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URBIS

CLAUSE 4.6 VARIATION REQUEST:

SECTION 90 – SUBDIVISION HOUSING SEPP

Tumbi Umbi Retirement
Village

Prepared for

MINGARA LEISURE GROUP PTY LTD

21 July 2025

URBIS STAFF RESPONSIBLE FOR THIS REPORT WERE:

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REQUEST TO VARY A DEVELOPMENT STANDARD

REQUEST TO VARY SECTION 90 OF THE HOUSING SEPP 2021

Address and Project: This Clause 4.6 request relates to SSD-63475709 – Tumbi Umbi Retirement Living Project (TURL) at 14 Mingara Drive, Tumbi Umbi (part of Lot 13 in Deposited Plan 1204397).

Date: 21 July 2025

1. SITE DESCRIPTION

The key features of the site are summarised in the following table.

Table 1 Site Description

Feature	Description
Street Address	14 Mingara Drive, Tumbi Umbi
Legal Description	Lot 13 DP1204397
Site Area	29957.5 sqm
Zoning	RE2 Private Recreation
Site Area	29,957.5sqm
Easements and Restrictions	The site being the land west of the existing Mingara Recreation Club has a registered easement defining the site boundaries to the west and south
Site Topography	The site is predominately level with land to the west falling
Vegetation	Vegetation
Existing Development	The development area of the TURL is currently vacant open space and is located west of the existing Mingara Recreation Club. In addition to car parking areas, the broader Club precinct comprises of the following built elements: ▪ Mingara Recreation Club: located at the centre of the Club site with dedicated parking lot to the northern, eastern and southern side with a total capacity of approx. 782 spaces and accessible via Mingara Drive to the east of the Club. The Club consists of cafes, restaurants, club facilities, fitness/wellness and aquatics centre, and an outdoor bowling green. ▪ Hotel: a 5-storey hotel is located also to the east of the development area, which was approved on 22 May 2023 (DA/935/2022) and now construction. The hotel includes 86 rooms, 11 parking spaces and one loading bay. ▪ Mingara Regional Athletics Centre/ Athletics Track: located to the north of the development area. An existing amenities building is associated with the athletics track. ▪ Childcare centre: a centre based childcare facility is approved on 9 July 2025 (DA/1969/2023), located adjacent to the existing bowling greens.

Feature	Description
Local Context	The surrounding locality is described below: ▪ North: directly north of the TURL is the Mingara Athletics Track and associated amenities building. A dam/pond of approx. 1.096ha in size is also located to the north of the development area, next to the Athletics Track. The creek originates from the southern end of the dam/pond and runs along the western side of the development area. Further north of the development area comprises of land zoned E4 General Industrial and R2 Low Density Residential. ▪ East: directly east of the TURL is the Mingara Recreation Club and associated parking lot. A recently approved hotel (DA/935/2022) is located also to the east of the development area. Further to the east, there are retail establishments (such as MacDonald's, Hungry Jacks, KFC and Dominos) along Mingara Drive, situated adjacent to the Mingara Recreation Club. Area across Mingara Drive comprises of land zoned E1 Local Centre (accommodating automobile related services) and R2 Low Density Residential. ▪ South: directly south of the TURL is the Glengara Retirement Village zoned R2 Low Density Residential. Development to the south range from one-to-two storeys in height. The Mingara Medical Centre is located approximately 390m south-east of the development area. ▪ West: a constructed drainage channel and associated vegetation is located directly west of the development area. The distance between the creek and TURL ranges between 24m-30m. The Glengara Retirement Village is located further west which comprising of one-to-two storey residential apartments accommodation and single-storey dwellings with pitched roofs. Further west of the Glengara Retirement Village comprises of one-to-two storey developments and heavily vegetated areas zoned C4 Environmental Living
Infrastructure and Access Network	The site is proximate to a range of existing public and private infrastructure, which provide a high-amenity context for the proposed development. The following infrastructure are immediate to the site: ▪ Road Network: - Wyong Road as a classified road runs along the north of the Club. Mingara Drive is an arterial road and runs along the east of the Club. Other key road in the local area of Tumbi Umbi include Tumbi Road and Central Coast Highway. The site is integrated with the regional road network. ▪ Public Transportation: - Several bus stops are located along Wyong Road and Mingara Drive ▪ Health and Education Infrastructure: - A medical centre is located to the east of the Club ▪ Pedestrian and vehicular access to the site from the local road network is available from Wyong Road and Mingara Drive. Internal pedestrian connectivity within the broader site is proposed to be improved
Site Access	Pedestrian and vehicular access to the site from the local road network is available from Wyong Road and Mingara Drive. Internal pedestrian connectivity within the broader site is proposed to be improved.
Services	The site is adjacent to established residential areas and the Club is serviced land, with availability to existing infrastructure and utility services.

