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APPENDIX B – CLAUSE 4.6 VARIATION STATEMENT

Subject Site:

4-6 Popes Road, Woonona
(Lot 71 DP 1160947)

Clause 4.6 – Exception to Development Standards Statement Variation to the Height of Building Development Standard

Document Properties	
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Acknowledgment of Country

MMJ acknowledges the traditional custodians of the land to which this Statement of Environmental Effects applies. We pay our respect to all Aboriginal people of this land and to Elder's past, present, and emerging.

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Introduction

This Clause 4.6 Variation Request has been prepared to support a development application under Division 4.3 of the Environmental Planning and Assessment (EP&A) Act 1979, for the redevelopment of the existing Seniors Housing development including the construction of five (5) apartment buildings containing independent living units, adaptive reuse of existing church, alterations/additions to existing Residential Care Facility, wellness hub, landscaping and car parking on Lot 71 DP 1160947 at 4-6 Popes Road, Woonona.

The mechanism to vary a development standard in an Environmental Planning Instrument is through Clause 4.6 in the Wollongong Local Environmental Plan (LEP) 2009. The objectives of this clause are as follows:

4.6 Exceptions to development standards

(1) The objectives of this clause are as follows—

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

This request satisfies the requirements of Clause 4.6 of the Wollongong Local Environmental Plan 2009 in demonstrating that:

- a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,
- b) that there are sufficient environmental planning grounds to justify contravening the development standard. This Variation Request is seeking to vary Clause 4.3(2) of Wollongong Local Environmental Plan 2009 (WLEP 2009) and should be read in conjunction with the architectural plans provided with the Development Application, and

This variation has been prepared in accordance with the NSW Department of Planning Infrastructure (DPI) guideline “Varying Development Standards: A Guide” dated November 2023 and addresses the ‘five-part test’ established by the NSW Land and Environment Court (LEC) to determine whether the objection is well founded.

Subject Land

The subject site is located southeast of the Woonona town centre, on the northeastern border of Gahans Park, and connects to the southern side of Popes Road and the western side of Princes Highway. The site is a single allotment described as Lot 71 DP1160947, 4-6 Popes Road, Woonona.



The site itself is a large parcel zoned R2 Low Density Residential with an area of land zoned E3 Productivity Support. The site has an area of approximately 29,050 sqm. The frontage to the Princes Highway is approximately 122 metres, and the frontage to Popes Road is 108 metres. The site contains multiple buildings and internal roadways associated with the seniors housing development “IRT Woonona”.

The site is relatively flat in terms of topographic profile. The site includes some vegetation on site directly to the north of Flametree Residential Care Facility.

Site Context

The site is bound by single and double storey attached and detached dwellings to the north (accessed from Popes Road), to the south (accessed from Lily Pilly Circuit and the Princes Highway) and to the west (accessed from Popes Road and High Street). Adjacent to the site is Woonona Bulli RSL Memorial Club to the east and Cahans Park to the west.

The subject site is accessed from an internal road that runs to the south and east of the existing buildings allowing for access and egress of the site by Popes Road.

There is also a local heritage item located directly to the southeast of the building, internally referred to as Blue Gum Sanctuary, which will be retained.

Proposed Development

The proposal is for the staged redevelopment of the existing IRT Woonona Seniors Housing, including:

1. Construction of five (5) seniors housing buildings comprising a total of 92 dwellings:
 - Building A - 16 Independent Living Units
 - Building B - 8 Independent Living Units
 - Building C - 27 Independent Living Units
 - Building D - 26 Independent Living Units
 - Building E - 15 Independent Living Units and Social Wellness Centre

New basement level and at grade car parking for 155 spaces, 1 at grade ambulance space, internal roads and ancillary infrastructure.

2. Additions to the existing Flametree Residential Care Facilities (RCF) and connection to the basement car park.
3. Demolition of internal road networks and existing car parking to be replaced in newly proposed basement.
4. Retention of existing Heritage Church (Blue Gum Sanctuary) and repurpose to provide cafe and staff amenities.



5. Retention of existing Camelia Lodge Independent Living Units.
6. Landscaping and vegetation management in the riparian corridor.
7. Temporary Vehicle Access from Princes Highway during construction for construction vehicles and to service Flametree through stages of construction.

The design responds to the site's topography, remaining buildings, constraints, context and aims to deliver high-quality seniors' accommodation in the form of Independent Living Units and upgrades to the existing Residential Care Facility.

Planning Framework

The applicable Environmental Planning Instrument subject to this Variation Request is the State Environmental Planning Policy (SEPP) (Housing) 2021 and Wollongong Local Environmental Plan (WLEP) 2009.

State Environmental Planning Policy (Housing) 2021

Chapter 3, Part 5 Housing for seniors and people with a disability

State Environmental Planning Policy (Housing) 2021 (Housing SEPP) applies to the proposed seniors housing development, in particular Chapter 3, Part 5 Housing for Seniors and people with a disability is relevant to the development. The proposed development is for seniors housing development and is for "in-fill self-care housing" under the Housing SEPP 2021. This Variation Request is seeking to vary the development standard under Subsection 87 (2) (c) of the Housing SEPP. There are no objectives that apply to Section 87; however, the site meets the application test under Subsection 87 (1) as residential flat buildings are permitted in the R2 Low Density Residential zone and shop top housing is permitted in the E3 as an Additional Permitted Use in Schedule 1, Section 34 of Wollongong LEP 2009.

