

Section 4.55(1A) Modification 2 to Affordable Housing Development, Mowbray Road, Lane Cove North

State Significant Development - Section 4.55(1A) Modification Assessment (SSD-71687208-MOD-2)
July 2026

This report details the Department's assessment and evaluation of modification 2 to State significant development (SSD) (SSD-71687208-Mod-2), located at 618-624 Mowbray Road West and 25-29 Mindarie Street, Lane Cove North made under section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1 The proposal

On 16 June 2025, consent was granted to SSD-71687208 for the construction and operation of a 5-storey residential development comprising:

- 86 affordable residential apartments (43 social and 43 affordable housing units)
- semi-basement/above ground parking with 42 car parking spaces (including 4 accessible spaces), bicycle parking spaces, building services and loading dock facilities
- landscaping, tree planting and public domain works
- extension and augmentation of services and infrastructure.

Homes NSW (the Applicant) now proposes to modify the consent to slightly increase building height and change the landscaping design, communal open space, waste and servicing arrangements, stormwater drainage design, and include stratum subdivision of the site into two lots.

Information on the modification application, including plans and site details, as well as the original SSD application are listed in **Appendix A**.

2 Statutory context

2.1 Modification and assessment pathway

The Department's considerations of the scope of the modification and assessment pathway are provided in Table 1 below.

Table 1 | Permissibility and assessment pathway

Consideration	Description
4.55 (1A) – Scope of modification	The Department has reviewed the scope of the modification and is satisfied that it is substantially the same as originally approved, noting it represents minor design changes and inclusion of stratum subdivision.

Consideration	Description
	The Department is satisfied the proposed modification will have minimal environmental impacts. Section 4 of this report provides an assessment of the impacts associated with the modification application.
Consent Authority	The Minister continues to be the consent authority under section 4.5(a) of the EP&A Act and has the capacity to modify the consent of the project.
Decision-maker	Under the Minister's delegation, the Team Leader, Key Sites and TOD Assessments may determine the application as: • a political disclosure statement has not been made; • there are no public submissions by way of objection under the mandatory requirements for community participation in Schedule 1 of the EP&A Act; and • the submission made by Council has been taken into consideration in the assessment of the application, as required by section 4.15(1)(d) of the EP&A Act.

2.2 Matters for consideration

The Department has considered the matters set out in **Appendix B**, including:

- section 4.15(1) of the EP&A Act;
- section 7.17(2) of the Biodiversity Conservation Act 2016; and
- the reasons for granting the original consent.

3 Engagement

In accordance with the *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation), the Department made the modification application publicly available on the NSW Planning Portal from 23 December 2025 and forwarded the application to Lane Cove Council (Council) and Conservation Programs, Heritage and Regulation group within the Department of Climate Change, Energy, the Environment and Water (CPHR) for comment.

The Department received advice from Council and CPHR and requested the Applicant respond to the issues raised. In response, the Applicant provided a Response to Submissions (RtS) on 4 March 2026, and submitted additional information on 17 April 2026, 27 May 2026 and 24 June 2026.

The Department published the submissions report and additional information on the NSW Planning Portal and forwarded the information to CPHR and Council for comment.

Council raised no concerns about the proposal. CPHR provided advice in relation to flooding impacts and provided recommended conditions of consent.

4 Assessment

The Department has reviewed the modification application, Council and government agency advice, and the RtS information and provides an assessment of the relevant key issues in the sections below.

4.1 Building Height

The proposal seeks to increase the building height by 1.58m from 21.67m (RL 66.845m top of lift overrun) to 23.25m (RL 68.445m top of the proposed fire staircase).

The Applicant contends the increase in height is a result of an extension to the fire staircase, to provide access and maintenance of the rooftop.

The site has a maximum permissible building height of 22.75m, which is:

- a base building height limit of 17.5m under clauses 4.3 and 4.4 of the Lane Cove Local Environmental Plan (LEP) 2019; and
- an additional 30% increase to the base building height under section 16 of the Housing SEPP as more than 15% of the total GFA of the development is for affordable housing.

