

beam

Clause 4.6 Variation

Height of Building
36-42 Cabbage Tree Road, Bayview

Prepared for Principal Healthcare Finance Pty Limited

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Author:	Chris Forrester Director	cforrester@beamplanning.com.au
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Emily Batten Planner	ebatten@beamplanning.com.au
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Executive Summary

Clause 4.6 of the Pittwater LEP (PLEP) 2014 enables the consent authority to grant consent for development even though it contravenes a development standard. Its objectives are to provide an appropriate degree of flexibility in applying certain development standards and to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Clauses 4.6(3) requires that development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that:

- Compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- There are sufficient environmental planning grounds to justify the contravention of the development standard.

The table below provides a summary of the key matters required to be considered in a Clause 4.6 Variation, as set out in the Department of Planning, Housing and Infrastructure's *Guide to Varying Development Standards November 2023*.

Where is the development site?	The Opal HealthCare Bayview site comprises a 6,063m ² portion of the existing Aveo Bayview Gardens Retirement Living (BGRL) at 36-42 Cabbage Tree Road, Bayview.
What is proposed development?	This State Significant Development Application (SSDA) seeks approval for the redevelopment of a disused aged care building for a new Residential Care Facility (RCF) to be known as Opal Healthcare Bayview. The Opal Healthcare Bayview site will be split from the existing Aveo BGRL site via a Torrens Title subdivision and will comprise a 3-4 storey RCF comprising 177 beds and basement parking.
What is the variation?	<p>The proposed development contravenes the height of building development standards within both the <i>Pittwater Local Environmental Plan 2014</i> (PLEP) and the <i>State Environmental Planning Policy (Housing) 2021</i> (Housing SEPP). Under Clause 4.3 of the PLEP, the maximum permissible building height for the site is 8.5m. Section 84(2)(c)(i) of the Housing SEPP prescribes a maximum height of 9.5m for the site, excluding rooftop servicing equipment, and Section 84(3)(c) allows for a maximum height of 11.5m including rooftop servicing equipment.</p> <p>The proposed development reaches 10.1m to the top of the building and 11.46m to the top of the servicing equipment. This results in a variation to the Housing SEPP 9.5m height limit, which excludes rooftop servicing equipment, of 0.6m (equating to a 6.3% variation) and the PLEP 8.5m building height control of 2.96m (equating to a 34.8%, and a variation). It is noted that the proposal is compliant with the 11.5m (including rooftop servicing equipment) Housing SEPP control. The extent of the exceedance is largely a product of the site's topography, which results in a technical breach in isolated locations as a result of the <i>building height</i> definition.</p>
Why is compliance with the building height development standard is unreasonable and unnecessary in the circumstances of the case?	<p>The proposal achieves the objectives of the PLEP height of building standards, notwithstanding the non-compliance as:</p> <ul style="list-style-type: none"> • The height exceedance arises from the site's natural topography, which causes minor technical breaches of the height limit in isolated areas without increasing the perceived bulk or number of storeys. • The variation enables accessible floor plates avoiding internal level changes that would otherwise compromise resident mobility and amenity. • A portion of the exceedance relates to roof-level elements, including a lightweight awning and planter boxes, which deliver improved environmental and amenity outcomes. • Despite the exceedance, the building maintains a predominately three-storey presentation to Annam Road and adjoining dwellings, ensuring compatibility with the surrounding built form and the established character of the Aveo Bayview precinct.

What are the sufficient environmental planning grounds to justify contravention of the development standard?

- The non-compliance results in negligible shadow and view impacts, with additional shadow cast almost entirely within the site and no effect on neighbouring residential dwellings.

The environmental planning grounds to justify contravention of the height of building standards are:

- The site's natural topography results in varying ground levels across the building footprint, which in turn causes minor technical exceedances of the height limit in isolated locations. The overall building height and number of storeys remain consistent with that anticipated under the Housing SEPP and Seniors Housing Design Guide.
- The height exceedance facilitates the provision of flat, step-free floor plates, ensuring accessibility and compliance with the design principles of the Seniors Housing Design Guide.
- A portion of the exceedance relates to roof-level elements, including a lightweight awning and planter boxes that form part of the rooftop communal open space. These features provide sun protection, visual softening, and privacy screening, delivering an improved amenity outcome for residents.
- The variation enables the replacement of a disused aged care facility with a contemporary, purpose-built residential care building delivering 177 beds, directly responding to the identified demand for aged care accommodation in the Northern Beaches LGA.
- The height exceedance does not result in any adverse environmental impacts, including overshadowing, view loss, or visual intrusion.
- The height variation enables a functionally superior and more accessible residential care facility, directly supporting the objectives of the Housing SEPP and the delivery of high-quality seniors housing on a suitable, serviced site.