87 Additional floor space ratios

(1) This section applies to development for the purposes of seniors housing on land to which this Part applies if—

(a) development for the purposes of a residential flat building or shop top housing is permitted on the land under Chapter 5 or another environmental planning instrument, or

(b) the development is carried out on land in Zone E2 Commercial Centre or Zone B3 Commercial Core.

(2) Development consent may be granted for development to which this section applies if—

(a) the site area of the development is at least 1,500m², and

(b) the development will result in a building with the maximum permissible floor space ratio plus—



- (i) for development involving independent living units—an additional 15% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of independent living units, or*
- (ii) for development involving a residential care facility—an additional 20% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of the residential care facility, or*
- (iii) for development involving independent living units and residential care facilities—an additional 25% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of independent living units or a residential care facility, or both, and*
- (c) the development will result in a building with a height of not more than 3.8m above the maximum permissible building height.*

Wollongong Local Environmental Plan 2009

Wollongong Local Environmental Plan 2009 (WLEP 2009) provides the underlying development standards applicable to the development and includes the aims and objectives for the development within the Wollongong Local Government Area. A Variation Request to the development standard for Height of Buildings in Clause 4.3(2) of Wollongong Local Environmental Plan 2009 (WLEP 2009) is not required, however has been referenced as the underlying development standard which the bonus height in Section 87 of the Housing SEPP 2021 has been applied to.

Objectives of the Development Standard

To satisfy the requirements of Clause 4.3(2) and demonstrate that compliance with the standard is unreasonable or unnecessary, it is important to understand the intent and objectives of the development standard being varied.

The objectives of this clause are as follows—

- (a) to establish the maximum height limit in which buildings can be designed and floor space can be achieved,*
- (b) to permit building heights that encourage high quality urban form,*
- (c) to ensure buildings and public areas continue to have views of the sky and receive exposure to sunlight.*

Description of the Variation

The subject site maps a maximum building height of 9m in the R2 Low Density Residential Zone and 11m in the E3 Productivity Support zone. The Housing SEPP 2021 provides a bonus height for seniors housing development of 3.8m above the maximum permissible building height in Subsection 87 (2)(c).

- (2) Development consent may be granted for development to which this section applies if—*
 - (a) the site area of the development is at least 1,500m², and*



(b) the development will result in a building with the maximum permissible floor space ratio plus—

(i) for development involving independent living units—an additional 15% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of independent living units, or

(ii) for development involving a residential care facility—an additional 20% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of the residential care facility, or

(iii) for development involving independent living units and residential care facilities—an additional 25% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of independent living units or a residential care facility, or both, and

(c) the development will result in a building with a height of not more than 3.8m above the maximum permissible building height.

The site area is at least 1500m² and the bonus FSR has been applied to the development, therefore, the permitted building height is 12.8m in the R2 zone and 14.8m in the E3 zone. The proposed development exceeds the maximum permitted building height of 12.8m and 14.8m (respectively) as detailed in the table below.

Table 1 provides a summary of each building that is above and below the maximum height plane. Table 2 outlines the permitted LEP and SEPP maximum building height, the proposed building height and the variation proposed at the highest point in the development. The areas of building height breach varies with the highest maximum building height breach in the R2 zone at 3.25m or 25.39% and in the E3 zone at 0.72m or 4.86%.



TABLE 1 - DESCRIPTION OF VARIATION PROPOSED FOR EACH BUILDING

Land Zone	Building	Total Roof Area (m2)	Roof Area Below Height Plane (m2)	% of Roof Area Below Height Plane	Roof Area Above Height Plane (m2)	% of Roof Area Above Height Plane	Building Components above permitted building height
R2	FT Ext	145	90	62%	55	38%	Flame tree extension, upper floor space and roof.
R2 Zone	A	676	0	0%	676	100%	Plant, plant screening, parapet and upper floor space
R2 Zone	B	547	71	13%	476	87%	Plant and plant screening.
R2 Zone	C	1416	126	9%	1290	91%	Plant, plant screening, parapet and upper floor space
R2 Zone	D	1160	394	34%	766	66%	Plant, plant screening, parapet and upper floor space.
R2 Zone	E	860	644	75%	216	25%	Plant, plant screening, parapet and upper floor space. Plant and plant screening.
E3 Zone							



TABLE 2 - DESCRIPTION OF VARIATION PROPOSED FOR EACH BUILDING

Land Zone	Building	Permitted LEP Height (m)	Bonus SEPP Height (m)	Proposed (m)	Variation (m)	% Variation	Building Components above permitted building height
R2 Zone	FT Ext	9	12.8	13.9	1.1	8%	Flame tree extension, upper floor space and roof.
R2 Zone	A	9	12.8	16.05	3.25	25.39%	Plant, plant screening, parapet and upper floor space
R2 Zone	B	9	12.8	14.525	1.725	13.48%	Plant and plant screening.
R2 Zone	C	9	12.8	15.47	2.67	20.86%	Plant, plant screening, parapet and upper floor space
R2 Zone	D	9	12.8	15.38	2.58	20.16%	Plant, plant screening, parapet and upper floor space.
R2 Zone	E	9	12.8	15.57	2.77	21.64%	Plant, plant screening, parapet and upper floor space.
E3 Zone	E	11	14.8	15.52	0.72	4.86%	Plant and plant screening.

Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

The NSW Land and Environment Court in *Four2Five Pty LTD v Ashfield Council* [2015] NSWLEC 90, considered how this question may be answered and referred to the earlier Court decision in *Wehbe v Pittwater Council* [2007] NSWLEC 827.