The proposal would result in a 500 mm (2%) variation to the maximum permissible building height as shown in Figure 1 and 2.

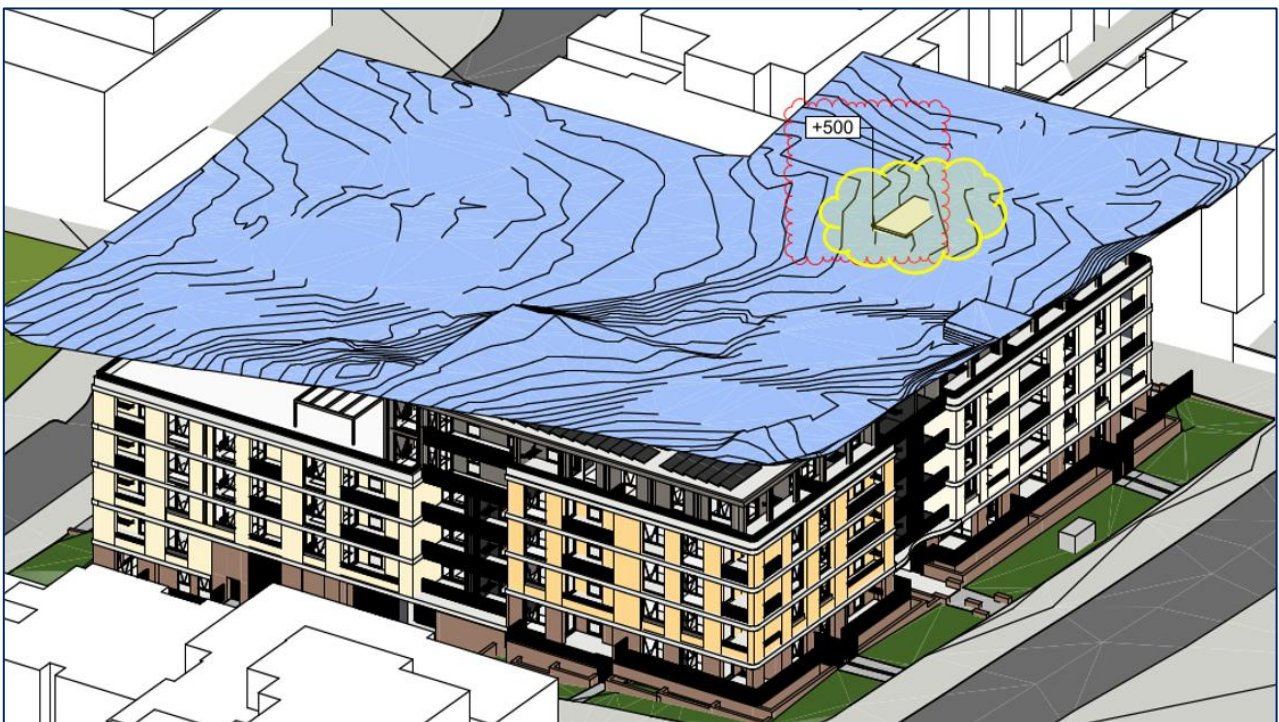


Figure 1 | Height plane diagram showing area which exceed the building height (base source: Applicant's modification report)