In light of the above that the consent authority can be satisfied that there are sufficient grounds to support the proposed variation.

1.0 The Development Site


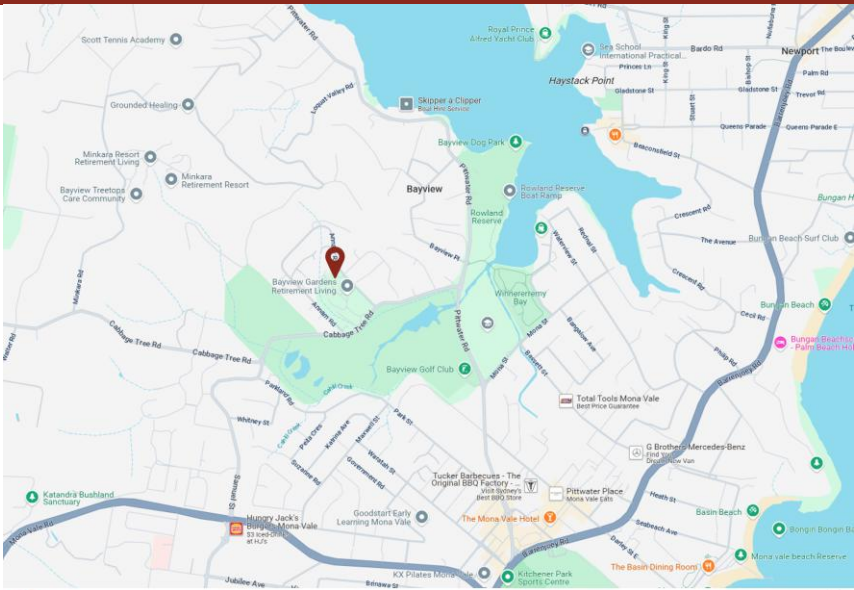





 Address	36-42 Cabbage Tree Road, Bayview	 <p data-bbox="598 846 742 884">  THE SITE </p> <p data-bbox="1228 851 1380 884">NOT TO SCALE</p> <p data-bbox="1396 840 1444 896">  </p>
 Legal Description	Lot 121 in DP789400	
 Site Area	6,063m ²	
 Owner	Aveo Group Ltd.	

Figure 1 Location Plan



Figure 2 Aerial Photo

2.0 The Proposed Development

The Opal Healthcare Bayview development proposes the redevelopment of an existing, disused aged care building on the site for the construction of a new RCF.

Specifically, the development comprises:

- Demolition of the existing aged care building and driveway on the site;
- Construction of a three-storey building, accommodating:
 - 177 beds,
 - Basement parking,
 - Ground floor ancillary facilities;
- Construction of a 182m² community room, to be located on the Aveo BGRL site;
- Construction of a new driveway, to be located on the Aveo BGRL site;
- Torrens Title subdivision of the Opal Healthcare Bayview site from Aveo BGRL;
- Associated amenities and landscaping works;
- Augmentation of, and connection to, existing utilities as required.

Architectural drawings and a design report prepared by Calderflower illustrating the proposed development are included with the SSDA. An artist Impression of the proposed development is shown at **Figure 3**.



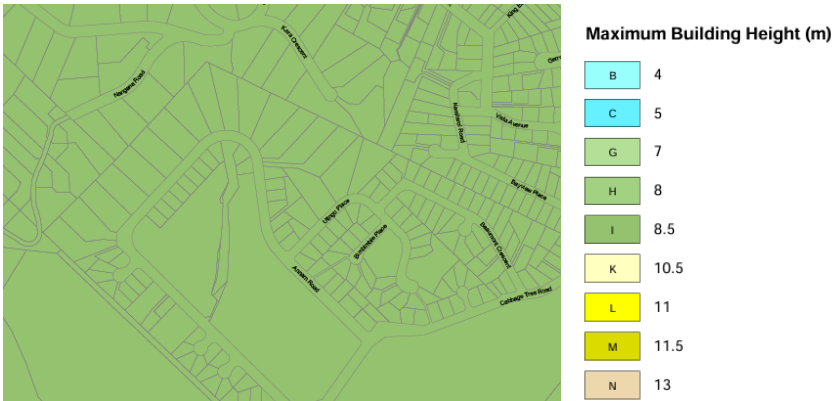
Figure 3 Artist Impression

Source: Calderflower

3.0 The Proposed Variation

This section outlines the relevant environmental planning instrument (EPI), the development standard to be varied and proposed variation.

