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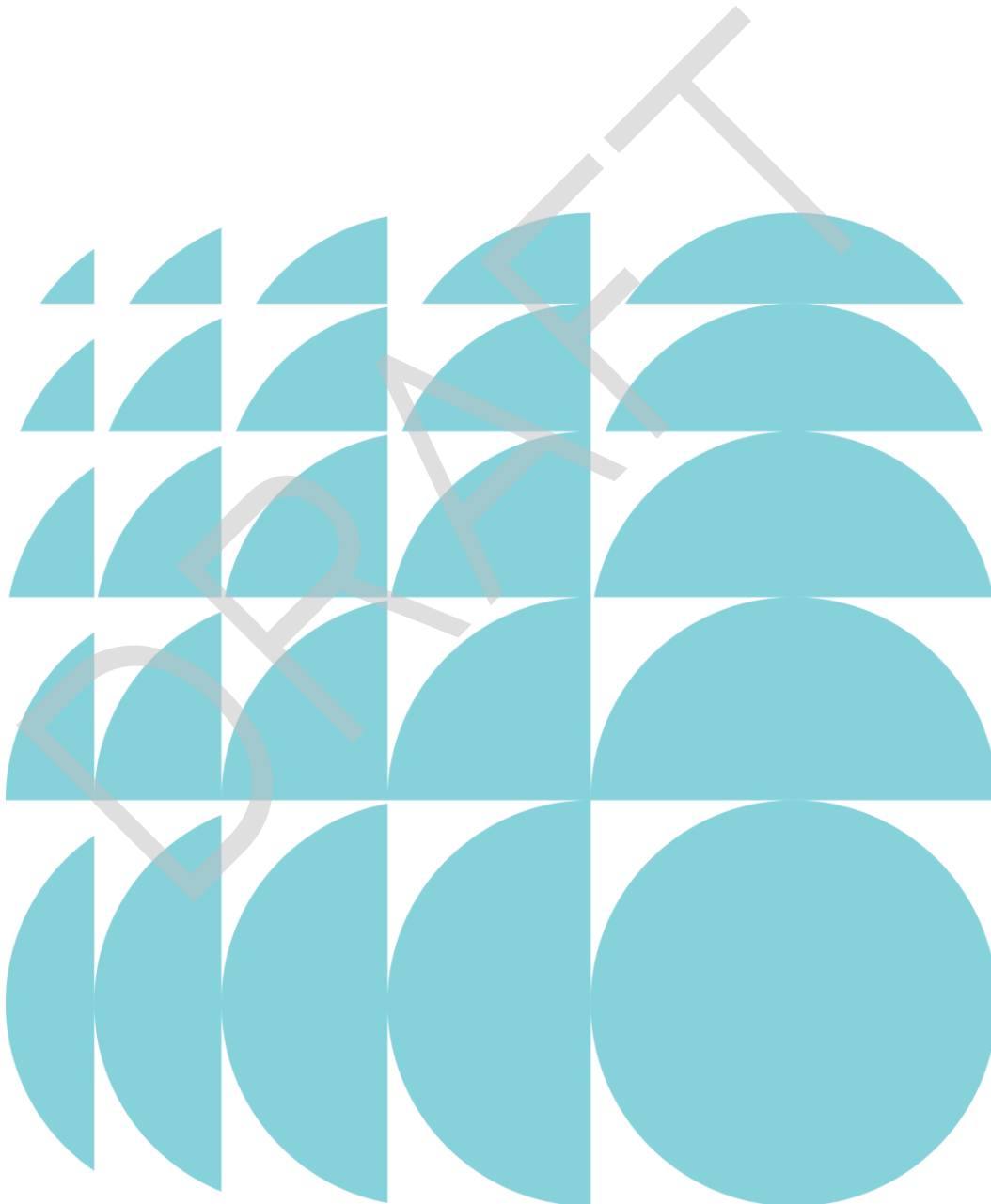
Clause 4.6 Variation

Floor Space Ration 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 (SSDA) for the development of UON's Honeysuckle City Campus.