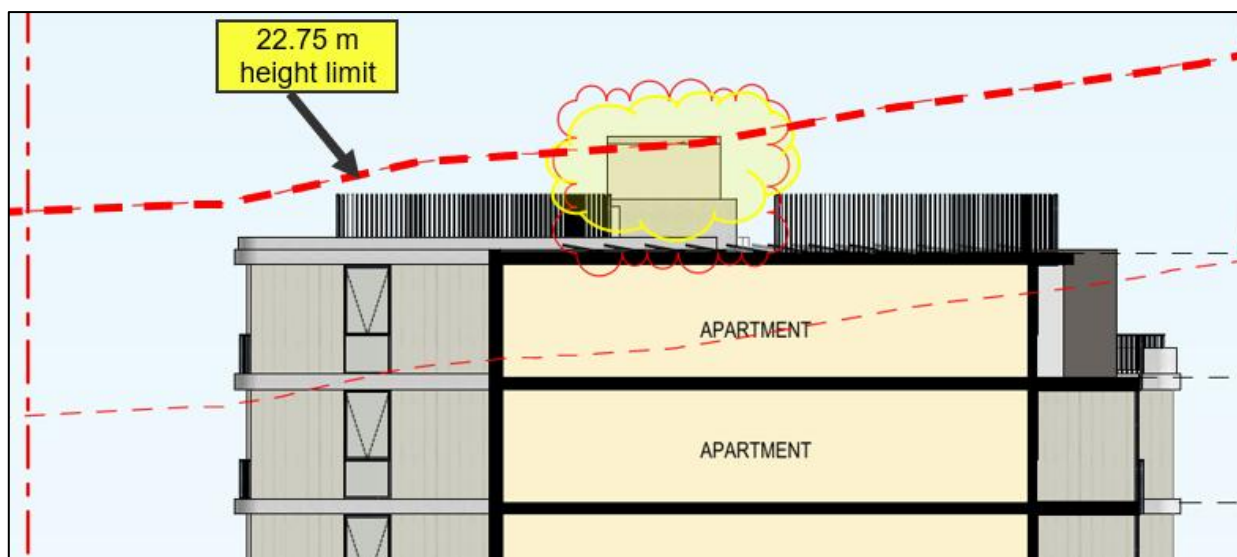


Figure 2 | Elevation showing building element which exceeds the building height (base source: Applicant's modification report)

The Department has carefully considered the proposal and is satisfied the increase in building height is acceptable as:

- it would ensure appropriate access to the rooftop to undertake essential maintenance to rooftop plant and equipment
- it is considered minor in the context of the scale of the building, and would not result in adverse visual or overshadowing impacts
- the fire staircase is centrally located within the rooftop and would not be visually noticeable from the public domain or surrounding area.

The Department recommends amending Condition B14 to reflect the revised building height to the top of the fire staircase.

4.2 Other Issues

The Department's consideration of other issues is summarised in Table 2 below.

Table 2 | Assessment of other issues

Issue	Findings	Recommended conditions
Waste and servicing	• The proposal seeks approval for a revised waste management strategy, removal of waste and recycling chutes, and provision of service vehicles, including Council's waste collection vehicle up to 6.64m long and 2.6m high. • Condition B26 and E6 restrict service vehicles to small rigid vehicles (6.4m long and 3.5m high). • The Applicant advises the changes are a result of: ○ the driveway headroom height being limited to 2.7m ○ the community housing provider's (Link Wentworth) operational experience across similar	The Department recommends Condition B26 and E6 are amended to reflect the maximum dimensions of service vehicles that can access the site.

Issue	Findings	Recommended conditions
	social and affordable housing developments, where chute systems have led to misuse, contamination of waste streams, blockages and damage. • The proposal was accompanied by a revised operational waste management plan and a vehicle vertical clearance diagram and swept paths, confirming suitable access for Council's waste collection vehicle to the bin collection area within the basement. • The Department considers the changes acceptable as: ◦ residents can dispose of their waste and recycling within the two centralised waste storage areas located on the ground floor, accessible via the lifts ◦ service vehicles, including Council's waste collection vehicle can service the development within the basement ◦ no concerns were raised by Council about the revised waste management strategy.	
Flooding	• The proposal seeks approval for changes to the stormwater and landscape design, including the realignment of the driveway and pathway design within the overland flow path located between the building and western boundary. • At present, the pathway consists of a series of graded ramps and stairs to the basement (comprising a ramp, stair, and a ramped bridge). The modified design proposes a simplified design of stairs from street level down to the basement car park entry level, with a single bridge connection across the overland flow path to the basement. • The proposal was accompanied by a revised FIRA, which concluded: ◦ the proposal would not result in any additional flood impact to downstream or adjoining properties ◦ FFLs will continue to be at or above the flood planning levels	The Department recommends: • Condition B20 is amended to reflect the revised FIRA, and to require details demonstrating the stormwater drainage and overland flow path is of sufficient capacity to convey the flows modelled in the FIRA, and the system is maintainable. • Condition E17 is amended to require the Flood Emergency Response Plan to be updated after any significant flood event. • Condition D34 is amended to include details of how persons with a disability or mobility impairment (either temporary or permanent) will access the