Table 1 Planning instrument, development standard and proposed variation

Matter	Comment
Environmental planning instruments (EPI) sought to be varied	Pittwater Local Environmental Plan 2014 (PLEP 2014) and the State Environmental Planning Policy (Housing) 2021 (Housing SEPP).
The site's zoning	<p>Zone R2 Low Density Residential</p> <p>The objectives of this land use zone are:</p> <ul style="list-style-type: none"> (a) To provide for the housing needs of the community within a low density residential environment. (b) To enable other land uses that provide facilities or services to meet the day to day needs of residents. (c) To provide for a limited range of other land uses of a low intensity and scale, compatible with surrounding land uses.
LEP Development standard sought to be varied	<p>Clause 4.3 Height of Buildings</p> <p>The objectives of this clause are:</p> <ul style="list-style-type: none"> (a) To ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality, (b) To ensure that buildings are compatible with the height and scale of surrounding and nearby development, (c) To minimise any overshadowing of neighbouring properties, (d) To allow for the reasonable sharing of views, (e) To encourage buildings that are designed to respond sensitively to the natural topography, (f) To minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items. <p>The maximum height of buildings permissible on the site under the PLEP is 8.5m (Figure 4).</p>  <p>Figure 4 Height of Building Map - Sheet 11</p>
Housing SEPP Development standard sought to be varied	<p>Section 84 Development Standards – General</p> <p>Section 84 of the Housing SEPP is contained within Division 3 Development Standards under Part 5, which applies to housing for seniors or people with a disability. Although neither Part 5 or Section 84 includes specific objectives, the intent of Section 84(2)(c) is to regulate the form and scale of development to ensure it is appropriate to its context and adjoining properties. This clause sets standards for building height and scale in zones where residential flat buildings are not permitted.</p> <p>Importantly, the Principles of the Policy as outlined in Section 3 are:</p> <ul style="list-style-type: none"> (a) enabling the development of diverse housing types, including purpose-built rental housing, (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,

Matter

Comment

- (c) ensuring new housing development provides residents with a reasonable level of amenity,
- (d) promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,
- (e) minimising adverse climate and environmental impacts of new housing development,
- (f) reinforcing the importance of designing housing in a way that reflects and enhances its locality,
- (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,
- (h) mitigating the loss of existing affordable rental housing.

Section 84 stipulates:

- (2) Development consent must not be granted for development to which this section applies unless—
- (c) for development on land in a residential zone where residential flat buildings are not permitted—
- (i) the development will not result in a building with a height of more than 9.5m, excluding servicing equipment on the roof of the building
- if the roof of the building contains servicing equipment resulting in the building having a height of more than 9.5m—the servicing equipment complies with subsection (3)
- (3) The servicing equipment must—
- (c) not result in the building having a height of more than 11.5m.

The maximum height of buildings permissible under the Housing SEPP is **9.5m excluding rooftop servicing equipment**, and **11.5m including rooftop servicing equipment**. These height provisions recognise the specific design and operational requirements of seniors housing developments, which typically necessitate additional vertical space to accommodate plant rooms, lift overruns and other essential building services.

The proposed Variation

The proposed development reaches 10.1m to the top of the building, and 11.46m to the top of the servicing equipment. As such, it exceeds the Housing SEPP Section 84(2)(c)(i) standard by 0.6m (6.3%) and the LEP height of building standard by 2.96m (34.8%). It is noted that the proposal is compliant with the height standard for rooftop services at Section 84(3)(c) of the Housing SEPP.

Figure 5 illustrates the proposed variation to the height of building LEP and SEPP development standards. As illustrated, the proposal exceeds the 9.5m height plane in three locations, all at the edges of the building. The largest exceedance is 0.6m above the Housing SEPP height plane. The exceedances are largely due to the varying site topography, resulting in a technical breach to the standard at specific locations. The building section included at Figure 6 shows the varying site topography.