Clause 4.6 of 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 FSR development standard is unreasonable and unnecessary in the circumstances of the case;
 - given the objectives of the standard are achieved notwithstanding the 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 FSR 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 FSR.
- 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 of 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 4.4 of LEP 2012, relating to Floor Space Ratio (FSR). Under Newcastle LEP 2012, the site has a maximum FSR limit ranging from 2.5:1 to the north of Wright Lane, to 3:1 south of Wright Lane.

Clause 4.4 of LEP 2012 is reproduced below in its entirety, and an extract of the FSR Map, to which this clause applies, is reproduced in **Figure 1**.

4.4 Floor Space Ratio

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

- (a) to provide an appropriate density of development consistent with the established centres hierarchy,
- (b) to ensure building density, bulk and scale makes a positive contribution towards the desired built form as identified by the established centres hierarchy.

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

(2A) Despite subclause (2), the maximum floor space ratio for a building on land in any zone in this Plan is to be determined as if the area of the access laneway of a battle-axe lot were not part of the area of the lot.

Whilst the site falls within the Newcastle City Centre, it is not located on land in 'Area A' and so the provisions of clause 7.10 of LEP 2012 do not apply.

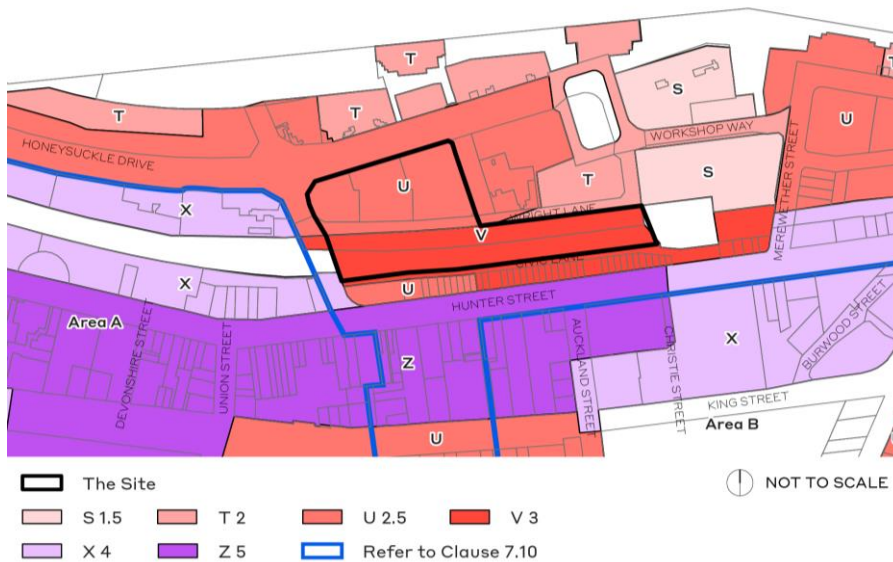


Figure 1 Extract of Floor Space Ratio map

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 FSR standard prescribed under clause 4.4 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

Site Area excluding Wright Lane

The UON campus comprises three parcels of land within Honeysuckle, identified as Sites 1-3 in **Figure 2**. The site has an overall area of 20,412m² and comprises an undeveloped parcel of land at Site 1 and an at-grade car park and former heavy rail line across Sites 2 and 3. The site area does not include Wright Lane which runs between Sites 1 and Sites 2 and 3, or Civic Lane which borders the southern boundary of the site.

The Concept Plan seeks approval for seven (7) building envelopes with an overall GFA of 62,573m². This equates to a maximum FSR of 3.07:1 across the campus. **Table 1** provides a summary of the GFA for each envelope, as well as the FSR for each site, and the overall campus.

Table 2 provides a consolidated summary of GFA and FSR. The proposal underutilises the maximum FSR applicable to Sites 1 and 3, and has subsequently redistributed that FSR to Site 2. The proposed redistribution of FSR within the site is considered to result in a better built form outcome relative to a compliant scheme, providing a transition in scale from west (higher) to east (lower), as well as from Honeysuckle Drive to Hunter Street. This better reflects the built form context of the site, with adjoining sites to the east comprising areas of open space, heritage items and lower density buildings.