The works proposed by this SSDA will be confined within the western portion of the site that is referenced in this report as:

- **Tumbi Umbi Retirement Village (TURL)** – bounded by the blue outline in Figure 1 below and the area of the proposed seniors housing including subdivision boundary
- **Development site** – bounded by the red outline in Figure 1 below and encompasses all works that form part of the SSDA, namely the Retirement Village and drainage easement embellishment works

Figure 1 Location Plan



Figure 2 Site Photos



Picture 1 Existing site, looking south

Source: Urbis



Picture 2 Existing site, looking north west

Source: Urbis



Picture 3 Existing drainage easement/reconstructed wetland to the NW of site

Source: Urbis



Picture 4 Internal road, site to right of screen

Source: Urbis]



Picture 5 Mingara car park

Source: Urbis



Picture 6 NE of Mingara precinct/proposed ELC site

Source: Urbis

2. PROPOSED DEVELOPMENT

This SSDA seeks consent for site preparation works, construction of seniors housing development and land subdivision. The western side of the development area has an interface with the drainage corridor. The proposal retains and rehabilitates the existing vegetation immediately surrounding the constructed drainage channel.

A summary of the key features and details of the proposed development (including land use and works) is provided in the table below (with additional details in the Environmental Impact Assessment prepared by Urbis):

Table 2 Development Description

Key Element	Description
Site Preparation and earthworks	Site levelling and preparation to enable undercroft car parking.
Demolition	Removal of the existing road turning head to the south of the Athletics facility and at grade parking
Tree removal	Removal of perimeter trees to the north of the development site and south east
Built form construction and Operation	- Construction and operation of: - Building 1 – undercroft car parking, 5 levels of ILUs - Building 2 – Part undercroft car parking, part communal/amenities level at ground with 3 levels of high care suites and 3 levels of ILUs - Building 3 - undercroft car parking, 6 levels of ILUs - Building 4 - undercroft car parking, 5 levels of ILUs 2 storey Villas buildings
Residential Breakdown	39 residential aged care beds 219 independent living units (ILUs) in 1-3 bedroom configurations
Parking Spaces	296 residential spaces (incl 82 accessible spaces as per the Australian Standard and 147 spaces that are wider in dimension of 3.2m)
Staffing	Total 15 staff for the Residential Care Facility
Landscaping	Private, passive and communal open space, landscaping and perimeter and internal pedestrian pathways
Subdivision	The broader MRC precinct comprises Lot 1 and Lot 2 in DP 1010532 and Lot 71 DP1011971 as well as Lot 13 in DP 1204397 (where the proposed Tumbi Umbi Retirement Village is situated). The proposal seeks consent for subdivision of Lot 13 out of the broader Mingara Precinct to create three land parcels of: - Lot 1 (1.778ha) and Lot 2 (1.216ha) – representing Stage 1 and Stage 2 of the Retirement Village - Lot 3 (16.35ha) – the remainder of Lot 13 The final intent is to consolidate Lot 1 and Lot 2 (Stage 1 and 2) to a Proposed Lot 4 (2.994ha) at the completion of Stage 2. (see Figures below) The creation of the Tumbi Umbi Retirement Village lot is only accessible through the broader MRC land of Lot 13. The proposed lot/s do not have direct frontage to a roadway and rely on Club land for access, services and drainage. The encumbrances and restrictions are also proposed on title.
Western and southern easement	Embellishment and enhancement of the western and southern drainage easement through planting, waterway improvement and ongoing management through the Vegetation Management Plan

Two stage land Subdivision:

