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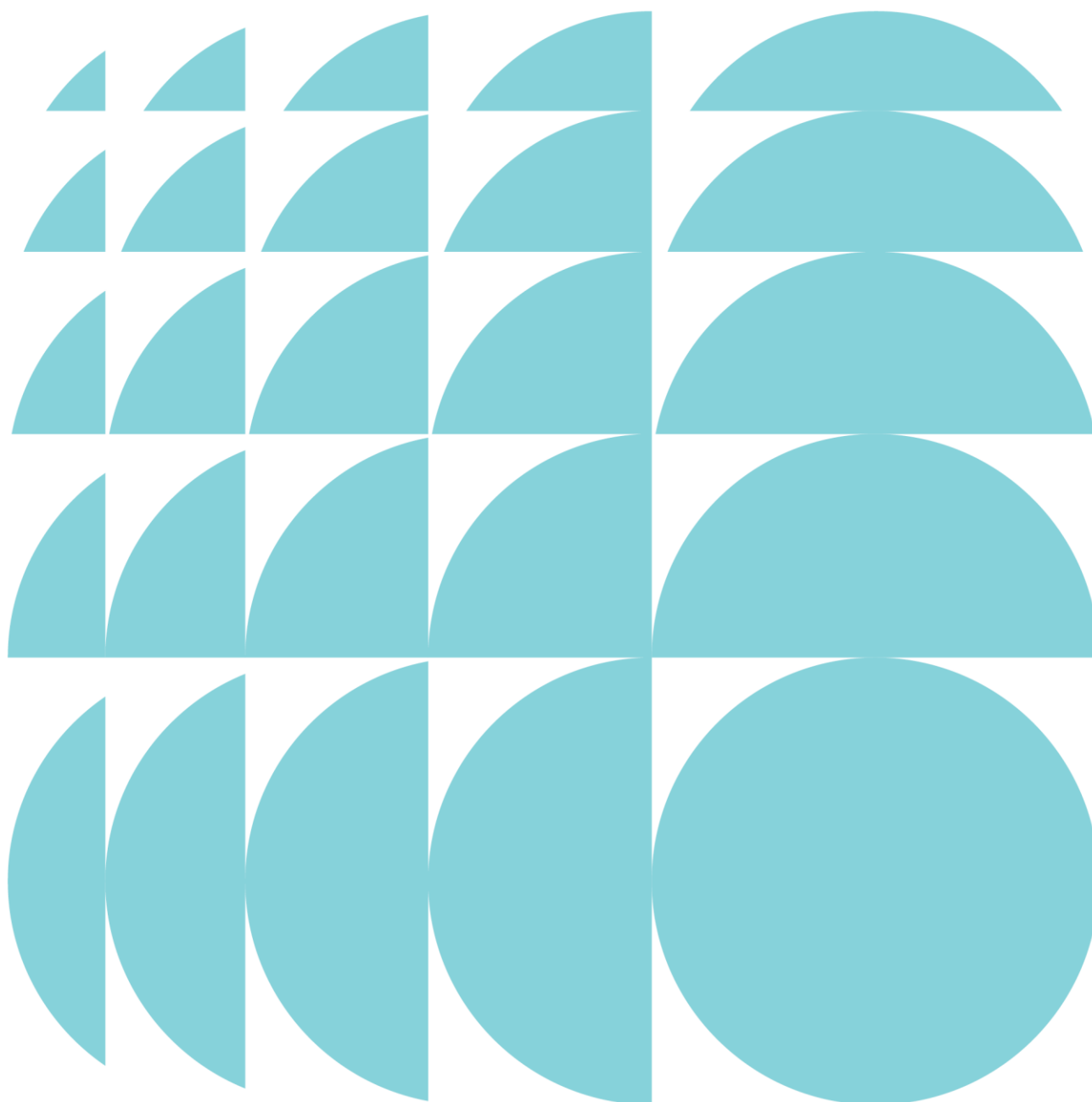
Clause 4.6 Variation

Height of Buildings Development Standard

16 Honeysuckle Drive, Newcastle
Honeysuckle City Campus Concept Plan

Submitted to Department of Planning and
Environment
On behalf of the University of Newcastle

June 2018 | 218153



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1.0 Introduction

This variation under clause 4.6 of *Newcastle Local Environmental Plan 2012* (LEP 2012) has been prepared by Ethos Urban on behalf of the University of Newcastle (UON).