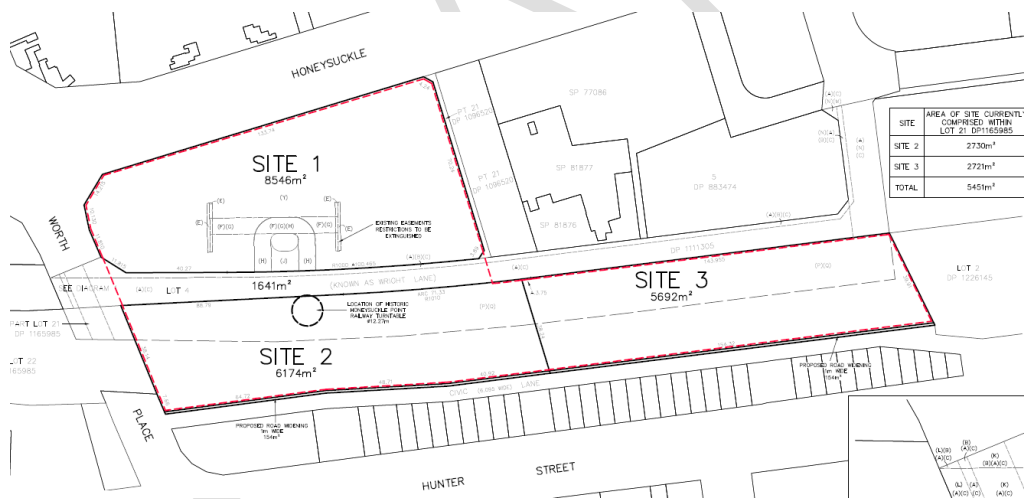
In addition to the redistribution of GFA across the campus, the development seeks to exceed the aggregate GFA by 5,611m² (9.85%). This equates to an exceedance of 0.27:1 across the three sites.

Table 1 Proposed Land Use and GFA

Lot	Land Use	Site	GFA (m ²)	FSR Control	FSR Proposed
Lot A1	Academic	Site 1	4,608m ²	2.5:1	1.74:1
Lot A2	Academic	Site 1	10,299m ²		
Lot B	Student Accommodation	Site 2	11,828m ²	3:1	4.02:1
Lot C	Academic	Site 2	12,217m ²		
Lot D	Academic	Site 2	9,415m ²		
Lot E	Academic	Site 3	7,158m ²		
Lot F	Academic	Site 3	7,049m ²		
TOTAL			62,573m²	-	3.07:1

Table 2 GFA and FSR summary

Site	Site Area (m ²)	FSR	Permissible GFA (m ²)	Proposed GFA (m ²)	Difference
Site 1	8,546	2.5:1	21,365	14,907	-6,458
Site 2	6,174	3:1	18,522	33,460	+14,938
Site 3	5,692	3:1	17,076	14,207	-2,869
TOTAL	20,412	-	56,963	62,573	+5,611 (9.85%)

**Figure 2 Site map**

Source: Monteath & Powys

Site Area including Wright Lane

Wright Lane is a private lot with right of carriageway. Wright Lane is owned by the Hunter Development Corporation. The Concept Proposal seeks to close Wright Lane to traffic and convert it into a pedestrian link. These works would be carried out under Stage 2 of the Concept Proposal.

Wright Lane is a contiguous lot, with an area of 4,268m² and a FSR of 3:1. If Wright Lane was included in the site, the overall site area would increase to 24,680m² and the permissible GFA would increase by 12,804m², to a total of 69,767m². Accordingly, if Wright Lane was included in the site area, the proposal would be within the maximum permissible GFA. It is noted that the development potential of Wright Lane is highly unlikely to be utilised on its own or as part of another development due to its position within the proposed campus and given that other surrounding sites have already been developed.

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 FSR 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 FSR 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 of this document addresses 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 FSR development standard (under clauses 4.4 of LEP 2012), and an explanation of how these objectives are met notwithstanding the non-compliance with the numerical control is provided in **Table 3**.