Figure 3 Stage 1: Draft plan of subdivision

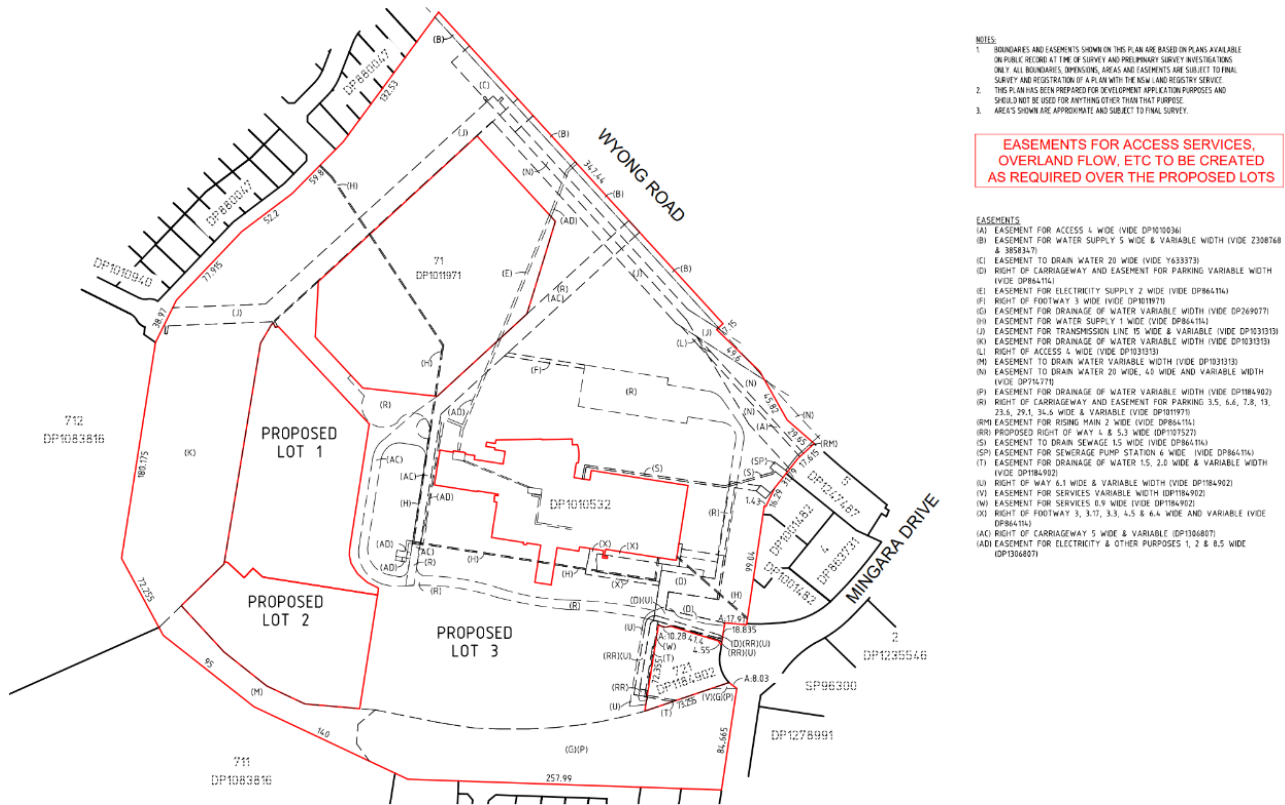
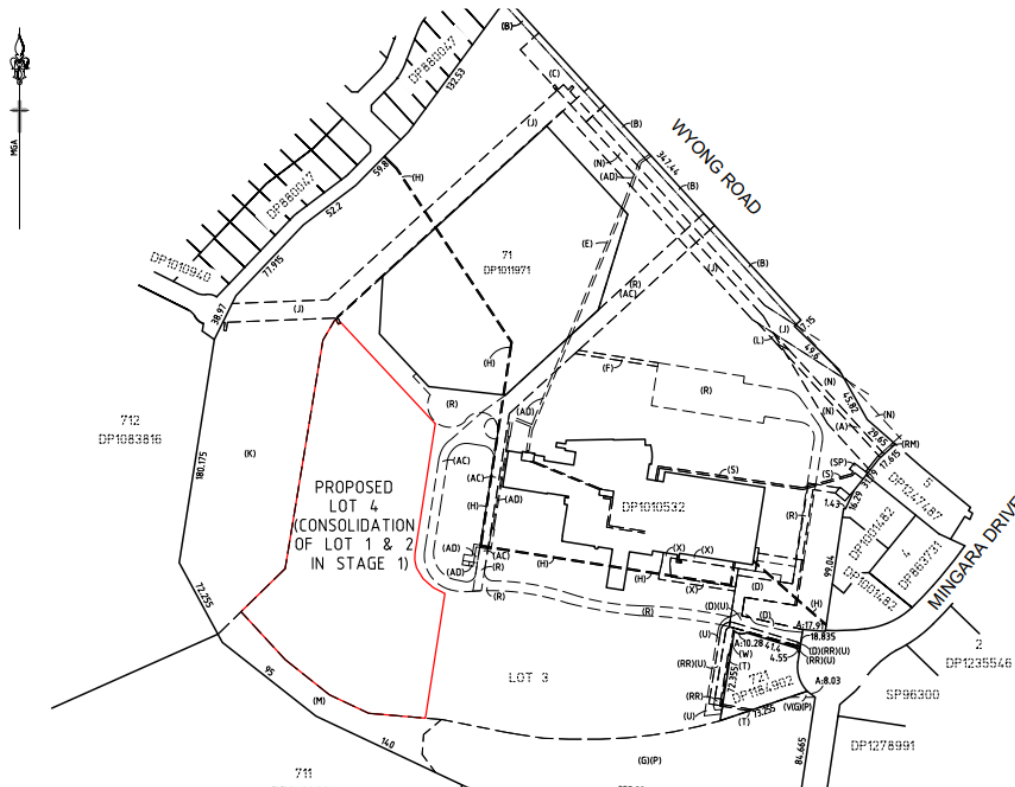