It is submitted to the Department of Planning and Environment in support of a State Significant Development Application (SSD DA) for the development of UON's Honeysuckle City Campus.

Clause 4.6 of Newcastle LEP 2012 allows the consent authority to grant consent for development even though the development contravenes a development standard imposed by the LEP. The clause aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better outcomes for and from development.

This clause 4.6 variation should be read in conjunction with the Environmental Impact Statement (EIS) prepared by Ethos Urban dated June 2018.

This clause 4.6 variation request demonstrates that:

- Compliance with the Height of Building development standard is unreasonable and unnecessary in the circumstances of the case;
 - given the objectives of the standard are achieved notwithstanding non-compliance with the standard.
- That there are sufficient environmental planning grounds to justify contravention of the standard, as the proposed development:
 - Seeks an increase in height which is both appropriate, and particular to the circumstances of the development; and
 - Is consistent with the second objective of clause 4.6 of LEP 2012 in achieving better outcomes for and from development notwithstanding the minor increase in building height.
- The variation is in the public interest because it is consistent with the objectives of the zone and the development standard. The proposal facilitates improved outcomes which protect the amenity of surrounding uses, and the future viability and amenity of the campus; and
- The Secretary's concurrence can be obtained as the contravention of the development standard does not raise any matter of significance for State and regional planning.

Therefore, the SSDA may be approved with the variation as proposed in accordance with the flexibility allowed under clause 4.6 within Newcastle LEP 2012.

2.0 Development Standard to be Varied

The development standard that is sought to be varied as part of this application is clause 4.3 of LEP 2012, relating to Height of Buildings. Under Newcastle LEP 2012 the site has a predominant maximum height limit of 30 metres. A small portion of land in the south-eastern corner of the site has a height limit of 24 metres.

Clause 4.3 of Newcastle 2012 is reproduced below in its entirety, and an extract of the Height of Buildings Map, to which this clause applies, is reproduced in **Figure 1**.

4.3 Height of buildings

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

- (a) to ensure the scale of development makes a positive contribution towards the desired built form, consistent with the established centres hierarchy,*
- (b) to allow reasonable daylight access to all developments and the public domain.*

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

In addition, the site falls within the Newcastle City Centre, and so the additional provisions set out in Part 7 of Newcastle LEP 2012 apply. Whilst the site is not located within one of the nominated 'areas' the objectives of clause 7.9 of LEP 2012 relating to height of buildings in the Newcastle City Centre are outlined below.

7.9 Height of buildings

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

- (a) to allow sunlight access to key areas of the public domain by ensuring that further overshadowing of certain parks and community places is avoided or limited during nominated times,*
- (b) to ensure that the built form of Newcastle City Centre develops in a coordinated and cohesive manner,*
- (c) to ensure that taller buildings are appropriately located,*
- (d) to nominate heights that will provide a transition in built form and land use intensity in Newcastle City Centre,*
- (e) to ensure the preservation of view corridors that are significant for historic and urban design reasons.*

