

Clause 4.6 Variation Request – Floor Space Ratio

Section 16(1) of the State Environmental Planning Policy (Housing) 2021

810 Pacific Highway, Gordon – SSD101444458

1. Introduction and Purpose

This Clause 4.6 variation request has been prepared to accompany the Environmental Impact Statement (EIS) submitted in support of the State Significant Development Application (SSDA) – SSD101444458 for a mixed-use development at 810 Pacific Highway, Gordon (*Subject Site*).

The proposed development includes the provision of affordable housing and seeks to rely on the incentive framework under Section 16(1) of the *State Environmental Planning Policy (Housing) 2021* (Housing SEPP), which enables a bonus to development standards. As a consequence, the proposal results in a numerical exceedance of the mapped floor space ratio control under Ku-ring-gai Local Environmental Plan 2015 (KLEP 2015), requiring assessment pursuant to Clause 4.6, which is assessed under Section 16(1) of the Housing SEPP.

The purpose of this report is to constitute a written request pursuant to Clause 4.6 of KLEP 2015 to justify a variation to the floor space ratio (FSR) development standard applicable to the Subject Site.

This request seeks the consent authority's satisfaction that:

- compliance with the FSR development standard is unreasonable or unnecessary in the circumstances of the case; and
- there are sufficient environmental planning grounds to justify the contravention.

2. Site and Planning Controls

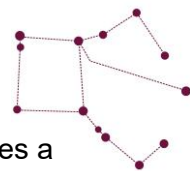
2.1 Site Description

The Subject Site is legally described as Lot 12 DP 631351, located at 810 Pacific Highway, Gordon, within the Ku-ring-gai Local Government Area. The site area is **2,357m²** and occupies a prominent corner position within the Gordon town centre, immediately adjoining the Gordon Railway Station precinct and the Ku-ring-gai Council Chambers.

2.2 Relevant Planning Controls

The Site is subject to the following key controls:

- **Zoning:** E1 Local Centre
- **Maximum Floor Space Ratio:** 6.5:1
- **Affordable Housing Incentive - Section 16(1) (Housing SEPP):** up to 30% additional GFA, resulting in an effective FSR of up to 8.45:1 (subject to compliance)



The proposed development exceeds the mapped base FSR control and therefore requires a variation under Clause 4.6 of the KLEP 2015.

3. The Development Standard to be Contravened

The development standard the subject of this request is:

- **Clause 4.4(2) – Floor Space Ratio** of KLEP 2015, assessed under Section 16(1) of the Housing SEPP.

This standard is not expressly excluded from the operation of Clause 4.6.

4. Extent of the Variation

Control	Standard	Proposed	Variation
Floor Space Ratio	6.5:1	6.8:1	4.6%

Note:

An increase of the base FSR from 6.5:1 to 6.8:1 will increase the base GFA on the Subject Site from 15,320.5m² to 16,027.6m².

With the 30% Housing SEPP uplift on the base FSR, the effective FSR will increase to 8.84:1 (subject to compliance). This will increase the maximum permissible GFA on the subject site to $8.84 \times 2357\text{m}^2 = 20,836\text{m}^2$. The proposed development yields a total GFA of 20,836m².

5. Clause 4.6(3)(a): Unreasonable or Unnecessary Compliance

Compliance with the FSR development standard is unreasonable and unnecessary in the circumstances of the case for the following reasons:

5.1 Achievement of the Underlying Planning Outcome

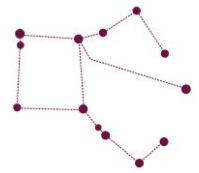
The proposed development delivers built form, scale and intensity that is consistent with the strategic planning intent for Gordon Town Centre, including:

- proximity to a high-frequency rail interchange;
- location within an identified centre intended to accommodate higher density mixed-use development; and
- alignment with the recently implemented Gordon Station Precinct planning framework.

Strict adherence to the numeric FSR control would undermine the orderly delivery of these strategic outcomes without delivering any corresponding public benefit.

5.2 Constrained Site Characteristics

The Site is physically constrained by:



- its relatively modest lot size for a centre-based mixed-use development;
- multiple street frontages and level changes requiring deeper podium and basement forms; and
- the integration of a full-line supermarket and associated servicing requirements.