Issue	Findings	Recommended conditions
	○ the proposed basement entry to the carpark will continue to be above the PMF level. • CPHR reviewed the revised FIRA and recommended conditions, including: ○ ensuring the detailed design complies with the revised FIRA ○ updating and maintaining flood emergency management protocols ○ ensuring the stormwater system and overland flow path is maintainable ○ ensuring accessible access to a level above the PMF level during a PMF event. • The Department supports imposing CPHR's recommended conditions. • The Department considers the stormwater and landscape design changes acceptable as: ○ the design changes are minor and would not result in any additional flooding impacts ○ proposed FFLs are set in accordance with Council's flood planning requirements ○ existing and proposed amended conditions will continue to ensure there are no adverse flood outcomes for the development or the surrounding area.	assembly point during a power outage without lift access.
Communal Open Space	• The proposal seeks approval for changes to the communal open space, including enclosing a portion of the undercover area of the upper ground floor, relocation of the level 3 BBQ away from the adjoining unit 2305, and amendments to landscaping, pergolas and planters to the level 3 rooftop. • As a result of the changes, the overall communal open space is reduced by 32m² from 1,295m² (31%) to 1,263m² (30%). • The Department considers the changes acceptable as: ○ the overall communal open space (30%) continues to exceed the 25% requirement under the ADG	No changes to conditions are recommended.

Issue	Findings	Recommended conditions
	- the enclosure of a portion of the upper ground communal open space will provide year-round usability of the community room for occupants - amendments to the level 3 rooftop communal open space will improve the amenity for occupants on this level.	
Landscaping	- The proposal seeks minor changes to the landscaping design, including amendments to the landscaping adjoining the communal deck on the upper ground floor and removal of raised planters to the north-east corner of the building. As a result of the changes: - landscaping is reduced by 1% (41m²) from 49% (2,056m²) to 48% (2,014m²) of the site area - tree canopy coverage is reduced by 3% (116m²) from 40% (1,700m²) to 37% (1,584m²) of the site area. - The proposal also seeks approval to increase the height of planter boxes by 700mm to Unit 3003 and 3004 to provide improved privacy for the apartments on the lower ground floor. - The Department considers the changes acceptable as they are minor in nature, improve privacy, and would still exceed the minimum landscape area requirements under the Housing SEPP (minimum landscape area of 30% of the site area) and tree canopy coverage in the Draft Greener Places Design Guide (minimum tree canopy coverage of 25%).	The Department recommends Condition A1 is amended to reflect the revised landscaping plans.
Parking and access	- The proposal seeks approval for minor changes to the ground floor layout to accommodate an additional bicycle parking space, revise the location of accessible parking spaces, remove the requirement for e-bike charging, realign the driveway, and remove the pedestrian access path to Unit 3002 from Hatfield Street. - The Applicant advised e-bike charging is not consistent with Link Wentworth's operational requirements and raised concerns about ongoing maintenance and safety.	The Department recommends: - Condition B27 is amended to remove the requirement for e-bike charging. - Condition A1 is amended to reflect the revised architectural plans.

Issue	Findings	Recommended conditions
	- The Department considers the changes are acceptable as: - it will ensure the number of bicycle parking spaces is consistent with Condition B27 - no changes are proposed to the number of car parking spaces, including accessible spaces - removal of e-bike charging will ensure consistency with Link Wentworth's operational requirements.	
GFA	- The proposal seeks several minor design changes which would result in an increase in GFA by 140m², from 6,317m² (FSR of 1.5:1) to 6,457m² (FSR of 1.54:1). - The Applicant notes the change in GFA is result of on-going design development, including enclosing a portion of the outdoor communal open space on the upper ground floor, converting waste and recycling chute cupboards to storage cupboards, and provision of a storage room on the lower ground floor. - The Department considers the changes acceptable as: - the increase in GFA is minor and would still be below the maximum FSR permitted on the site - it would not result in adverse bulk or visual impacts.	The Department recommends: - Condition A1 is amended to reflect the revised architectural plans. - Condition B13 is amended to reflect the revised maximum GFA.
Stormwater	- The proposal seeks amendments to the stormwater plan, including: - reconfigure the shape of the on-site detention tank to allow for maintenance access points - provide additional drainage lines within the front setback to Mowbray Road, and within the secondary setback to Hatfield Street - relocate the stormwater drainage line to avoid running under the building footprint consistent with the new alignment of the main sewer line - divert the stormwater connection point to connect into the existing kerb inlet in Mindarie Street - alter the levels of the stormwater pits and remove the stormwater pump station.	The Department recommends Condition A1 is amended to reflect the revised stormwater plans.