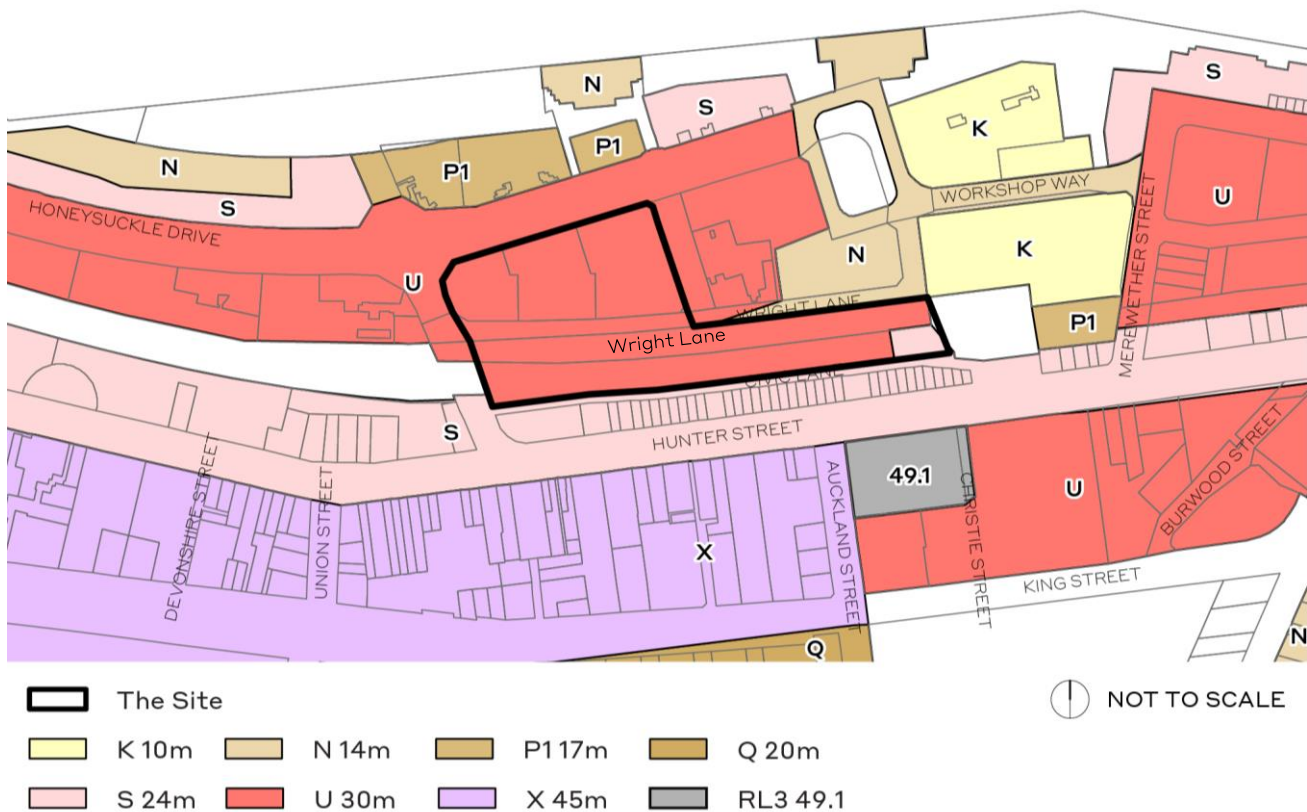


Figure 1 Extract of Height of Buildings map

Source: Newcastle Local Environmental Plan 2012 and Ethos Urban

2.1 Is the Planning Control in Question a Development Standard

'Development Standards' are defined under Section 4(1) of the *Environmental Planning and Assessment Act 1979* as follows:

"development standards means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of: ...

(c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work..."

The Height of Buildings control prescribed under clause 4.3 of LEP 2012 is clearly and unambiguously a development standard and has continually been applied in this manner by the consent authority.

2.2 Nature and Extent of the Variation

The Concept Plan seeks approval for seven (7) building envelopes ranging in height from 4 – 9 storeys. The envelopes will accommodate a range of academic and student accommodation uses, as well as ancillary retail uses at ground floor.

The building envelopes are generally compliant with the maximum Height of Buildings development standard, which ranges from 24 metres to 30 metres. The proposed variations relate to building envelopes A2 and B only, where variations are required to accommodate plant and lift overruns. It is noted that this results in building envelopes with heights of up to RL 35 (Lot B) and RL 36.6 (Lot A2). This equates to a maximum of approximately 33.09m and 34.9m, respectively – a variation of up to 4.9m (16.3%). It is noted that the parapets of these buildings are within the height limit.

The variation proposed for each envelope is outlined in **Table 1**. The variations are also shown in **Figure 2**.

The lift overruns and plant are isolated to the central, rooftop portion of the envelopes. These exceedances will not adversely impact surrounding amenity in terms of overshadowing or visual impact, and will ensure equitable access can be achieved to the uppermost levels of the buildings.

Table 1 Nature of variation proposed

Building Envelope	LEP Maximum Height	Height Proposed	Variation
Building A2			
Building Envelope (parapet)	30m	RL 34 (approx. 32.3m).	2.3m max.
Lift overruns / roof elements	30m	RL 36.6 (approx. 34.9m).	4.9m max.
Building B			
Building Envelope (parapet)	30m	RL 33 (approx. 31.09m).	1.09m max.
Lift overruns / roof elements	30m	RL 35 (approx. 33.09m).	3.09m max.