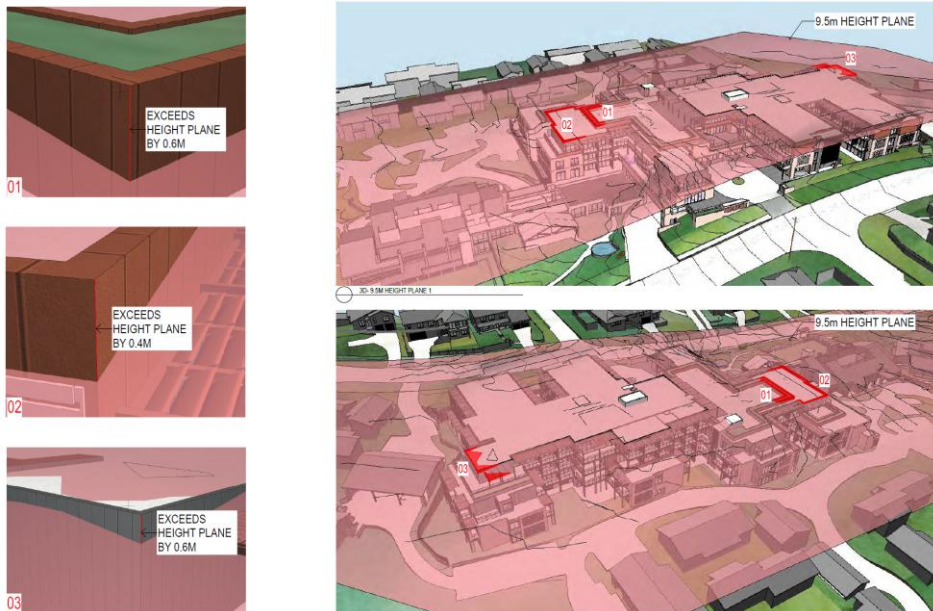
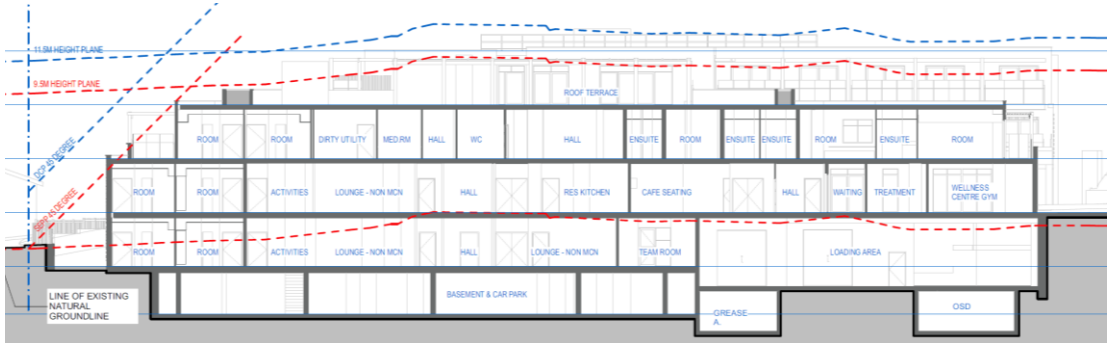


Figure 5 Proposed Variation

Source: Calderflower

Matter	Comment
	 <p data-bbox="352 544 670 573">Figure 6 Building Section</p> <p data-bbox="352 584 528 611">Source: Calderflower</p>

4.0 Justification for Contravention of the Development Standard

Clause 4.6(3) of the Pittwater LEP 2014 provides that:

- 3) *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that:*
 - (a) *compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *there are sufficient environmental planning grounds to justify contravening the development standard.*

These key considerations are considered in their respective sections below.

4.1 Clause 4.6(3)(a): Compliance with the development standard is unreasonable or unnecessary

This Clause 4.6 Variation request establishes that non-compliance with the development standard is unreasonable or unnecessary in the circumstances of the proposed development because the objectives of the standard are achieved. Accordingly, the variation to the height control is justified pursuant to the 'First Method' outlined in Wehbe.

The discussion under the following subheadings demonstrates how the proposed development, inclusive of the height variation achieves the objectives of the Housing SEPP and the Height of Building development standard notwithstanding the non-compliance.