Preston CJ identified five (5) ways in which an applicant might establish that compliance with a development standard is unreasonable or unnecessary. planning grounds to justify contravening the development standard ..." [15]

The court provided the following five tests to be used as prompts to answer.

- 1. The objectives of the standard are achieved notwithstanding noncompliance with the standard (First Way)*
- 2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary (Second Way)*



3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (Third Way)*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable (Fourth Way)*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone (Fifth Way).*

In this regard, this written request establishes and adequately addresses the matters in clause 4.6(3)(a) that compliance with each development standard is unreasonable or unnecessary because the objectives of the standard are achieved irrespective of the non-compliance and accordingly justifies the variation pursuant to the **First Way** outlined in Wehbe, as follows.

Additionally, of note, in the judgment in *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7, the Chief Judge upheld the Commissioner's approval of large variations to height and FSR controls on appeal. He noted that under clause 4.6, the consent authority (in that case, the Court) did not have to be directly satisfied that compliance with the standard was unreasonable or unnecessary, rather that the applicant's written request adequately addresses the matters in clause 4.6(3)(a) that compliance with each development standard is unreasonable or unnecessary.

In this regard, this written request establishes and adequately addresses the matters in clause 4.6(3)(a) that compliance with each development standard is unreasonable or unnecessary because the objectives of the standard are achieved irrespective of the non-compliance and accordingly justifies the variation under the **First Way** outlined in Wehbe, as follows.

From a design response perspective, the reason for the height breach is due to several factors, including:

- The flood planning level near Building A has resulted in an increase to the ground floor level.
- Increased floor-to-ceiling heights, particularly in Building C and E, due to the clubhouse and wellness hub floor located on the ground floor of these buildings.
- An extension of the existing Flametree RCF has resulted in a new three storey extension to the north of the western wing. To suit the architectural form of the existing Flametree building, the extension exceeds the height limit by 1.1m the highest point.
- Servicing equipment such as lifts overruns, plant screening etc.



- Reduction in overall building footprints to provide taller buildings which provide view corridors of the escarpment, the heritage church from Woonona Centre and through to the riparian corridor.
- The application of urban design principles to achieve good building separations and amenity.
- Accessible building entries to avoid ramps and stairs where possible, this has resulted in a slight increase of the ground floor level to provide a smooth and accessible pedestrian environment through the site.
- Consultation with the State Design Review Panel including recommendations that the design should consider varying the height of built form across the site to improve sightlines and to open up the ground plane.

The majority of the building forms are under the respective height limits of 12.8m and 14.8m, except for servicing equipment, upper roof areas and parapet. Some areas of the building breaches are slightly below the top floor ceiling level; however, the breaches are negligible in the context of the scale of the development and the existing Residential Care Facility building, Flametree will continue to be the tallest building on site (excluding roof servicing equipment on new buildings) with the highest point at RL41.57 (14.87m) – see Figure 2.

The total area of the existing height breach on the Flametree RCF building is 770m² with 55m² of this area proposed and 715m² existing. The total roof area of the RCF is 2180m², resulting in 32.8% of the existing building being above the permitted building height plane. It is noted that Section 84 of the Housing SEPP 2021 provides development standards for building height in residential zones (where residential flat buildings are not permitted) that permit the exclusion of the servicing equipment on the roof of the building from the calculation of the building height.

Section 108 in the Housing SEPP 2021 also provides a non-discretionary standard of 9.5m for the permitted building height excluding servicing equipment on the roof of a building. Under Subsection 108(2)(b), the *servicing equipment on the roof of a building, which results in the building having a height of more than 9.5m—*

- (i) is fully integrated into the design of the roof or contained and suitably screened from view from public places, and*
- (ii) is limited to an area of no more than 20% of the surface area of the roof, and*
- (iii) does not result in the building having a height of more than 11.5m,*

The areas of building height breach are largely for areas of servicing equipment, including lift overruns and plant screening. This area makes up 9.85% (455m²/4619m² roof area) of the roof area that is above the permitted building height under Section 87 in the Housing SEPP 2021.



FIGURE 1 – HEIGHT OF BUILDINGS LAYER (SOURCE: NSW PLANNING SPATIAL VIEWER & URBANAC)



FIGURE 2 – HEIGHT PLANE DRAWINGS (SOURCE: CALDERFLOWER)



FIGURE 3 – HEIGHT PLANE DRAWINGS (SOURCE: CALDERFLOWER)



FIGURE 4 – ELEVATIONS – EAST, SOUTH, NORTH AND WEST (SOURCE: CALDERFLOWER)



FIGURE 5 – BUILDING ELEVATIONS – C, D & E (SOURCE: CALDERFLOWER)



FIGURE 6 – BUILDING ELEVATION – FLAMETREE EXTENSION (SOURCE: CALDERFLOWER)

Objective of the Development Standard (First Way)

While Section 87 itself does not list specific objectives for the building height and floor space ratio development standards, Section 87 was introduced through amendments to the Housing SEPP 2021 to encourage increased density of seniors housing on existing urban zoned sites. The purpose of the Housing SEPP changes to permit bonus building height and FSR was to ensure that seniors housing meets industry standards and community expectations.