Figure 2 Proposed exceedance above the 30m Height of Buildings development standard

Source: COX Architecture

3.0 Justification for Contravention of the Development Standard

Clause 4.6(3) of Newcastle LEP 2012 states that:

4.6 Exceptions to development standards

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

Further, clause 4.6(4)(a) of LEP 2012 provides that:

- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Secretary has been obtained.*

Assistance on the approach to justifying a contravention to a development standard is to be taken from the applicable decisions of the NSW Land and Environment Court and the NSW Court of Appeal in:

1. *Wehbe v Pittwater Council* [2007] NSW LEC 827; and
2. *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009.

The relevant matters contained in clause 4.6 of Newcastle LEP 2012, with respect to the Height of Buildings development standard, are each addressed below, including with regard to these decisions.

3.1 Clause 4.6(3)(a): Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

In *Wehbe*, Preston CJ of the Land and Environment Court provided relevant assistance by identifying five traditional ways in which a variation to a development standard had been shown as unreasonable or unnecessary. However, it was not suggested that the types of ways were a closed class.

While *Wehbe* related to objections made pursuant to *State Environmental Planning Policy No. 1 – Development Standards* (SEPP 1), the analysis can be of assistance to variations made under clause 4.6 where subclause 4.6(3)(a) uses the same language as clause 6 of SEPP 1 (see *Four2Five* at [61] and [62]).

As the language used in subclause 4.6(3)(a) of LEP 2012 is the same as the language used in clause 6 of SEPP 1, the principles contained in *Wehbe* are of assistance to this clause 4.6 variation request.

The five methods outlined in *Wehbe* include:

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

3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (**Third Method**).
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 Method**).
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 Method**).

This clause 4.6 variation request establishes that compliance with the development standard is unreasonable or unnecessary in the circumstances of the proposed development because the objectives of the standard are achieved and accordingly justifies the variation to the height control pursuant to the First Way outlined in *Wehbe*.

In the recent 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 development standard was unreasonable or unnecessary but that the applicant's written request adequately addresses (*our emphasis*) the matters in clause 4.6(3)(a) that compliance with each development standard is unreasonable or unnecessary.

Section 3.1.1 of this document address the matters in clause 4.6(3)(a), and in particular how the objectives of the development standard are achieved notwithstanding the non-compliance with the numerical control.

3.1.1 The objectives of the standard are achieved notwithstanding non-compliance with the standard (First Way)

The objectives of the Height of Buildings development standard (under clauses 4.3 and 7.9 of Newcastle LEP 2012), and an explanation of how these objectives are met notwithstanding the non-compliance with the numerical control, is provided in **Table 2** below.

Table 2 Consistency with objectives of Height of Buildings development standard

Objective	Proposal
Clause 4.3 Height of Buildings	
(a) to ensure the scale of development makes a positive contribution towards the desired built form, consistent with the established centres hierarchy.	The site is located within the Newcastle City Centre. The scale of the proposed building envelopes is consistent with the character and scale of existing surrounding buildings. Further, the proposed built form provides a positive contribution towards the desired built form of the CBD, providing a transition in scale between the commercial centre to the west of the site, and more sensitive development to the east. In this regard, the proposal seeks to concentrate building height at the western end of the campus, where it adjoins existing high density development. Concentrating building height in the west of the site has enabled the building envelope at the eastern end of the campus, which adjoins more sensitive, low-scale uses, to be reduced in height. As such, it is considered that the proposed building envelopes have been subject to rigorous urban design analysis, and would make a positive contribution to the Newcastle City Centre by providing a transition in building