Table 3 Consistency with objectives of FSR development standard

Objective	Proposal
Clause 4.4 Floor Space Ratio	
(a) to provide an appropriate density of development consistent with the established centres hierarchy,	The site is located within the Newcastle City Centre. The density of the proposed building envelopes is consistent with the character and scale of existing surrounding buildings and the site's location in the Newcastle CBD. The proposed exceedance of the aggregate GFA represents a variation of 5,611m² (9.85%) and is considered minor in the context of the proposal, and the scale of existing and envisaged development in the Newcastle City Centre. Further, the proposed exceedance will not result in any adverse environmental impacts. As demonstrated throughout this variation, the proposed exceedance of GFA is required to facilitate the development of a new university campus in the Newcastle City Centre. This will assist in establishing Newcastle as one of Australia's major university cities as envisaged by the Draft Greater Newcastle Metropolitan Plan. As a result, the development (including the density proposed) will assist in defining the role of the Newcastle City Centre within the centres hierarchy.
(b) to ensure building density, bulk and scale makes a positive contribution towards the desired built form as identified by the established centres hierarchy.	The proposed building density across the campus, including the provision of public spaces and through-site links, is consistent with the scale and massing permitted in the City Centre. The proposed development will make a positive contribution to the City Centre, facilitating the redevelopment of a disused site and enabling the development of a viable university campus in the Newcastle CBD. The proposed redistribution of floor space seeks to concentrate density in the south-western part of the campus, away from more sensitive uses and open space to the east of the site. The proposed floor space ratio reflects this distribution of massing, as well as a minor exceedance to the aggregate GFA to facilitate the development of a viable university campus.

It is noted that the objectives of the FSR standard relate primarily to the built form, bulk, scale and character of a development. However, it is considered that FSR is a poor measure of the bulk and scale of a development. An FSR of 1:1 could result in either a tall building with a very small building footprint, or a lower building with a much larger footprint. Further, buildings that are predominantly or substantially underground might have a higher FSR, but would result in less perceivable bulk and scale when compared to a building completely above the ground.

FSR is also less relevant to a large, undeveloped site that is the subject of a masterplan as the site-specific design analysis required to develop the masterplan is a far better indicator of the site's development potential. For these reasons, the appropriateness of the proposed development's bulk and scale should be assessed based on its actual built form outcome, rather than its FSR.

In this regard, strict compliance with the FSR development standard would be unreasonable and unnecessary as the bulk and scale of the development responds to, and is consistent with, the broader context of the site and the high density built form that has emerged as Honeysuckle has transitioned from an industrial precinct to a mixed-use precinct. The bulk and scale of the proposal is consistent with this transition.

The variation to the FSR control does not increase the intensity of the development in a manner that will give rise to adverse environmental impacts such as increased traffic, bulk and scale, overshadowing or loss of views. Further, a strictly compliant development would fail to maximise the site's potential as a new university campus, and would undermine the objectives of the zone to provide for a variety of compatible uses within a mixed use precinct. Failure to maximise the development potential of the University would be contrary to the Hunter Regional Plan 2036 and the Draft Greater Newcastle Metropolitan Plan, which seeks to establish Newcastle as one of Australia's major university cities.

Overall, it is unreasonable to restrict a development that would enable Newcastle to achieve these key strategic objectives for the City Centre and the region, particularly in circumstances where the variation to the FSR control applying to the site can be approved without resulting in significant adverse impacts.

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 FSR 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 FSR standard and these are detailed below

The need to accommodate a new university campus in the Newcastle City Centre

The unique nature and need for the development has contributed to the development's variation to the FSR standard. 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 provides the only remaining opportunity to develop a campus for UON in the Newcastle City Centre. The proposed gross floor area is the result of a detailed analysis of future faculties to determine the required areas for each new building. Failure to approve the proposed variation would limit the capacity of the UON campus, and would fail to optimise the site's potential to meet the University's needs.

Maintaining the FSR development standard would result in a sub-optimal outcome for University stakeholders, as well as residents, visitors and workers in the Newcastle City Centre who stand to benefit significantly from the proposal. Compliance with the FSR standard would reduce the quantum of academic and student accommodation floor space provided on the campus, and would impact the University's ability to provide a viable and high-quality urban renewal project on the site.

Due to the unique nature and design requirements of education developments, schools, universities and TAFEs are often free from any height or FSR controls under the applicable environmental planning instrument. For example, the University's Callaghan Campus, which is also subject to Newcastle LEP 2012, is free of any height or FSR standards. It is considered that if a UON campus had been envisaged in this location when LEP 2012 was made, the site may not have been subject to height and floor space restrictions.