The Principles of this Policy (Housing SEPP 2021) are relevant and are considered below:

Objective	Comment
<i>(a) enabling the development of diverse housing types, including purpose-built rental housing,</i>	The proposal supports this principle by delivering seniors housing residential apartments and improvements to an existing residential care facility, contributing to the diversity of housing stock in the area. The minor height variation allows for a more viable and



	well-designed project, thereby enabling this development.
<i>(b) encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,</i>	This proposal directly addresses the needs of seniors, a key demographic identified in this principle. The design incorporates accessibility features such as lift access facilitated by the height variation, ensuring it meets the needs of this group. The development will be undertaken by a registered community housing provider to provide housing for seniors or people with a disability thereby aligning with this principle.
<i>(c) ensuring new housing development provides residents with a reasonable level of amenity,</i>	The proposed development is designed to provide a high level of amenity for future residents, including good solar access, private open space, and communal facilities. The minor height variation contributes to achieving these amenity outcomes, for example, by allowing for better internal layouts or improved access to views and light for some units.
<i>(d) promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,</i>	The subject site is located in an area with good access existing infrastructure/services, e.g., public transport, shops, medical facilities, open space areas. The proposal represents an efficient use of this well-serviced land, consistent with this principle.
<i>(e) minimising adverse climate and environmental impacts of new housing development,</i>	The development incorporates sustainability features, such as energy-efficient design, solar panels, deep soil zones for landscaping. The height variation itself does not exacerbate environmental impacts and as argued previously, allows for a design that responds better to site conditions, potentially reducing overall site disturbance compared to a strictly compliant but less efficient design.



<i>(f) reinforcing the importance of designing housing in a way that reflects and enhances its locality,</i>	The architectural design of the proposal has been carefully considered to enhance the locality and its surrounds for example by responding to the existing streetscape character, using materials sympathetic to the area, and providing a positive visual contribution to the streetscape. The minor height variation is integral to achieving this articulated and contextually responsive design.
<i>(g) supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,</i>	This principle is not directly applicable to the proposed development, which is intended for permanent residential occupation / seniors housing.
<i>(h) mitigating the loss of existing affordable rental housing.</i>	The subject site does not currently contain affordable rental housing that will be lost as a result of this development. Existing ILUs on the site were demolished in 2024/25 after they had reached their end of life and upgrades to achieve compliance with current standards was not feasible. The proposed development will provide for additional ILUs on site and improved amenities for existing and future residents in the RCF.

Under WLEP 2009, Clause 4.3(2) has the following objectives in relation to the Maximum Building Height development standard:

- (a) to establish the maximum height limit in which buildings can be designed and floor space can be achieved,*
- (b) to permit building heights that encourage high quality urban form,*
- (c) to ensure buildings and public areas continue to have views of the sky and receive exposure to sunlight.*

The proposed development is consistent with the objectives of the underlying Clause 4.3(2) for the reasons set out below:

Clause 4.3(2) (a) to establish the maximum height limit in which buildings can be designed and floor space can be achieved,



The size of the site is 29,050 square metres. The permitted FSR in WLEP 2009 is 0.5:1, however, subsection 87(2) of the Housing SEPP 2021 includes a bonus FSR of 25% for sites containing Residential Care Facilities (RCFs) and Independent Living Units (ILUs), resulting in a permitted FSR of 0.625:1. The proposed development provides a 0.644:1 FSR which is slightly above the permitted FSR of 0.644:1 (refer to separate Clause 4.6 Variation Statement relating to FSR).

Through design amendments in response to the SDRP feedback, the footprints of Buildings A, B & D were significantly reduced, and Building C was rationalised and consolidated into one form. These changes to the footprint increased the open space and separation to establish the view corridor to the heritage church, escarpment and riparian zone.

The Urban Design Study prepared by Urbanac considered various design response options in the masterplan development phase. Three approaches were considered for the relationship between Princes Highway frontage and streetscape as well as the R2 western interface with the development – see Figures 5 and 6 below.

Height and Streetscape

Three massing approaches were considered for building height along the Princes Hwy:

Approach 1 delivers building massing with heights derived from the LEP together with the height bonuses from the Housing SEPP.

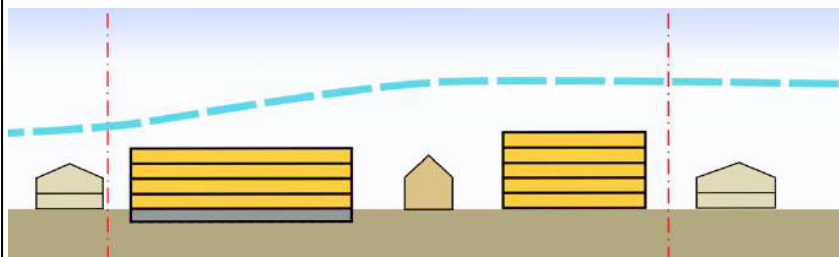


Figure 30 Height Option 1 North-South Section Diagram

Approach 2 lowers the streetscape massing to achieve a 2-3 storey forms, and to rebalance that potential with taller forms interior to the site.

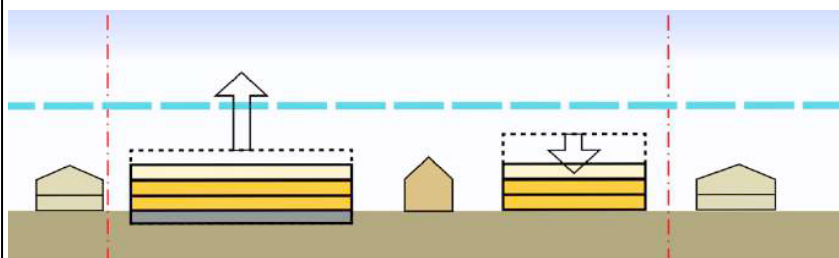


Figure 31 Height Option 2 North-South Section Diagram

Approach 3 looks at a middle approach, with a unified height of 4 storeys for new built form across Princes Hwy frontage of the site - lower in the north and at the maximum height for the south resulting in an overall scale transition.