Objective	Proposal
	heights appropriate for the existing planning controls and existing built form.
(b) to allow reasonable daylight access to all developments and the public domain.	The overshadowing analysis at Section 5.4 of the EIS demonstrates that the proposal, including non-complying elements, will not result in any significant overshadowing of key areas of the public domain. By transferring building mass to the west of the campus, the scale of development in the east has been reduced. This reduction in scale will ensure improved solar access to Civic Plaza and the future Civic Link when compared to a complying scheme. Further, the proposed open space in the heart of the campus will achieve good solar access though the middle of the day, throughout the year.
Clause 7.9 Height of buildings (Newcastle City Centre)	
(a) to allow sunlight access to key areas of the public domain by ensuring that further overshadowing of certain parks and community places is avoided or limited during nominated times	Refer to response above. The overshadowing assessment at Section 5.4 of the EIS demonstrates that the proposal will not result in any significant overshadowing of key areas of the public domain. The proposed massing will result in improved solar access to Civic Park and the future Civic Link to the east of the campus. Further, open space in the heart of the campus will achieve good solar access though the middle of the day, throughout the year.
(b) to ensure that the built form of Newcastle City Centre develops in a coordinated and cohesive manner	The Concept Proposal seeks to set a framework for the future development of UON's Honeysuckle City Campus. By establishing building envelopes and development principles upfront, the Concept Proposal is based on a more informed analysis of the site's opportunities and constraints, and will ensure that the campus is developed in a coordinated manner, that it is cohesive with the surrounding built form. The location of the tallest building envelopes at the western end of the campus, transitioning to lower scale development in the east, is consistent with this objective.
(c) to ensure that taller buildings are appropriately located	The proposed building massing is a direct response to this objective. The Concept Plan locates the tallest envelopes (including the two envelopes subject to this clause 4.6 variation) at the western end of the site, nearest the City Centre and away from more sensitive uses to the east of the site.
(d) to nominate heights that will provide a transition in built form and land use intensity in Newcastle City Centre	The proposed building envelopes seek to concentrate building height and density at the western end of the campus, nearest the Newcastle City Centre. This enables the eastern-most envelope to be lowered, providing a more appropriate transition to the more sensitive uses located to the east of the site. The proposed variations to building envelopes Lot A2 and B facilitate this transition in scale, and ensure that development at the eastern end of the campus provides a more appropriate transition to existing development to the east.
(e) to ensure the preservation of view corridors that are significant for historic and urban design reasons	The visual impact assessment at Section 5.5 of the EIS demonstrates that the building envelopes, including the proposed variations in building height, do not impact any significant view corridors, including views to the historic Newcastle Museum. Further, the proposed development is of a height that is consistent with surrounding residential developments, which generally range in height from 6 – 9 storeys. Therefore, the minor exceedances proposed to accommodate a lift overrun will not result in any adverse visual impacts from surrounding properties beyond what would result from a complying development.

3.2 Clause 4.6(3)(b): Environmental planning grounds to justify contravening the development standard

There are sufficient environmental planning grounds to justify a flexible approach to the application of the Height of Building development standard as it applies to the site.

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. With regards to this application, there are particular elements that contribute to the proposed development's variation to the Building Height standard and these are detailed below.

Transfer of massing away from sensitive uses

The proposed height exceedance of the two westernmost building envelopes is consistent with the objectives of clause 7.9 of Newcastle LEP 2012, which seek to ensure that taller buildings are appropriately located.

The proposed increase in building heights at the western end of the campus has enabled the height of the building envelope at the eastern end of the campus, where it adjoins more sensitive land uses including the historic Newcastle Museum, Civic Park and the future Civil Link, to be reduced. The proposed approach has been adopted to ensure an appropriate transition in scale to these more sensitive surrounding land uses. Conversely, the minor variation in height of envelopes A2 and B will not have any adverse impacts on surrounding, less sensitive uses.

Need to maximise open space and public domain opportunities

The site is relatively constrained, and there is limited opportunity to provide significant open space on the campus. Maximising available open space and public domain opportunities is a key feature of the Concept Plan and its successful integration with the Newcastle City Centre.

Whilst lower buildings with larger footprints and smaller setbacks could be designed, the proposed building form seeks to balance the university's functional requirements with an appropriate built form, and is considered to be an appropriate response to the site's constraints.

A viable place-making opportunity is provided via adaptive reuse and urban renewal.

The site is currently occupied by a construction compound and at-grade car parking. The site is underutilised and is inconsistent with the remainder of the Honeysuckle precinct. The site is suitable for urban renewal, and redevelopment of the site presents a unique opportunity to provide a new, high-quality university campus in the Newcastle City Centre which will activate the precinct, and assist in making Newcastle one of Australia's major university cities.

The envelopes proposed offer appropriate interfaces and excellent amenity to ensure the future character of the development is appropriate to its significant location. In this regard, the envelopes provide a sympathetic response to surrounding development, the waterfront and nearby heritage buildings. Reducing the height of building envelopes A2 and B would limit the viability of the academic and student accommodation uses, and the success of this significant urban renewal project. An entire floor would need to be removed from both building envelopes to enable a scheme which provides lift access within the LEP's height limit. This would prevent the site from achieving the scale of development envisioned under Newcastle LEP 2012, and would limit the viability of proposed educational establishment.