Figure 4 Stage 2: Consolidated draft plan of subdivision



PLANNING INSTRUMENT, DEVELOPMENT STANDARD AND PROPOSED VARIATION

3. WHAT IS THE PLANNING INSTRUMENT YOU ARE SEEKING TO VARY?

State Environmental Planning Policy (Housing) 2021 (Housing SEPP).

4. WHAT IS THE SITE'S ZONING?

The site is zoned RE2 Private Recreation under the *Central Coast Local Environmental Plan 2022 (CCLEP)*. Further schedule 1 – Additional Permitted uses of the CCLEP has a site specific provision under Section 18 stating,

“18 Use of certain land at Mingara Drive, Tumbi Umbi

(1) This clause applies to the following land at Tumbi Umbi, identified as “Mingara Recreation Club” on the Additional Permitted Uses Map—

(a) Lot 13, DP 1204397,

(b) Lot 71, DP 1011971,

(c) Lots 1 and 2, DP 1010532,

(d) Lot 721, DP 1184902.

(2) Development for the purposes of centre-based child care facilities and health services facilities is permitted with development consent.

(3) Development for the following purposes is permitted with development consent if the development is integrated with an existing registered club—

(a) hotel or motel accommodation,

(b) seniors housing,

(c) serviced apartments”.

The proposed development is permissible with consent under the CCLEP and the Housing SEPP. The RE2 zone objectives allow for a range of recreational settings and activities as well as compatible land uses.

5. WHAT IS THE DEVELOPMENT STANDARD TO BE VARIED?

Part 5 – Housing for Seniors and People with a Disability of the Housing SEPP

Division 3: Development Standards

Section 90 – Subdivision

“(1) Development consent may be granted for the subdivision of land on which development has been carried out under this Part.”

The development standard is to be varied to amend the timing of subdivision to be prior to the commencement of development and not as currently intended in the provision which is “has been carried out”, i.e. assuming built.

6. TYPE OF DEVELOPMENT STANDARD?

Non numerical development standard.

The provision relates to criteria to vary as opposed to a numerical standard. The applicable criteria relates to the timing of subdivision.