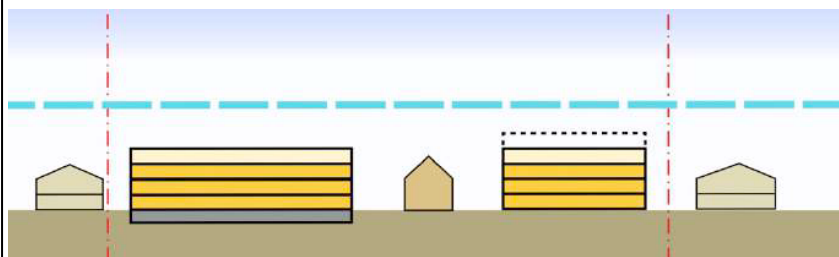


Figure 32 Height Option 3 North-South Section Diagram

FIGURE 7 - HEIGHT AND STREETScape OPTIONS PRINCES HIGHWAY INTERFACE (URBANAC)

Height and R2 Western Interface

Three massing approaches were considered for building height at the interface to the R2 residential zone to the west:

Approach 1 delivers building massing with heights derived from the LEP together with the height bonuses from the Housing SEPP and ADG 3F-1 building separations.

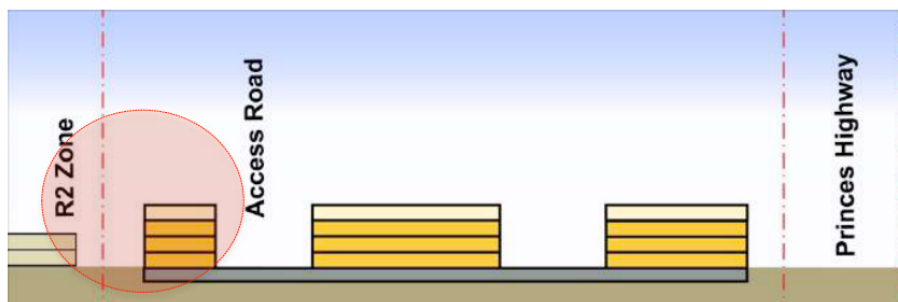


Figure 33 Height Option 1 North-South Section Diagram

Approach 2 steps heights to the west to present a smaller rise in storeys along the western edge.

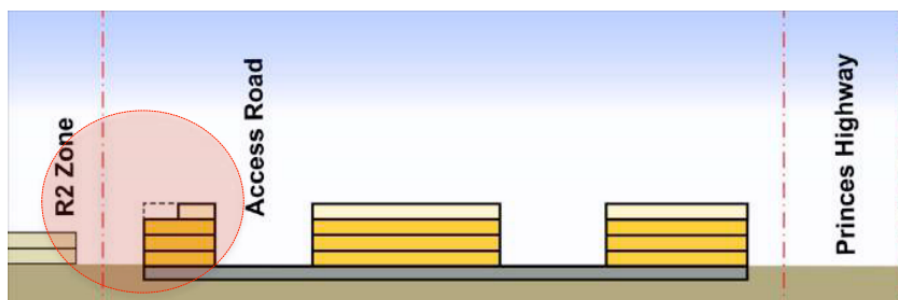


Figure 34 Height Option 2 North-South Section Diagram

Approach 3 is an integrated approach, which positions the internal vehicle access roadway west of these building masses to maximise separations to the R2 zone, while utilising the maximum height available under the controls

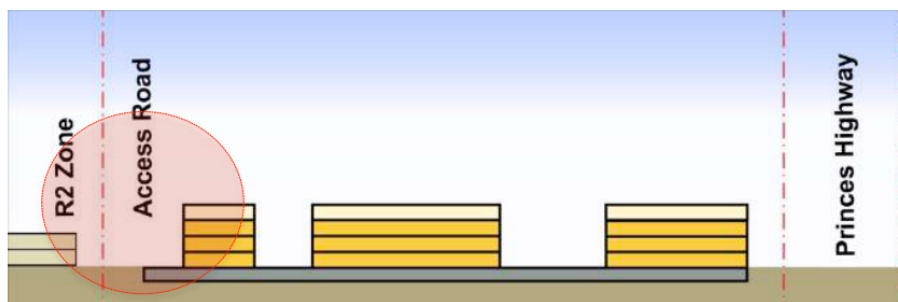


Figure 35 Height Option 3 North-South Section Diagram

FIGURE 8 - HEIGHT AND STREETScape OPTIONS R2 WESTERN INTERFACE (URBANAC)



Clause 4.3(2) (b) to permit building heights that encourage high quality urban form,

A pedestrian-oriented design is fundamental to the success of the open space network. Pedestrian orientation is focused both as through site links engaging the open space network, accessible pathways and clear connections to the riparian corridor. Raised pedestrian thresholds and are provided to enable a clear hierarchy of pedestrian priority across the site. This has resulted in slightly elevated ground floor RLs to achieve this.

The overall built form of the proposal provides an appropriate high amenity and urban scale form. These apartment buildings have a simple, yet interesting elevation, with a combination of materials, articulation and landscape. The design of the buildings at the upper levels, roof and parapet where the building height is breached includes articulation and supporting elements, materials/colours which combine to create an attractive visual appearance.

The breach of the standard does not result in an inconsistency with this objective.