Upper portions of the building envelopes which exceed the height limit at the western end of the campus include plant and lift overruns only. It is noted that the parapets of the building envelopes are within the 30 metre height limit for the site. The elements which exceed the height limit are minor and localised in nature, and will not alter the appropriateness of future development on the site.

Maintaining this development standard would therefore result in a sub-optimal design and amenity outcome for University stakeholders, as well as residents, visitors and workers in the Newcastle City Centre. It would reduce the quantum of academic and student accommodation floor space, and impact the University's ability to provide a high-quality urban renewal project on the site.

3.2.1 Conclusion on clause 4.6(3)(b)

In light of the above, it is considered that there are no environmental planning grounds that warrant enforcing the Height of Buildings development standard in this instance. Rather, there are clear and justifiable environmental planning merits that validate the flexible application of the height control by clause 4.6 of Newcastle LEP 2012.

3.3 Clause 4.6(4)(a)(ii): In the public interest because it is consistent with the objectives of the zone and development standard

3.3.1 Consistency with objectives of the development standard

The proposed development is consistent with the objectives of the Height of Building development standard, for the reasons discussed in **Section 3.1.1** of this report.

3.3.2 Consistency with objectives of the zone

Building envelopes to accommodate future academic and student accommodation buildings on the site (envelopes A2 and B) exceed the maximum height standard for the site, and as such, the objectives of the zone (the B4 Mixed Use zone) are required to be considered in determining whether the variation is supportable. Consistency with the objectives of the B4 Mixed Use zone is detailed in **Table 3** below.

Table 3 Consistency with objectives of the B4 Mixed Use zone

Objective	Proposal
To provide a mixture of compatible land uses.	The proposal will facilitate the development of a new university campus within the Newcastle City Centre, adding to the mix of uses in the CBD. The proposal will facilitate the aim of making Newcastle one of Australia's major university cities. The proposed minor increase in height will ensure that the academic and student accommodation uses are viable, and that appropriate accessibility is provided to the upper levels of these buildings. The proposed exceedances of the Height of Buildings development standard will support the proposal's ability to achieve this objective of the zone, as well as the broader objectives of the Newcastle City Centre.
To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling	The proposal will provide a new campus for UON in a highly accessible location, noting the site's proximity to existing pedestrian and cycle links, bus stops and the future light rail. The Concept Plan accommodates very limited parking, ensuring that students and staff will use public or active transport. Further, by collocating academic and student accommodation uses, the need for students to commute will be reduced. The proposed exceedances of the Height of Buildings development standard will not impact the proposal's ability to achieve this objective, rather it will support the Newcastle Urban Transformation and Transport Program by redeveloping a currently vacant site in close proximity to the new transport infrastructure and the future Civil Link, and will facilitate the development of Newcastle as one of Australia's major university cities.
To support nearby or adjacent	The proposal will introduce 12,040 students, 683 staff and 400 resident

Objective	Proposal
commercial centres without adversely impacting on the viability of those centres.	students into the Newcastle City Centre which will support businesses within the Newcastle CBD. The proposed minor increase in height will ensure that the academic and student accommodation uses are viable. A reduction in the height of the building envelopes would require the loss of academic and student accommodation floor space, which would potentially limit the viability of the proposed development.

Given the circumstances of the case, strict numerical compliance with the Height of Buildings control applying to the site would be unreasonable on the basis that the proposed development achieves compliance with the objectives of the standard, whilst delivering a better planning and urban design outcome through more appropriate distribution of the proposed built form.

3.4 Other Matters for Consideration

Under clause 4.6(5), in deciding whether to grant concurrence, the Secretary must consider the following matters:

- (5) *In deciding whether to grant concurrence, the Secretary must consider:*
- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) *the public benefit of maintaining the development standard, and*
 - (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

These matters are addressed in detail below.

3.4.1 Clause 4.6(5)(a): Whether contravention of the development standard raises any matter of significance for State or regional environmental planning

The variation of the maximum Height of Buildings development standard does not raise any matter of significance for State or regional planning. Rather the development, including the proposed variation, is consistent with the NSW State Priorities, Hunter Regional Plan 2036 and the Draft Greater Newcastle Metropolitan Plan in that it:

- Aligns with the NSW State Priority of encouraging business investment, as the Honeysuckle City Campus will attract and create new skilled jobs, encourage innovation and partnership with the private sector, and be a catalyst for other forms of development and economic activity within the Newcastle City Centre.
- Will play an important role in meeting the strategic planning objectives of the Hunter Regional Plan 2036. Developing a national Centre of Excellence for Health and Education is one of the four priority objectives of the plan and expanding the University's presence in the City Centre is a key component of this.
- Will play a significant role in revitalising the Newcastle City Centre in accordance with Direction 3 of the Hunter Regional Plan 2036 as it will be a catalyst for further investment in the centre, attracting new skilled jobs and encouraging innovation and partnerships with the private sector. The University's expansion will also create a substantial population base in the centre, including visitors to the university and student accommodation, which will support local business and provide activation of the surrounding public domain.