4.1.1 Assessment Against the Housing SEPP Objectives

Objective 3(a) enabling the development of diverse housing types, including purpose-built rental housing

The proposal delivers a purpose-built RCF comprising 177 beds, specifically designed to meet contemporary aged care standards and in response to the significant and growing demand for this typology. This contributes to housing diversity within the Northern Beaches LGA by providing accommodation distinct from ILUs and standard residential housing. The development incorporates specialised facilities, communal areas, and care services tailored to the needs of seniors requiring high-level support, broadening housing choice. The proposal also delivers 16 dementia-care beds responding to a growing demand in the area.

The minor height variation enables efficient and functional care accommodation that meets the operational and design standards of the Seniors Housing Design Guide. The exceedance, being a technical outcome of site topography rather than increased bulk and scale, allows for the delivery of a high quality RCF.

Objective 3(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

The RCF will exclusively accommodate seniors and people with a disability, addressing an identified demographic with limited housing options. It will provide accessible design, specialist care services, and on-site support for residents with high-care needs. By enabling older residents to move from underutilised family homes into supported accommodation, the proposal indirectly benefits moderate- and low-income households by increasing housing turnover in the broader market.

The height variation accommodates floor-to-ceiling heights, lift overruns, and accessible floorplates that ensure accessibility for older residents with high-care needs. The variation therefore directly supports the delivery of suitable housing for vulnerable community members.

Objective 3(c) ensuring new housing development provides residents with a reasonable level of amenity

The proposed development has been designed to provide all dwellings with high quality internal amenity and outlook. A detailed assessment against the Seniors Housing Design Guide is provided at **Appendix K** of the EIS, which confirms the development is consistent with the design criteria. Specifically:

- The height exceedance arises from maintaining flat, step-free floor plates across the undulating site, ensuring safe, equitable, and fully accessible movement throughout the building, a key amenity and design principle under the *Seniors Housing Design Guide*.
- Minor roof-level elements, including planter boxes and an awning, improve usability and comfort of the upper-level communal terrace by providing privacy screening, shade, and sun protection.
- The variation allows for a more functional internal layout, avoiding split levels and unnecessary stairs that would otherwise compromise accessibility and resident independence.
- The building's overall form and articulation ensure no adverse overshadowing or privacy impacts, with any additional shadow from the height variation falling wholly within the site.

Overall, the non-compliance with the height control only arises in isolated locations due to the site's topography and ensures the built form remains consistent with the Seniors Housing Design Guide. The minor exceedance does not result in any adverse impacts on residential properties or surrounding amenity, and instead supports the delivery of a high-quality and accessible RCF.

Objective 3(d) promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services

The site forms part of the established Aveo BGRL site, benefitting from existing road access, utility connections, and proximity to local services and transport. On-site facilities will be supplemented by operational transport services for residents, enabling access to off-site amenities. The location leverages existing infrastructure capacity, avoiding the need for significant new public investment.

The minor height variation does not impact consistency with this objective.

Objective 3(e) minimising adverse climate and environmental impacts of new housing development

A range of Ecologically Sustainable Development (ESD) initiatives have been implemented to allow the development to achieve the relevant performance targets. These aim to reduce environmental impacts associated with the development and ensure industry benchmarks are achieved. Specifically, the development will be an all-electric building, supported by on-site renewable energy generation, capable of complying with the NCC Section J. This is further discussed within the EIS, as well as the ESD and Section J Reports, provided at **Appendix Y** and **Appendix Z** of the EIS respectively.

The height variation does not increase environmental impacts, as discussed at **Section 4.2.2**.

Objective 3(f) reinforcing the importance of designing housing in a way that reflects and enhances its locality

The proposal responds appropriately to the established character and environmental qualities of Bayview and its location within the Aveo BGRL precinct. The built form has been designed in accordance with the Housing SEPP and the Seniors Housing Design Guide. These instruments recognise that seniors housing developments typically require a larger and

more consolidated built for to accommodate accessibility, care services and communal facilities. The design therefore seeks to balance these functional needs with sensitivity to its low-density residential surroundings.

The building has been designed to follow the site's natural topography and integrate with existing vegetation. Materials are low-maintenance and suited to the coastal environment, ensuring compatibility with the surrounding built form and long-term resilience. The development retains existing trees where possible and introduces new landscaping consistent with the local planting palette, reinforcing the landscape character of the area. The building's scale, setbacks and articulation reduce visual bulk and ensure compatibility with adjoining residential development and the broader Aveo BGRL precinct. Passive design measures, including orientation for solar access and provision for natural ventilation, further improve environmental performance and residential amenity.