Clause 4.3(2)(c) to ensure buildings and public areas continue to have views of the sky and receive exposure to sunlight

Visual Impact Assessment (VIA) has been prepared by Urbain Design Group to provide a visual impact assessment of the development from key viewpoints and to provide a visual analysis of areas of areas subject to visual across the existing catchment. Viewpoints 3 and 15 (Figures 8 and 9) below provide an example of the analysis undertaken. Further details are provided in the VIA submitted with this application.

The VIA concludes the following:

The assessment of view loss experienced by observers varies from Nil to Moderate-to-Severe. This is largely due to the topographical undulations of the area, relative to the high-value views - to the ocean in the east and the Illawarra Escarpment in the west. The visual impact is, inevitably, greater, at close proximity, without the landscape screening of the buildings, particularly at their upper levels. However, when seen within the context of the variety and scale of existing buildings within the town centre, the overall visual impact can be deemed acceptable.

Since the proposal is largely compliant, it satisfies the Council's guidelines for view sharing between neighbouring properties and from public viewpoints. Based on our 3D analysis, photography, and site visit it would be my recommendation that the State Significant Development Application be approved on the grounds of an acceptable amount of visual impact and view loss, when assessed against the permissible building envelope for the site.

VIEWPOINT 03



Existing site photo - Princes Highway.

From standing position on public pavement
 RL + 26.30m - Distance to boundary 114.07m

Camera - Canon RP
 Lens - 24mm



Photomontage of Proposal

FIGURE 9 - VIEWPOINT 3 EXISTING AND PROPOSED PHOTOMONTAGES (URBAINE DESIGN GROUP)

VIEWPOINT 15



Existing site photo - 455-459 Princes Highway.

From standing position on
RL + 25.28m - Distance to boundary 30.30m

Camera - Canon RP
Lens - 24mm



Photomontage of Proposal

FIGURE 10 - VIEWPOINT 15 EXISTING AND PROPOSED PHOTOMONTAGE (URBAINE DESIGN GROUP)



A strong emphasis has been placed on the design by Calderflower to ensure that each dwelling receives an appropriate level of solar access throughout the winter solstice and other months of the year. Various measures for appropriate solar access are contained within the SEPP (Housing 2021) of which all compliance controls have been exceeded.

Due to the orientation of the site, appropriate setbacks have been considered to adjoining properties at the western boundary to ensure that any overshadowing impacts are limited. The Architects and Urban Designer considered this throughout the development of the masterplan by maintaining reasonable setbacks and the architectural plans provide shadow diagrams that show the existing development to the south of the site will maintain sufficient solar access. None of the adjoining properties will be impacted notably by overshadowing, given the excessive setbacks adopted to the western edge in order to respect the existing properties and built forms located at this position.

The portions of the building above the permitted building height plane will not result in any unreasonable impacts on adjoining sites through overshadowing and within the site to solar access and view impacts. The proposed setback distances are sufficient to provide a reasonable separation between the buildings consistent with the ADG requirements, and the built form has been articulated to ensure there is appropriate spacing between the units. The extensive landscaping and deep soil zone located at the sides and rear of the site will mitigate adverse impacts on these elevations.

A detailed shadow analysis of the southern neighbour at No. 460 Princes Highway was undertaken by Calderflower in the Design Review Report. In comparison to existing site conditions minimal overshadowing to living rooms will occur between 9 to 11am. While some increased overshadowing occurs to bedroom windows. Shadow Diagrams and Shadow Analysis are included below in Figures 11-15. The minor breach in Building D has minimal impact on the extent of shadow on the adjoining neighbour.

The breach of the standard does not affect consistency with this objective.