7. WHAT IS THE NUMERIC VALUE OF THE DEVELOPMENT STANDARD IN THE ENVIRONMENTAL PLANNING INSTRUMENT?

Not Applicable

8. WHAT IS THE DIFFERENCE BETWEEN THE EXISTING AND PROPOSED NUMERIC VALUES? WHAT IS THE PERCENTAGE VARIATION (BETWEEN THE PROPOSAL AND THE ENVIRONMENTAL PLANNING INSTRUMENT)?

Not Applicable.

9. VISUAL REPRESENTATION OF THE PROPOSED VARIATION

Not relevant

JUSTIFICATION FOR THE PROPOSED VARIATION

10. HOW IS COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE PARTICULAR CASE?

There are 5 common ways that compliance with a development standard may be demonstrated to be unreasonable or unnecessary (as transposed in items a to e in Table 5 below). An applicant must satisfy at least one. In relation to the subject development contravention, Table 5 addresses the first key question.

Table 3 - Development Standard Unreasonable or unnecessary threshold tests

Key Questions	Response
a) <i>Are the objectives of the development standard achieved notwithstanding the non-compliance?</i>	The objectives of the standard are not stated and as such in our opinion the inferred objectives are commensurate with: ▪ To ensure the orderly development of large senior housing developments ▪ To allow for suitably sequenced subdivision in a development application The standard is also to tie back to the overall purpose and objectives of the Housing SEPP which is to enable diverse housing, encourage housing that meets the needs of the more vulnerable people of the community and promote and plan housing where it will make good use of existing and planned infrastructure. The proposed timing of the subdivision prior to the development being carried out, rather than at the completion of the development is reasonable in this application and achieves the assumed objectives of the provision and the Housing SEPP generally as: • The TURL site is a discrete housing development that currently does share part of the Club land holding and as such subdivision early in the construction process defines the sequencing of the development and clear definition in the landholding by which construction works will occur. • The SSDA has sought a two stage construction of the development (with some flexibility in the staging), however this staging aligns with the subdivision lot boundaries. Appropriate servicing arrangements through the stages of construction will align with the sequencing. • Strict adherence to the development standard is unnecessary as the proposed subdivision aims to clearly delineate club purposes and seniors housing on the large landholding. • Compliance with the standard is unreasonable in this context, as the redevelopment relies on a clear subdivision pattern to support funding and managing arrangements for separate buildings and purposes. • The overarching principles of the Housing SEPP remain valid and met by the proposal despite the timing of subdivision, however will result in a more feasible funding and construction program.
b) <i>Are the underlying objectives or purpose of the development standard not relevant to the development? (Give details if applicable)</i>	Not replied upon
c) <i>Would the underlying objective or purpose be defeated or thwarted if compliance was required? (Give details if applicable)</i>	Not replied upon

Key Questions	Response
(d) <i>Has the development standard been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard?</i>	Not replied upon
e) <i>Is the zoning of the land unreasonable or inappropriate so that the development standard is also unreasonable or unnecessary?</i>	Not relied upon

11. ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD?

The following discusses the environmental planning grounds to justify a contravention to the development standard under the following key matters:

▪ Establishment of operational responsibility upfront

The proposed subdivision is to create separation of the seniors housing lots from the Club land. This serves as an administrative function and operational responsibility between the housing function of land use and the use for which the Club has responsibility for. This separation, articulated in the land subdivision, results in a clear delineation more suitably undertaken prior to the commencement of works. There are no built form implications as a result.

The Housing SEPP enables the two land uses to occur in unison under Section 86(1) but also recognising the importance of separation (largely for amenity reasons) under Section 92(1) of the SEPP. Section 92 is a matter that the consent authority is to be satisfied with prior to development consent. The consent authority is to ensure there is “*appropriate measures to separate the club from residential areas to avoid land use conflicts*” and as such the proposed land subdivision is one mechanism to satisfy this provision. As Section 92(1) is a pre requisite for the granting of consent, it is reasonable to assume that the subdivision can occur at any stage, post approval, and does not need to only occur after the completion of the entire development.

Overall, clear delineation of management and lots ensures clarity of the responsibilities of the applicant, Pariter, and owner, Mingara Leisure Group, for the continuing operation of the club facilities at the same time as the proposed development for seniors housing proceeds on the site. In this way, the proposed sequencing promotes the orderly and economic use and development of the land.