- Will assist in Newcastle's transition to a service, creative and knowledge city by fostering inner city education in Greater Newcastle as set out on the Draft Greater Newcastle Metropolitan Plan. The Plan seeks to promote the City Centre as a university hub, and a location for institutions, business (including small business) and tourists. It also seeks to make Newcastle one of Australia's major university cities.

3.4.2 Clause 4.6(5)(b): The public benefit of maintaining the development standard

As demonstrated above, there is no public benefit in maintaining the development standard in terms of State and regional planning objectives. Rather, restricting the proposed building envelopes to the LEP's building heights would limit the provision of education and student accommodation uses, which are considered to be of State significance.

As noted in the preceding sections, the additional height proposed is minor, and would not give rise to any adverse environmental impacts. The proposed variation is a result of the site's specific setting, and the desire to create a viable, high quality development on the site, and to act on the unique opportunity this site presents to make Newcastle one of Australia's major university cities.

Full compliance in this instance would result in the loss of academic and student accommodation floorspace, which would limit the viability of the proposal, and the ability to maximise the quality of the site's open space and public domain. It would also prevent Newcastle from achieving the objectives outlined for the City Centre in the Hunter Regional Plan 2036 and the Draft Greater Newcastle Metropolitan Plan.

As outlined in Section 5.14 of the EIS, in addition to the obvious educational benefits the proposal offers, the proposed development will result in significant public benefits including:

- Construction benefits;
- Production and consumption induced effects;
- Supporting knowledge jobs;
- Increased local expenditure;
- Enhancing local amenity and the night time economy;
- Improving youth unemployment; and
- Supporting mode share shift.

The reduction in high quality communal open space or the artificial deletion of future academic and student accommodation floor space to strictly comply with the Height of Building development standard would be contrary to the public interest.

3.4.3 Clause 5.6(5)(c): Any other matters required to be taken into consideration by the Director-General before granting concurrence.

In addition to preceding matters, it is noted that the height variation sought applies only to the lift overruns of two (2) of the seven (7) proposed building envelopes. These elements will not be visible from the public domain, and will not be detrimental to the amenity of the surrounding locality with respect to traffic, built form, overshadowing or view loss. Rather, the proposed variation is required to support the viability of the proposed university campus.

4.0 Conclusion

This clause 4.6 variation request has been prepared by Ethos Urban on behalf of UON. It is submitted to the Department of Planning and Environment in support of a development application for Concept Plan approval for the development of the University's Honeysuckle City Campus. Compliance with the Height of Buildings development standard in clause 4.3 of LEP 2012 is unreasonable and unnecessary in the circumstances of the case, and the justification is well founded. It is considered that the variation allows for a positive planning outcome in light of the site's specific circumstances.

The consent authority can be satisfied that this clause 4.6 variation request demonstrates, notwithstanding the proposed variation to the development standard, that:

- Compliance with the Height of Building development standard is unreasonable and unnecessary in the circumstances of the case;
 - given the objectives of the standard are achieved notwithstanding non-compliance with the standard.
- That there are sufficient environmental planning grounds to justify contravention of the standard, as the proposed development:
 - Seeks an increase in height which is both appropriate, and particular to the circumstances of the development; and
 - Is consistent with the second objective of clause 4.6 of LEP 2012 in achieving better outcomes for and from development notwithstanding the minor increase in building height.
- The variation is in the public interest because it is consistent with the objectives of the zone and the development standard. The proposal facilitates improved outcomes which protect the amenity of surrounding uses, and the future viability and amenity of the campus; and
- The Secretary's concurrence can be obtained as the contravention of the development standard does not raise any matter of significance for State and regional planning.

Therefore, the SSDA may be approved with the variation as proposed in accordance with the flexibility allowed under clause 4.6 by Newcastle LEP 2012.