Issue	Findings	Recommended conditions
	- CPHR recommended Council review the revised stormwater design to ensure tree plantings within the overland flow path and above the stormwater pipe is acceptable from a maintenance perspective. - Council raised no concerns about the revised stormwater plan. - The Department considers the changes acceptable noting Condition B21 requires the Applicant to consult with Council in the preparation of the final detailed stormwater management plan.	
Subdivision	- The proposal seeks approval for stratum subdivision of the site into 2 lots, comprising Lot 1 for the affordable housing component of the development and Lot 2 for the social housing component of the development. - Easements for access are proposed to ensure all residents have access to the communal open space areas, parking and other shared building facilities. - The Department considers the proposed stratum subdivision acceptable as the subdivision plans are consistent with the function of the building and the allocation of affordable and social housing.	The Department recommends: - Schedule 1, description of the approved development is amended to include stratum subdivision. - Condition A1 is amended to include the stratum subdivision plans. - Additional conditions (Conditions F1 to F9) relating to requirements for a subdivision certificate.

5 Evaluation

The Department has assessed the modification application and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes that the proposed modifications are appropriate as:

- the proposal is substantially the same development as the originally approved development
- the design changes are minor in nature and would not result in any additional environmental impacts beyond what was previously assessed and approved in the original development consent
- submissions made by Council and CPHR have been duly considered in the assessment of the application
- the proposal remains consistent with relevant statutory provisions and applicable planning controls.

Accordingly, the Department considers the proposed modification to be in the public interest and recommends that it be approved, subject to conditions of consent.

6 Recommendation

It is recommended that the Team Leader, Key Sites and TOD Assessments, as delegate of the Minister for Planning and Public Spaces:

1. considers the findings and recommendations of this report;
2. accepts and adopts the findings and recommendations in this report as the reasons for making the decision to approve the modification;
3. modifies the consent for the Modification 2 of the affordable housing development, Mowbray Road, Lane Cove North (SSD-71687208) subject to the conditions in the attached instrument of modification; and
4. signs the attached instrument of modification (**Appendix C**).

Recommended by:



Rodger Roppolo
Senior Planning Officer
Key Sites and TOD Assessments

7 Determination

The recommendation is adopted by:



29.07.2026

Cameron Sargent
Team Leader
Key Sites and TOD Assessments

Appendices

Appendix A – List of referenced documents

The documents and supporting information referred to in this SSD-71687208-Mod-2 Section 4.55(1A) assessment report can be found on the Department’s website, at:

<https://www.planningportal.nsw.gov.au/major-projects/projects/mod-2-design-development-changes>

Previous modifications

The proposal has been modified on one occasion as detailed in Table 3.

Table 3 | Summary of modifications

Modification	Description	Decision-maker	Type	Determination Date
MOD 1	Amend the timing of compliance with conditions to allow flexibility in the staging of construction works	Team Leader	4.55(1A)	23 December 2025

Appendix B - Statutory Context

Mandatory considerations

A consent authority may modify the consent if it is satisfied the proposed modification application meets the requirements of section 4.55(1A) of the EP&A Act. An assessment of the proposed modification application against the requirements of section 4.55(1A) of the EP&A Act is included in Table 4.