▪ There are no resulting adverse environmental planning impacts

The land subdivision is to spatially represent the contractual arrangements between the Club and the developer partner, Pariter. The subdivision occurring upfront has no impact on the resulting layout, built form or other key fundamentals of the proposal. The land subdivision, in isolation, does not comprise any works and as such there will have no adverse environmental or physical impacts on the development site.

Section 90 of the Housing SEPP imposes no constraint upon the subdivision of the site being approved prior to the construction and use on part of the site of the seniors housing component.

▪ The subdivision timing leads to development certainty and deliverability

The timing requirement set out in Section 90(1) as being ‘*on which development has been carried out*’, does not lead to development certainty or an economically feasible construction program. Compliance with Section 90(1), is considered unreasonable and unnecessary given the subdivision will enable a clear subdivision pattern to support funding arrangements for separate buildings and land use purposes proposed under the SSDA. The subdivision reflects the intended sequencing of the development works including the access arrangements, servicing of the site and funding models for the proposed construction stages. If subdivision was to occur after completion, it would create complications for securing finance for the project.

It is common practice for developments to proceed only upon subdivision which provides for clear, accurate and specific lots upon which to finance and implement a development consent. Given the large land area of the entire Mingara precinct and as no separate lot is defined for the seniors housing, it is further appropriate and common practice to delineate early in the post approval process.

Undertaking the proposed subdivision prior to the carrying out of development is reasonable on planning grounds because it will provide a clear upfront delineation of the lots within the land and reflect the sequencing of construction.

- **The subdivision upfront facilitates the orderly development of the land**

A clear object of the *Environmental Planning and Assessment Act 1979* is to promote the orderly and economic development of land. We submit that the proposed variation, which seeks to allow subdivision of land prior to completion, will facilitate a feasible and orderly development outcome and as such there are sufficient environmental planning grounds to justify the contravention to the development standard under Section 90(1).

The current lot arrangement of the broader Mingara precinct isolates the Club building on a single lot, while Lot 13 generally encompasses all remaining land, including the TURL site. Consequently, the cadastre does not align with the proposed location, built form, and design of the seniors housing development.

In this regard, if strict compliance with the development standard were required it would create a situation where works, access ways, driveways and buildings would traverse existing cadastral boundaries, which is not ideal and create a substandard planning outcome.

Permitting the subdivision to occur initially, by clearly delineating the seniors housing lots, and reflecting the sequencing of development works, will avoid potential construction works issues (such as in relation to servicing, BCA and right of way) which could arise should the development be carried out across existing cadastral boundaries.

Completion of the subdivision upfront, prior to construction, represents orderly and economic development, as it aligns with the commencement phase (financing and compliance with consent conditions), and then enables the orderly construction phases to proceed and lead seamlessly onto the operational phases of the development.

- **The proposed subdivision delivers housing without delay**

Enforcing the timing specified in Section 90(1) could introduce unnecessary complexity, uncertainty, and delays in implementing development consent and its associated conditions. This in turn could lead to the delay in the delivery of seniors housing, which is at odds with the objectives of the Housing SEPP in providing pathways and provisions to realise diverse housing.

The proposed subdivision is essential for the development works to begin as per the contractual agreement between the Club and Pariter. It is standard practice for developments to proceed only after subdivision, as this ensures there is clear, accurate, and specific defined development lots for financing and implementing development consent.

Subdividing the site resolves potential land use conflicts and simplifies the management of the proposed land uses by providing clear delineation. This will result in the Seniors Living component and the existing Club being completed on separate allotments.

12. IS THERE ANY OTHER RELEVANT INFORMATION RELATING TO JUSTIFYING A VARIATION OF THE DEVELOPMENT STANDARD? (IF REQUIRED)

There have been other examples whereby the Department of Planning, Housing and Infrastructure has applied flexibility to this development standard, along with accompanying supporting legal advice (confirming that Section 90 is a development standard that can be varied). An example is the approved Cumberland Golf Club Seniors Housing development with SSDA reference SSD-64795219. We request that this same level of flexibility be applied in this instance as there are parallels and commonalities between that SSDA and the subject SSDA.

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