The height variation achieves a built form outcome that is consistent with the intent of the Housing SEPP and the Seniors Housing Design Guide, which both seek to ensure that seniors housing, while necessarily larger in scale, appropriately integrates into lower density environments. The minor exceedance enables accessible and functional seniors accommodation while maintaining a contextually responsive built form and landscape character consistent with the Bayview locality.

Objective 3(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

As the proposal does not involve short-term rental accommodation, the objective is not directly applicable. However, it will contribute to the local economy through job creation and local spending, with social and environmental impacts managed through design and operation.

Objective 3(h) mitigating the loss of existing affordable rental housing

The site is currently occupied by a disused aged care facility and does not contain any affordable rental housing stock. Notwithstanding, as noted above, the development will contribute to broader housing affordability objectives by facilitating 'right-sizing', enabling older residents to transition into more suitable accommodation and, in turn, freeing up existing housing stock for younger families. The variation to the height standards does not impact this objective.

4.1.2 Assessment Against the Height of Building Development Standard Objectives

Objective 4.3(a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality

The proposed development achieves a height and scale consistent with the intent of the Housing SEPP and the design principles of the Seniors Housing Design Guide, which recognise that seniors housing developments require a more substantial built for to accommodate accessible floor plates, communal areas and care services. The building has been designed to carefully integrate this larger typology within a lower density residential setting.

Due to the steep slope, the building presents as three storeys when viewed from Annam Road, and part four storeys to the rear (internal to the site). One of these levels is technically the basement which, due to the slope, is partially embedded into the ground and only partly visible. The roofline remains generally consistent across the building, thereby maintaining a scale compatible with the surrounding built form, which is characterised by 2-3 storey residential and retirement living developments, despite the variation to the height standards. The use of articulated façades and extensive landscaping ensures that the visual presentation complements the landscaped, low-density character of Bayview and the broader Aveo BGRL precinct.

Objective 4.3(b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development

The building is compatible with the height and scale of surrounding development and aligns with the Seniors Housing Design Guide's design principles for RCFs, which necessitate breaking down large floorplates into smaller articulated elements. The scale is comparable to other aged care buildings within the Aveo BGRL site. Importantly, the proposal is largely compliant with the height standard, and the minor exceedances occur only in isolated areas. A fully compliant development would still present as a predominantly 3-story form and achieve a similar visual outcome.

The stepped form, modulation of façades, and incorporation of smaller roof elements help manage the transition in scale to neighbouring dwellings. Deep soil planting, landscaped buffers, and screen planting enhance compatibility with the surrounding vegetated character, consistent with the Guide's guidance on maximising landscaped curtilage and enhancing neighbourhood amenity.

Objective 4.3(c) to minimise any overshadowing of neighbouring properties

The minor height exceedance results in a negligible difference in overshadowing when compared to a compliant built form. Shadow diagrams confirm that the majority of additional shadow created falls within the development site, with only a very minor extension onto the adjoining Aveo BGRL land to the west. Importantly, there are no overshadowing impacts to nearby detached residential dwellings as a result of the height variation.

The proposal also improves solar access along the Annam Road frontage, where overshadowing is reduced compared to the existing built form. The building's stepped form, which follows the natural topography, together with generous front setbacks and landscaping, ensures that the marginal overshadowing attributable to the height variation is well managed and does not result in any unreasonable impact on neighbouring properties.

Figure 7 below provides an excerpt of the overshadowing diagrams during mid-winter.





Figure 7 Shadow Diagrams

Source: Calderflower

Objective 4.3(d) to allow for the reasonable sharing of views

There are no identified scenic or water views available from properties surrounding the site that would be affected by the proposal. The surrounding area is heavily vegetated, and the site is located well inland from the coastline. The height variation will therefore not result in any loss of public or private views.

Objective 4.3(e) to encourage buildings that are designed to respond sensitively to the natural topography

The proposed exceedance arises directly from the site's slope and the need to establish aligned finished floor levels despite varying contours. The building has been designed to step down the gradient, reducing the extent of excavation and allowing the form to sit within the landform rather than above it. This approach limits the visual bulk that would otherwise result from a uniform building envelope and achieves a more sensitive integration with the topography.