Further, the site is located adjacent to land with FSR standards of 4:1 and 5:1 under clause 4.4 of LEP 2012. As such, the proposed density for the site is a direct response to the higher density

Comment [A1]: Does UON / COX have any figures to support this statement?

development to the west and south, whilst maintaining a desire to provide high levels of amenity for future occupants of the site, and surrounding uses.

As mentioned above and as detailed further below, Newcastle is set to become one of Australia's major university cities. If compliance with the FSR development standard were to be enforced, it would contradict local and State government intentions for Newcastle, and would undermine Newcastle's ability to achieve the actions set out in the NSW State Priorities, Hunter Regional Plan 2036 and the Draft Greater Newcastle Metropolitan Plan.

Exclusion of Wright Lane from the site area

Wright Lane is a private lot with right of carriageway. Wright Lane is owned by the Hunter Development Corporation. The Concept Proposal seeks to close Wright Lane to traffic and convert it into a pedestrian link. These works would be carried out under Stage 2 of the development.

Wright Lane is a contiguous lot, with an area of 4,268m² and a FSR of 3:1. If Wright Lane was included in the site, the overall site area would increase to 24,680m². The permissible GFA would increase by 12,804m² to a total of 69,767m². If Wright Lane was included in the site area, the proposal would be within the maximum permissible GFA.

Whilst it is not proposed to include Wright Lane in the site area, it is appropriate to consider the floor space across this lane, as it will read as part of the site, and will be developed as part of a cohesive university campus. As noted above, the development potential of Wright Lane is highly unlikely to be realised through the development of any other adjoining site.

Summary of clause 4.6(3)(b) justification

For the reasons outlined above, compliance with the FSR standard is considered to be unreasonable and would limit the growth of Newcastle as a major university city. In summary, there are sufficient environmental planning grounds to justify a variation because:

- The redistribution of GFA to the south-western part of the site will result in a better outcome for the area in terms of concentrating bulk and scale away from more sensitive uses to the east of the site.
- If considered across the broader site, including Wright Lane, the proposed GFA would be within the maximum GFA permitted on the site.
- The development will provide a number of significant benefits to the broader region including supporting knowledge jobs, increased local expenditure, reducing youth unemployment and supporting mode share shift.
- The site is the subject of an extensive master planning process which is a more informed analysis of a site's true development potential.
- The development will not result in any significant adverse impacts in terms of visual impact, overshadowing, or any other built form-related impacts.
- The development will not result in any adverse traffic or parking impacts.
- Non-compliance with the standard does not contribute to adverse social or economic impacts, rather, failure to grant the proposed variation would limit the ability to achieve the strategic intent for the Newcastle City Centre.

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 maintaining and/or enforcing the FSR development standard in this instance. Rather, there are clear and justifiable environmental planning merits that validate the flexible application of the FSR control through 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 FSR 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 exceed the maximum FSR 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 4** below.

Table 4 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 increase in FSR will ensure that the academic and student accommodation uses are viable, and 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 exceedance of the FSR 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 Civic Link, and will facilitate the development of Newcastle as one of Australia's major university cities.
To support nearby or adjacent commercial centres without adversely impacting on the viability of those centres.	The proposal will introduce 12,040 students, 683 staff and 400 resident students into the Newcastle City Centre which will support businesses within the Newcastle CBD. The proposed minor increase in FSR will ensure that the academic and student accommodation uses are viable. A reduction in the FSR of the building envelopes would potentially limit the viability of the proposed development.

Given the circumstances of the case, strict numerical compliance with the FSR 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 permitted FSR. Further, the proposed exceedance of the aggregate GFA / FSR will not impact the proposal's consistency with the objectives of the development standard, and would limit the University's ability to provide a viable new campus in the Newcastle City Centre.

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 FSR 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 FSR standards 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 FSR proposed is minor, and would not give rise to any adverse environmental impacts. The proposed variation is a result of the desire to create a development with a massing which responds to the surrounding development. The proposed variation will also facilitate the development of 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. 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 removal of academic and student accommodation floor space to strictly comply with the FSR 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.

It is noted that the redistribution of GFA and the proposed variation to the maximum permissible GFA 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 FSR development standard in clause 4.4 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 FSR development standard is unreasonable and unnecessary in the circumstances of the case;
 - given the objectives of the standard are achieved notwithstanding the 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 FSR 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 FSR.
- 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.