Table 4 | Consideration of section 4.55(1A) of the EP&A Act

Section 4.55(1A)	Department's consideration
The proposed modification is of minimal environmental impact	The Department is satisfied that the proposed modification will have minimal environmental impacts as discussed in Section 4.
The development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified	The development, as proposed to be modified, is substantially the same development as that originally approved in that: - the proposed use of the site remains the same - the proposed modification to the approval will not significantly alter the built form or scale of the building - it would not result in any additional environmental impacts.
The application has been notified in accordance with the regulations	The regulations do not require section 4.55(1A) applications to be notified. However, it was made publicly available and was referred to Council and relevant government agencies. Details of the engagement undertaken are provided in Section 3.
Any submission made concerning the proposed modification has been considered.	The Department has considered the submissions received from Council and CPHR in Section 3. No public submissions were received.

Under section 4.55(3)(a) of the EP&A Act, the consent authority must also consider the matters referred to in section 4.15(1), but only so far as the matters are of relevance to the application. Table 5 identifies matters for consideration under section 4.15(1) of the EP&A Act that apply to the proposed modification.

Table 5 | Section 4.15(1) EP&A Act and the Departments consideration

Section 4.15(1) Matters for consideration	Department's consideration
(a)(i) any environmental planning instrument (a)(ii) any proposed instrument	The proposed modifications are consistent with the relevant Environmental Planning Instruments (EPIs) as addressed in this report.
(a)(iii) any development control plan	Under the State Environmental Planning Policy (Planning Systems) 2021, DCPs do not apply to SSD.

Section 4.15(1) Matters for consideration	Department's consideration
(a)(iia) any planning agreement	Not applicable.
(a)(iv) the regulations	The application meets the relevant requirements of the EP&A Regulation, including the procedures relating to applications, the requirements for notification, and fees.
(b) 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 Department has considered the significant likely impacts of the proposed modifications and finds the application is acceptable (Section 4).
(c) the suitability of the site for the development	The application does not alter the suitability of the site as addressed in the original application.
(d) any submissions	The Department has considered submissions made (Section 3).
(e) the public interest	The Department considers the proposal to be in the public interest.

To satisfy the requirements of section 4.15(a)(i) of the EP&A Act, this report includes references to the provisions of the EPIs that govern the carrying out of the project and have been taken into consideration in the Department's environmental assessment. The following EPIs are relevant to the application:

- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Housing) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Sustainable Buildings) 2022
- State Environmental Planning Policy (Biodiversity and Conservation) 2021.

The Department undertook a comprehensive assessment of the application against the relevant EPIs in its original assessment. The Department has considered the above EPIs, where relevant below and is satisfied that the modifications do not result in any inconsistency with these EPIs.

State Environmental Planning Policy (Housing) 2021

Chapter 2 of the SEPP (Housing) 2021 relates to affordable housing and sets out provisions relating to the development of infill affordable housing.

Chapter 4 of the SEPP (Housing) 2021 seeks to improve the design quality of residential developments and support the increasing demand for residential apartment development.

Section 147(1)(a) of Chapter 4 of the Housing SEPP requires the consent authority to consider the design principles for residential apartment development set out in Schedule 9 while Section 147(1)(b) requires the consent authority to consider the Apartment Design Guide (ADG). Importantly, Section 147(3) of the SEPP (Housing) 2021 does not require a consent authority to require compliance with the design criteria specified in the ADG.

The Department has assessed the development's compliance with the SEPP (Housing) 2021 in Table 6 and against the relevant design principles of the ADG in Table 7.

Table 6 | Department's consideration of the SEPP (Housing)

SEPP (Housing) 2021	Consideration
Chapter 2, Part 2 Development for affordable housing	
18 Affordable housing requirements for additional building height - The maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional building height of up to 30%, based on a minimum affordable housing component. - The minimum affordable housing component, which must be at least 10%, is calculated as follows: $\text{affordable housing component} = \frac{\text{additional building height}}{\text{as a percentage}} \div 2$	- The maximum height under the Lane Cove LEP 2009 is 17.5m. - A 30% bonus height (5.25m) under the SEPP Housing 2021, would result in a maximum permissible building height of 22.75m. - The proposal results in an increase to the approved building height by 1.58m from 21.67m to 23.25m, resulting in a 500mm (2%) variation to the maximum permissible building height of 22.75m. - The Department considers the variation acceptable as discussed in Section 4.
19 Non-discretionary development standards The following are non-discretionary development standards in relation to the residential development to which this division applies: a minimum landscaped area of 30% of the site area	- The proposal results in a decrease to landscaped area from 49% to 48% of the site. - The Department considers the decrease in landscaped area minor noting the proposal continues to exceed the SEPP Housing criteria of 30%

