence is erected between the boundaries of the subject site and the neighbouring properties (in particular 28 Pinaroo Place and 6 Merinda) throughout the demolition and construction periods.*

*(Condition added: June 2022)*

*Reason: Security, safety and amenity.*

**D: Amend Condition (107) to included updated Landscaping plans**

107. Landscaping works are to be carried out in accordance with:

- ~~• Landscape plans 193.20/448A, 449A, 450A (dated 10.02.21 and 451-454; prepared by Iscape Landscape Architecture and dated January 2021;~~
- ~~Landscape Specification prepared by Iscape Landscape Architecture dated December 2020.~~

<b>LPCC 22 – 289 Page 1</b>	<b>Hardscape / Site Plan</b>	<b>C</b>	<b>Conzept</b>	<b>21/03/22</b>
<b>LPCC 22 – 289 Page 1</b>	<b>Landscape Plan Ground Floor</b>	<b>C</b>	<b>Conzept</b>	<b>21/03/22</b>
<b>LPCC 22 – 289 Page 1</b>	<b>Landscape Plan Level 4 &amp; Roof Top</b>	<b>C</b>	<b>Conzept</b>	<b>21/03/22</b>
<b>LPCC 22 – 289 Page 4</b>	<b>Irrigation Plan</b>	<b>C</b>	<b>Conzept</b>	<b>21/03/22</b>
<b>LPCC 22 – 289 Page 5</b>	<b>Sections</b>	<b>C</b>	<b>Conzept</b>	<b>21/03/22</b>

<b><i>LPCC 22 – 289 Page 6</i></b>	<b><i>Specifications and Details</i></b>	<b><i>C</i></b>	<b><i>Conzept</i></b>	<b><i>21/03/22</i></b>
<b><i>LPCC 22 – 289 Page 7</i></b>	<b><i>Details</i></b>	<b><i>C</i></b>	<b><i>Conzept</i></b>	<b><i>21/03/22</i></b>

•

The landscape works shall be completed **PRIOR TO ISSUE OF THE OCCUPATION CERTIFICATE.**

***(Condition amended June 2022)***

**Reason:** Landscaping requirement

**E: Retain all remaining conditions being (5) – (106) and (108) - (115)**

**ATTACHMENTS:**

There are no supporting documents for this report.