Retention of existing vegetation, and the introduction of new planting, reinforces the natural landscape setting and assists in maintaining the visual continuity of the surrounding tree canopy. In this context, the minor exceedance in height is a direct consequence of responding appropriately to the topography and results in a better planning outcome compared to a compliant form.

Objective 4.3(f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items

The proposed development has been designed and sited to minimise its visual and environmental impact. The site is not located within a heritage conservation area, nor are there any heritage items in proximity to the site.

Importantly, while parts of the broader Aveo BGRL precinct contain environmentally sensitive land, including littoral rainforest, coastal wetlands, riparian corridors, bushfire-prone and flood-prone land, the Opal site avoids these constraints. The building footprint is located on previously disturbed land occupied by the former aged care facility, ensuring no encroachment into sensitive ecological areas.

A total of 44 trees are proposed for removal, primarily due to the footprint of new structures and access arrangements. However, these trees are generally of low to moderate retention value and occur within an already disturbed setting. The proposed landscape strategy ensures the site is revegetated where possible.

The building's form has been designed with continuous, step-free floor plates to provide accessibility for residents, consistent with the Seniors Housing Design Guide. This approach results in minor height exceedances in isolated locations where the land falls away, but avoids the need for split levels or internal steps that would reduce accessibility. External materials are natural and low-reflectivity, allowing the building to visually recede within its vegetated setting.

4.1.3 Assessment Against the R2 Zone Objectives

The proposed development (inclusive of the proposed height of building exceedance) is consistent with the objectives of the R2 land use zone, as presented in **Table 2**.

Table 2 The proposed development’s alignment with the objectives of the R2 zone

Objective	Alignment
<i>To provide for the housing needs of the community within a low density residential environment.</i>	The RCF delivers much-needed residential aged care accommodation, addressing the housing needs of the community within a predominantly low-density setting. The height exceedance largely results from the site topography, allowing the development to better meet the needs of residents through the provision of accessible floor levels, efficient internal circulation, and integrated communal spaces, consistent with the Seniors Housing Design Guide.
<i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>	The RCF provides 24/7 care, health services, and communal facilities to meet the daily living, health, and social needs of older residents. These services are accessible to residents on-site and are compatible with the surrounding residential context.
<i>To provide for a limited range of other land uses of a low intensity and scale, compatible with surrounding land uses.</i>	The RCF is a low-intensity residential use, with operational hours and resident activities that are compatible with adjoining dwellings and the broader seniors living precinct. The built form is sensitively designed to integrate with surrounding two- and three-storey development, despite the minor variation to the height standards.

4.2 Clause 4.6(3)(b): Sufficient environmental planning grounds to justify the contravention of the development standard

Clause 4.6(3)(b) of the LEP requires the contravention of the development standard to be justified by demonstrating that there are sufficient environmental planning grounds to justify the contravention. The focus is on the aspect of the development that contravenes the development standard, not the development as a whole.

Therefore, the environmental planning grounds advanced in the written request must justify the contravention of the development standard and not simply promote the benefits of carrying out the development as a whole (*Initial Action at [24]*). In *Four2Five*, the Court found that the environmental planning grounds advanced by the applicant in a Clause 4.6 Variation Request must be particular to the circumstances of the proposed development on that site at [60].

In this instance, the relevant aspect of the development is the proposed exceedance of height of building standards. There are sufficient environmental planning grounds to justify this contravention, as described below.

4.2.1 Site Topography

The proposed height exceedance is largely a result of the site’s natural topography. The land is irregular in shape and slopes in multiple directions, creating challenges in applying a uniform building envelope control. While the design seeks to step with the terrain and minimise cut and fill, the fall of the land results in certain portions of the building projecting above the height standard. This is not due to additional bulk or scale being introduced, but rather a reflection of how the sloping ground levels interact with a building that has been designed for functional efficiency and accessibility. The exceedance is therefore a product of achieving level floors with the site’s natural contours, rather than an intentional increase in building height and scale.