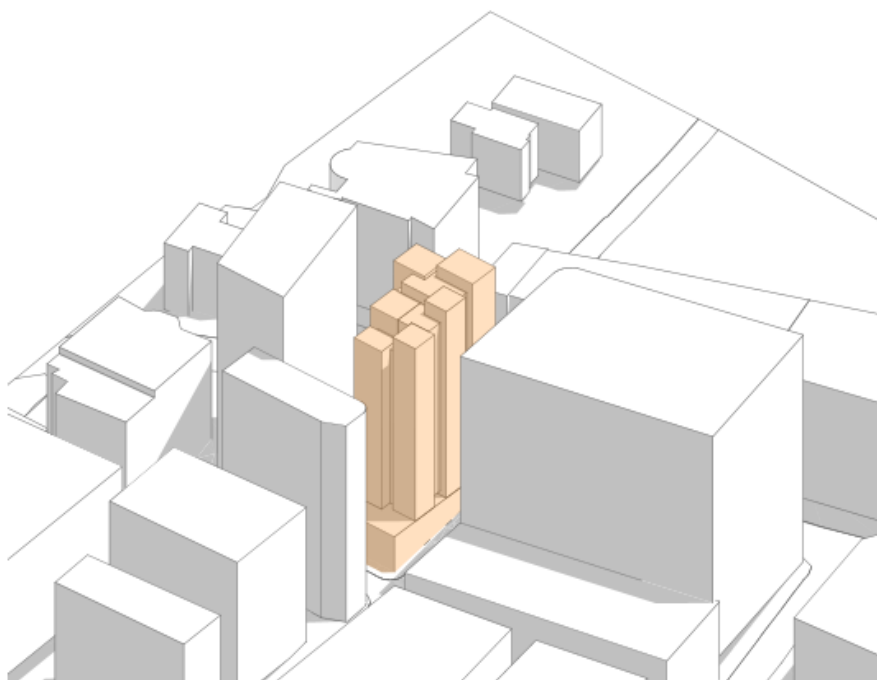
These constraints necessitate a more efficient stacking and consolidation of GFA to achieve acceptable building functionality, design quality, and economic viability.

This misalignment between height and floor space controls is not unique to the subject site. A review of neighbouring centre-zoned properties within the Gordon Town Centre reveals a lack of consistent correlation between maximum building height and permissible FSR, with some adjoining sites benefiting from significantly higher height limits without a commensurate increase in FSR, and others exhibiting the inverse condition.

For example, the adjoining Council chambers to the north has a lower FSR of 5:1 but a higher building height of 83.5m (10m higher than the subject site), with no affordable housing requirement. Likewise, the site to the south at the Gordon Centre has an incentive-based clause permitting an FSR of 7.5:1 with a maximum building height of 109m.

This reinforces that FSR, rather than height, is the primary determinant of development intensity within the centre, with height serving as an enabling control to facilitate appropriate built-form outcomes. In this context, the subject site's proposed variations do not result in an intensity outcome that exceeds or departs from the planning intent evident across surrounding properties.

Figure 1 and Figure 2 illustrate the proposed FSR and Building Height massing for the Gordon Town Centre. These figures demonstrate that the proposed development sits comfortably within the envelope anticipated for the Gordon Town Centre under current and emerging planning controls.



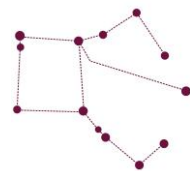


Figure 1: Built Form Massing in the Context of KLEP2015 controls

(source: Appendix I – SSD-101444458 EIS)



Figure 2: Ku-ring-gai Council Preferred Scenario

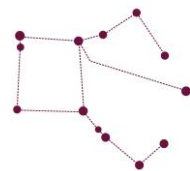
(source: Ku-ring-gai Council Exhibition Document April 2025 Part 2 Gordon)

5.3 Built Form–Led Outcome

The proposed FSR outcome is a consequence of a built-form-led design response, rather than an arbitrary uplift. The development has been shaped primarily by:

- podium height and interface requirements;
- tower slenderness and setbacks;
- view corridor protection; and
- minimisation of bulk and shadow impacts on adjoining sensitive receivers.

Accordingly, strict numeric compliance with the FSR standard would result in inferior urban design and environmental outcomes. Importantly, it should be noted that even with the revised base FSR, portions of the building are still up to 4 levels below the permitted height plane, which remain unutilised to improve the design outcome and maximise on-site resident amenity.



5.4 KLEP 2015 Amendments

Although the site was initially identified as being located within a Transport-Oriented Development (TOD) precinct under the Housing SEPP, that designation was subsequently removed following a Council-initiated legal process. In parallel, Ku-ring-gai Council prepared and progressed its own planning framework for the Ku-ring-gai station precincts, which was accepted by the Department of Planning, Housing and Infrastructure (DPHI), subject to minor amendments.

That framework was implemented through an amendment to the KLEP 2015 via a self-repealing State Environmental Planning Policy made by the Minister for Planning and Public Spaces on 14 November 2025.

As part of those amendments, the maximum building height applicable to the subject site was increased from 70.5 metres to 73.5 metres. However, no corresponding amendment was made to the maximum FSR control. The outcome is a structural misalignment between the height and FSR controls applicable to the site.

In practical terms, this disconnect means that strict compliance with the numerical FSR standard would prevent the reasonable utilisation of the additional height expressly conferred by the amended KLEP 2015. This would frustrate the intended planning outcome of the amendment and result in an inefficient built form outcome that is inconsistent with the strategic role of the site within the Gordon town centre.