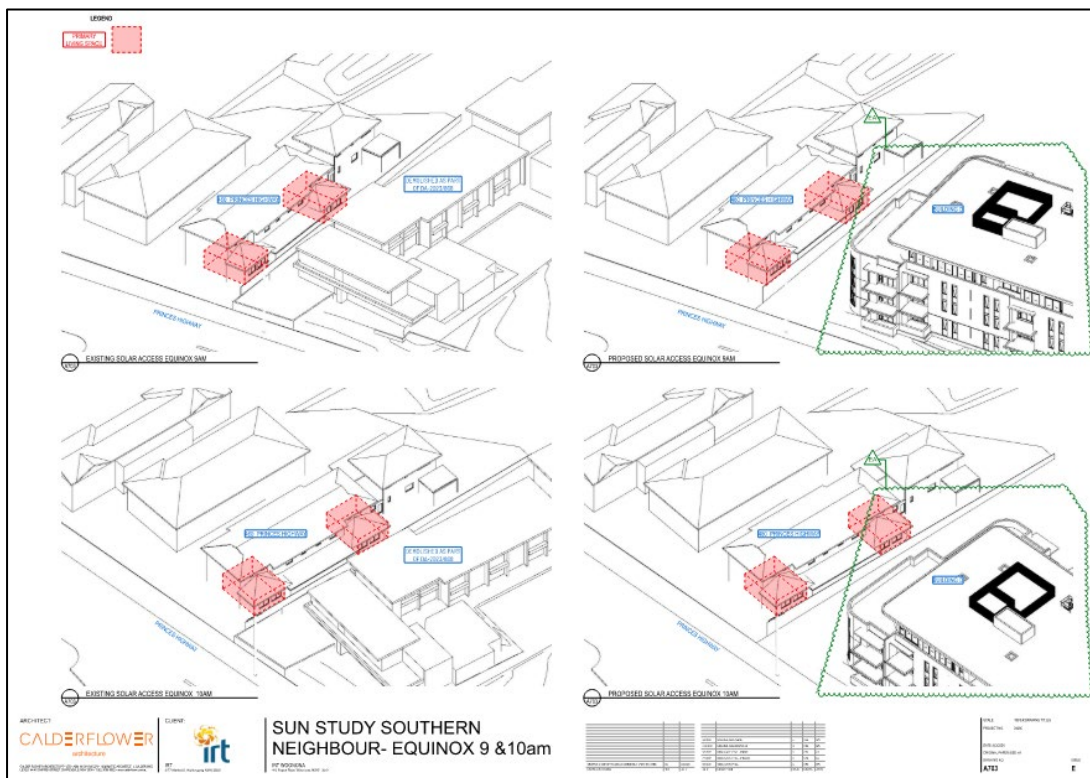


FIGURE 11 – SUN STUDY BETWEEN BUILDING D AND THE SOUTHERN NEIGHBOUR 460 PRINCES HIGHWAY (CALDERFLOWER)

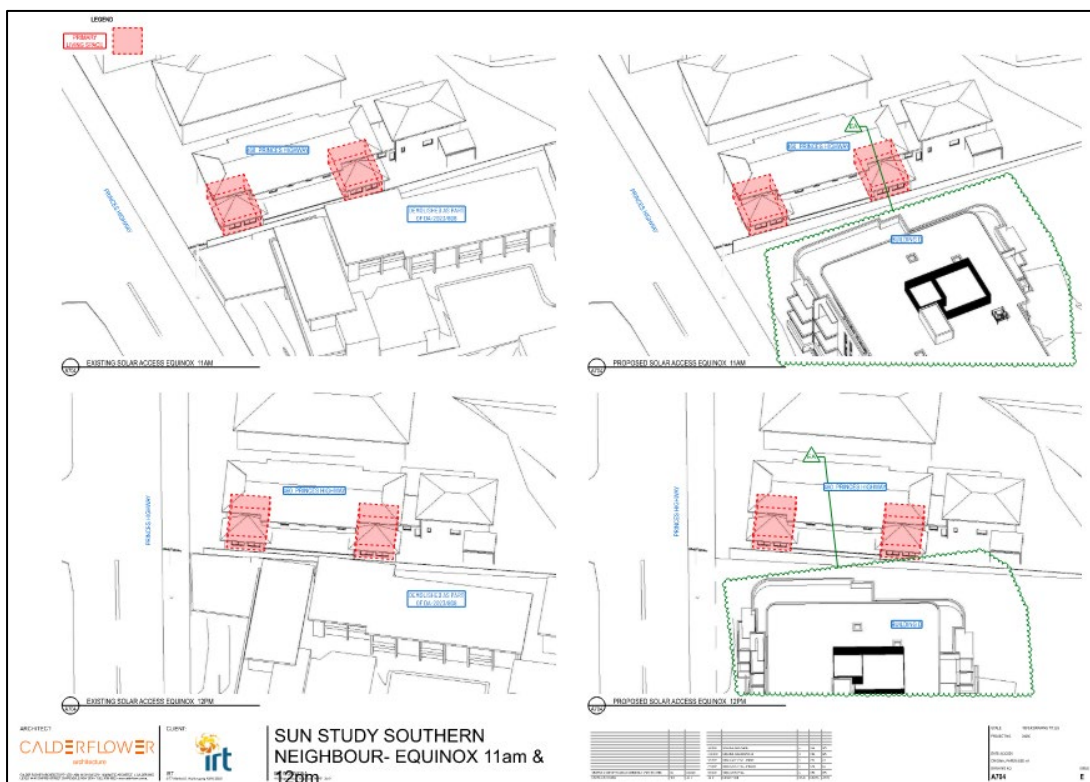


FIGURE 12 – SUN STUDY BETWEEN BUILDING D AND THE SOUTHERN NEIGHBOUR 460 PRINCES HIGHWAY (CALDERFLOWER)



FIGURE 13 - SHADOW DIAGRAM 21 JUNE 11AM (CALDERFLOWER)



FIGURE 14 - SHADOW DIAGRAM 21 JUNE 12PM (CALDERFLOWER)