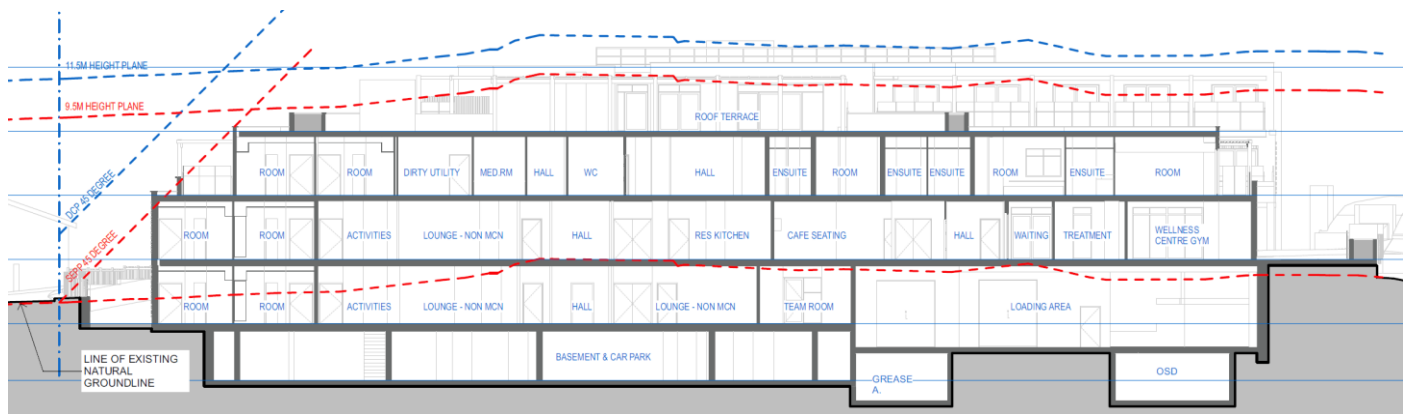


Figure 8 Site Section

Source: Calderflower

4.2.2 Environmental Impact

The minor exceedances do not give rise to any adverse environmental outcomes. Shadow diagrams confirm that additional shadowing is negligible compared to a compliant form, with almost all additional shadow falling within the development site and no unreasonable loss of solar access to neighbouring residential properties.

Visual impacts for the development as a whole, are mitigated through a carefully articulated façade treatment, generous setbacks, and deep soil landscaping, which ensure the building presents as 2–3 storeys to the north and reads consistently with the surrounding built form. It is noted that the height exceedances partially comprise rooftop planter boxes and rooftop awning, both of which form integral parts of the buildings design. The planter boxes, which form part of the balustrade, have been included to provide visual screening and enhance privacy. Similarly, the awning provides weather protection for residents using the communal terrace, allowing the space to be usable year-round. Accordingly, the exceedance can be considered to deliver positive environmental and amenity outcomes, as the additional landscaping and treatment reduce potential overlooking and enhance the amenity of the roof top communal open space.

4.2.3 Delivery of Seniors Housing

The proposed development comprises 177 beds within a purpose-built RCF. This significant provision of beds will enable the delivery of residential aged care accommodation, foster social connection, and provide essential support services for older residents, thereby directly meeting identified community needs. The proposal will replace a vacant and disused building on the site, optimising the use of underutilised land and improving the visual and functional contribution of the site to the locality.

The minor height variation supports the effective delivery of RCFs by allowing for flat, step-free and fully accessible floor plates, consistent with the Seniors Housing Design Guide. This approach ensures the building can accommodate the required care facilities, staff areas, and communal spaces without introducing internal level changes that would compromise accessibility and resident safety. The exceedance also enables the incorporation of rooftop planter boxes and a rooftop awning, both of which improve environmental performance and enhance the amenity of the rooftop communal area for residents. These elements contribute to a higher standard of design and residential quality consistent with the Housing SEPP.

The proposed development, including the minor building height exceedance, is inherently linked to the broader goal of maximising residential yield, which is critical in addressing the growing housing crisis. By delivering new aged care accommodation, the proposal will facilitate the downsizing of older residents from larger family homes, thereby freeing up those dwellings for younger households and families. This transition helps increase the effective housing supply in the market, contributing to improved housing availability and affordability. The proposal aligns directly with several strategic planning outcomes established through NSW Government initiatives and supports the achievement of housing targets under the National Housing Accord, a Federal Government commitment to deliver one million new homes across Australia over a five-year period.

In light of the above, it is clear that the site’s topography, and the minimal environmental impacts posed, together with the delivery of much-needed seniors housing, provides sufficient environmental planning grounds to justify the contravention to the height of building development standard.