Accordingly, strict compliance with the FSR development standard is unreasonable and unnecessary in the circumstances, particularly given the site's centre-based location, consolidated lot size, and the policy expectation that additional height translates into commensurate development capacity rather than underutilised building envelope.

6. Clause 4.6(3)(b): Environmental Planning Grounds

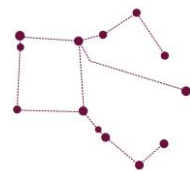
There are sufficient environmental planning grounds to justify the variation, including the following site-specific and proposal-specific considerations.

6.1 Strategic Merit and Public Benefit

The proposal:

- delivers 180 new homes (including 39 affordable housing apartments) in a highly accessible centre;
- reinforces Gordon's role as a local centre through the delivery of a supermarket and active ground-floor uses; and
- optimises existing infrastructure investment, including public transport.

These outcomes represent a clear public benefit that outweighs strict adherence to the FSR control.



6.2 Consistency with Zone Objectives

The development is consistent with the objectives of the E1 Local Centre zone, including:

- providing a mixture of residential, retail and commercial uses;
- supporting the vitality and viability of the centre; and
- accommodating housing close to jobs, services and public transport.

The proposed FSR does not compromise these objectives and instead facilitates their achievement.

6.3 No Adverse Environmental Impacts

The EIS demonstrates that the proposed FSR does not result in unacceptable impacts in relation to:

- solar access or overshadowing;
- visual bulk when viewed from the public domain;
- residential amenity of surrounding development; or
- heritage items and heritage conservation areas.

All impacts are either within acceptable limits or appropriately mitigated through design.

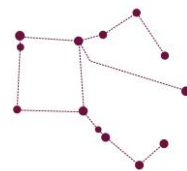
In relation to heritage, the Statement of Heritage Impact acknowledges that the proposal will result in a change to the visual setting of nearby heritage items, particularly the Ku-ring-gai Council Chambers. However, it also concludes that the development will not impact the fabric, use or curtilage of the heritage items, and that the broader setting has already been substantially altered by successive waves of redevelopment within Gordon Town Centre. The identified heritage impacts are therefore visual and contextual in nature, have been carefully mitigated through setbacks, podium articulation and the provision of a landscaped public interface, and do not give rise to unacceptable heritage outcomes.

6.4 Local Character and Surrounding Planning Controls

The character of the immediate locality is defined by its role as Gordon Town Centre, as reinforced by the recently amended KLEP 2015 height and zoning maps. Surrounding sites are characterised by a transition from lower-scale residential development to higher-density mixed-use and commercial buildings, including sites benefiting from increased height controls as part of the Gordon Station Precinct planning framework.

Recent amendments to the KLEP maps have increased permissible building heights on nearby properties, including Council-owned land to the north and centre-zoned land to the south, reflecting an established and evolving high-density centre character. Against this backdrop, the subject site's proposed built form is consistent with the emerging planning context and does not introduce a scale or intensity that is anomalous or inconsistent with surrounding controls.

The proposal has been designed to ensure that impacts on adjoining properties - including visual bulk, solar access, privacy and streetscape presentation - remain acceptable and are appropriately mitigated through podium articulation, tower setbacks and façade modulation. Accordingly, the development will not adversely impact surrounding properties and will



contribute positively to the evolving centre character envisaged by the current planning framework.

In this context, the proposal represents a continuation of the planned evolution of the Gordon Town Centre rather than an unanticipated or isolated departure from established or emerging character.

7. Clause 4.6(4): Public Interest

The proposed development is in the public interest because it is consistent with:

- the objectives of the FSR development standard, which seek to manage bulk and scale rather than impose a rigid numerical outcome;
- the objectives of the E1 Local Centre zone; and
- contemporary State housing and centre-based planning policy.

Granting the variation will enable a better planning outcome than strict compliance. Further, the development includes significant communal facilities throughout the building, including communal rooms, business lounges, fitness areas and pet washing facilities. This is all non-saleable GFA that exceeds comparable local developments and is intended to improve the quality of residential amenity.

8. Matters of State or Regional Significance

The proposed contravention does not raise any issues of State or regional environmental planning significance. The development aligns with State policy encouraging increased housing supply within centres and Transport-Oriented Development locations.

There is no identifiable public benefit in maintaining strict application of the FSR development standard in this instance.

9. Conclusion

This written request demonstrates that:

- compliance with the FSR development standard is unreasonable and unnecessary in the circumstances of the case;
- sufficient environmental planning grounds exist to justify the variation; and
- the proposed development is in the public interest and achieves a superior planning outcome.

Accordingly, the consent authority is requested to exercise its discretion under **Clause 4.6 of KLEP 2015** assessed under **Section 16(1) of the Housing SEPP** to permit the proposed variation to the floor space ratio development standard.

Brendan Nelson RPIA (Fellow) REAP

Managing Director