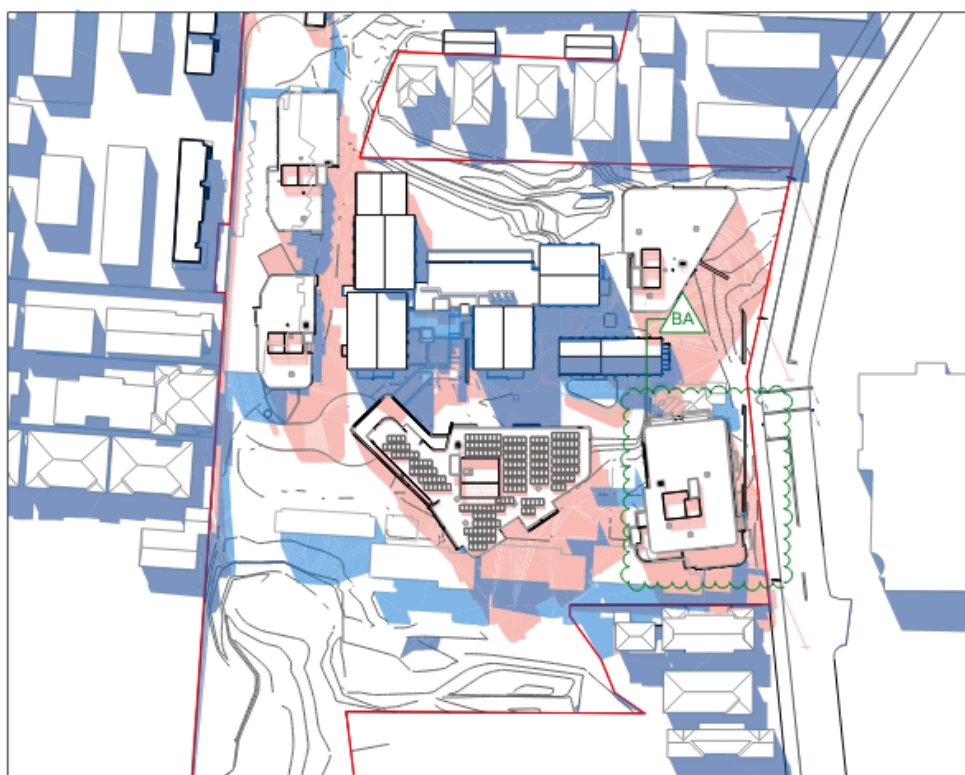


FIGURE 15 – SHADOW DIAGRAM 21 JUNE 1PM (CALDERFLOWER)

Are there sufficient environmental planning grounds to justify contravening the development standard?

Yes, there are sufficient environmental planning grounds in the circumstances of the case to justify contravening the development standard.

The proposed height variation has been carefully considered to ensure minimal adverse environmental impacts. Supporting documentation including the Shadow Diagrams, Urban Design Study, the Environmental Impact Statement and the Visual Impact Assessment – demonstrates that:

- **Overshadowing:** There is no additional overshadowing to neighbouring properties' private open spaces or living areas beyond what could be achieved by a strictly compliant development. Any overshadowing is minor and falls within acceptable limits during mid-winter. The proposed breach will not result in any unreasonable impacts to overshadowing.
- **Privacy:** The variation does not create any new overlooking issues. Apartment layouts and screening measures have been designed to maintain reasonable levels of privacy for adjoining residents.
- **Visual Bulk and Scale:** The design incorporates articulation, varied materials, and landscaping to mitigate visual bulk. The portion of the building exceeding the height limit is set back from the primary street frontage, of a lightweight appearance and includes minor elements such



as servicing equipment and lift overruns and does not dominate the streetscape or appear out of character.

- **View Loss:** The variation does not result in any significant or unreasonable loss of views from surrounding properties.
- **Flooding:** The Flood Planning Level requires an increase to the built ground level which contributes to the overall building height breach, particularly near Building A.
- **Site topography:** The design provides a positive response to the site characteristics, and the design thoughtfully responds to the site's topography, constraints and requirements of a seniors housing development.
- **Site context:** The site is of sufficient width, depth and size to accommodate the proposed height, without resulting in any significant adverse impacts on the public domain or any adjoining properties. The height exceedance has resulted in the protection of the riparian corridor.
- **Roof area:** The area of the roof subject to the height breach is 3155m², this represents 7.38% of the total site area (29,200m²). As detailed in the height plane diagram, the height breaches are minor and are located in central areas of the building, where possible, which are not obvious from surrounding public viewpoints.
- **Accessibility:** The variation allows for the inclusion of a compliant lift overrun, ensuring equitable access for all residents, including those with mobility impairments, to all levels of the building, aligning with universal design principles and objectives of the Housing SEPP to provide accessible housing.

The proposed design, inclusive of the minor height variation, exhibits a high degree of architectural merit, contributing positively to the evolving character of Woonona. The variation allows for increased amenity at ground level, response to flood planning levels and an accessible pedestrian environment as well as a more refined roof form and overall building expression.

The use of Clause 4.6 to provide flexibility to strict development standards is warranted in this case to achieve better outcomes for the development.



Conclusion

This Clause 4.6 Variation Request has been prepared to support a development application for a Residential Seniors Housing Redevelopment at 4 – 6 Popes Road, Woonona. This request seeks approval for a breach of 3.25m or 25.39% (R2 zone) and 0.72m or 4.86% (E3 Zone) to the maximum building height standard prescribed by Section 87 of the Housing SEPP 2021.

It has been demonstrated that:

1. Strict compliance with the numerical building height standard is unreasonable or unnecessary in the context of the subject site and the specific design proposal. The objectives of the standard, the R2 and E3 zones, and the guiding principles of the Housing SEPP 2021 are achieved despite the minor non-compliance. The development is also compatible with the relevant objectives specified in Section 1.3 of the EPAA 1979.
2. The proposed variation will not result in a development that is out of scale or character with its surroundings, nor will it create unreasonable adverse impacts on adjoining properties or the public domain.
3. Sufficient environmental planning grounds exist to justify the contravention. These grounds include the proposal's effective response to site constraints such as flooding, response to the view corridors and riparian corridor and the achievement of superior design and amenity outcomes (particularly for seniors housing).
4. The development will contribute to housing supply in line with the Housing SEPP 2021 principles. The proposed variation facilitates the delivery of well-designed, accessible, and safe housing that meets a demonstrated community need (particularly for seniors, if applicable), aligning with the overarching goals of the Housing SEPP 2021 to enable diverse housing types and cater to vulnerable community members.

This Clause 4.6 Variation Request demonstrates how the proposed development achieves the ends (environmental or planning objectives), despite its departure from the means (the development standard). The development satisfies the requirements of Clause 4.6 of the Wollongong Local Environmental Plan 2009 (WLEP 2009) and demonstrates that compliance with the standard is both unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify varying the standard in this instance. For the reasons outlined in the previous sections above, the objection is well founded in this instance. Granting an exception to the development standard under Subsection 87(2) can therefore be supported in the circumstances of this request.