Table 7 | Department's consideration of ADG best practice design principles

ADG Criteria	Consideration
3D Communal and Public Open Space	- Complies. The proposal would result in a decrease of communal open space of 32m² from 1,295m² (31%) to 1,263m² of communal open space, comprising: 830m² on the lower ground floor; 40m² on the upper ground floor; and 393m² on the level 3 rooftop. - The Department considers the decrease in communal open space acceptable noting the proposal continues to exceed the ADG criteria of 25%.
3E Deep Soil Zones	Complies. 294m² of deep soil area is required. The proposal would increase deep soil area by 99m² (2%) from 748m² (18%) to 847m² (20%) with a minimum dimension of 6m.
4W Waste Management	The proposal includes a revised waste management strategy, whereby dedicated residential waste holding areas at ground

ADG Criteria	Consideration
- Waste storage facilities are designed to minimise impacts on streetscape, building entry and residential amenity. - Domestic waste is minimised by providing safe and convenient source separation and recycling.	- level are provided and waste would be transported to the holding area by the residents. - Building management would transfer bins from the dedicated storage areas to the holding bay adjacent to the loading dock for Council collection. - Separate waste and recycling bins would be provided.

Lane Cove Local Environmental Plan 2009

The Department considers the proposed modification application is consistent with the relevant provisions of the Lane Cove LEP 2009. Consideration of relevant provisions of the Lane Cove LEP 2009 are addressed in Table 8 below.

Table 8 | Department's consideration of Lane Cove LEP 2009

Clause	Department's consideration
Clause 4.3 – Height of buildings	- The maximum height permitted under the Lane Cove LEP 2009 for the site is 17.5m. However, the proposal is eligible for a 30% height bonus (5.25m) under the SEPP (Housing) 2021, which equates to a maximum building height of 22.75m. - The proposal results in an increase to the approved building height by 1.58m from 21.67m to 23.25m, resulting in a 500mm (2%) variation to the maximum permissible building height of 22.75m. - The Department considers the variation acceptable as discussed in Section 5.
Clause 4.4 – Floor space ratio	- The maximum FSR permitted by the Lane Cove LEP is 1.8:1. However, the proposal is eligible for a 30% bonus FSR (0.54:1) under the SEPP (Housing) 2021, which equates to a maximum FSR of 2.34:1. - The proposal does not seek to utilise the bonus FSR under the SEPP (Housing) 2021 - The proposal results in an increase of the approved GFA by 140m², from 6,317m² (FSR of 1.5:1) to 6,457m² (FSR of 1.54:1). Therefore, the proposal remains compliant with the FSR permitted under the Lane Cove LEP.
5.21 – Flood planning	The proposal would not result in any additional flooding impacts as discussed in Section 4.

Reasons for granting consent to the original application

Under section 4.15(3) of the EP&A Act, the consent authority must also consider the reasons given by the consent authority for granting consent to the original application. The Department considers the modification application would not change the reasons for granting consent to the original development.

Biodiversity development assessment report

Section 7.17(2) of the *Biodiversity Conservation Act 2016* (BC Act) requires all SSD modifications to be accompanied by a Biodiversity Development Assessment Report (BDAR) unless the authority or person determining the application is satisfied that the modification will not increase the impact on biodiversity values (as identified in the BC Act and in the *Biodiversity Conservation Regulation 2017*).

The Department is satisfied that the modification will not increase the impact on biodiversity values, and consequently, a BDAR is not required to accompany the modification application.

Appendix C – Recommended instrument of modification

<https://www.planningportal.nsw.gov.au/major-projects/projects/mod-2-design-development-changes>