



Clause 4.6 Variation – Floor Space Ratio

Proposed Extension to Wollongong Private Hospital

Lots 1 and 2 DP1212956 & Lot D in DP402234
360 Crown Street, Wollongong

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1. Introduction

This Clause 4.6 Variation request has been prepared in support of a Development Application for the proposed extension of Wollongong Private Hospital at 360 Crown Street, Wollongong.

This Clause 4.6 Variation has been submitted to address the proposed non-compliance with the Floor Space Ratio Development Standard (Clause 4.4A) consistent with the requirements of *Wollongong Local Environmental Plan 2009* (WLEP2009).

Clause 4.4A relates only to land within the Wollongong City Centre and provides for a Floor Space Ratio's that are inconsistent with the Floor Space Ratio Map under certain conditions and states:

(5) For a building on land within Zone SP1 Special Activities that is to be used for the purposes of hospitals, medical centres or other like uses or a combination of such uses, the maximum floor space ratio is 3:1.

The proposal will result in the development having a Floor Space Ratio of 3.62:1. This is a reduction on the previously approved FSR of 3.63:1 despite the additional floor area due to the site area having been increased through amalgamations since the previous approval.

In accordance with Clause 4.6 of WLEP 2009, Council is required to consider the following:

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.*

This request has been prepared in accordance with the aims and objectives contained within Clause 4.6 and the relevant development standards.

2. The Standards Being Objected to

2.1 Clause 4.4A (Floor Space Ratio – Wollongong city centre) of the Wollongong Local Environmental Plan 2009

The development standard being requested to be varied is **Clause 4.4A** of WLEP 2009 which provides as follows (NOTE: only those section of the clause that are relevant to the application have been reproduced):

4.4A Floor space ratio—Wollongong city centre

- (1) This clause applies to land within the Wollongong city centre.*
- (2) Despite clause 4.4, the maximum floor space ratio for a building on land within a zone specified in Column 1 of the Table to this subclause, on land with a site area and street frontage specified opposite that zone in Column 2 of the Table, is:*

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- (a) *the amount specified opposite that zone in Column 3 of the Table, if the building is used only for residential purposes, or*
- (b) *the amount specified opposite that zone in Column 4 of the Table, if the building is used only for purposes other than residential purposes.*

Table

Column 1	Column 2	Column 3	Column 4
Zone SP1 Special Activities	Site Area of any size and a street frontage of any size	1.5:1	3:1

...

- (5) *For a building on land within Zone SP1 Special Activities that is to be used for the purposes of hospitals, medical centres or other like uses or a combination of such uses, the maximum floor space ratio is 3:1.*

Pursuant to Clause 4.6, the proposed development seeks exception to the 3:1 Floor Space Ratio development standard to enable a Floor Space Ratio of 3.62:1

2.2 The objectives/underlying purpose of the clause

A key determination of the appropriateness of a variation to a development standard is the proposal's compliance with the underlying objectives of the standard. Therefore while there is a specified numerical control for the Floor Space Ratio, the objectives and underlying purpose of the development standard are fundamental criteria for consideration in the development assessment process. However, as Clause 4.4A does not have any objective, the objectives for the base Floor Space Ratio controls under Section 4.4 are considered in Section 3 below.

2.3 Proposed variation to standards

The proposed development seeks consent for the extension to the existing hospital to provide for identified health demands in a manner that reduces resources by enabling coordinated and integrated service provision within the existing site.

The proposed development exhibits a Floor Space Ratio of 3.62:1 which results in a breach of 0.62:1 under Clause 4.4A of WLEP 2009. This breach pertains to the northwest portion of the hospital site, along Urunga Parade.

The Floor Space Ratio will be 0.01:1 less than the Floor Space Ratio that applied to the existing development prior to amalgamation of adjoining lots.

3. Proposed Variation to Clause 4.4A Floor Space Ratio

Clause 4.6(4)(ii) requires that such a request must establish that the proposed variation is consistent with the objectives of the standard and the zone.

3.1 Objectives of the standard?

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As mentioned, Clause 4.4A is not supported by specific objectives, therefore, the general objectives applying to Floor Space Ratio controls under Clause 4.4 are considered, and state:

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

- (a) to provide an appropriate correlation between the size of a site and the extent of any development on that site,*
- (b) to establish the maximum development density and intensity of land use, taking into account the availability of infrastructure to service that site and the vehicle and pedestrian traffic the development will generate,*
- (c) to ensure buildings are compatible with the bulk and scale of the locality.*

The subject proposal relates to a site that contains an existing private hospital which is operational and has been previously approved for a Floor Space Ratio that is greater than the variation being sought under this application. Therefore it is considered reasonable that the proposed floor area, is suitable within the context of the site and locality given the existing character afforded and relationship which exists with surrounding properties.

The proposed development will seamlessly integrate with existing development on this site and result in no greater impact than the current conditions. Through the provision of articulated facades and material and colour scheme, the proposal shall not result in unacceptable visual impacts.

3.2 Objectives of the zone

The proposal is consistent with the SP2 Special Activities zone objective, which state:

- To provide for special land uses that are not provided for in other zones.*
- To provide for sites with special natural characteristics that are not provided for in other zones.*
- To facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land.*

3.3 Establishing if the Development Standard is Unreasonable or Unnecessary

Compliance with this standard would be unreasonable given the resulting Floor Space Ratio is a reduction on the previously approved FSR and desired use of the site conveyed by the SP2 Zoning.

The proposed FSR departure will have no undue material impact on the streetscape or surrounding sites and is consistent with the existing and desired character for the area. The proposed development remains highly compatible with the established character of the site and its surrounds uses in terms of built form and land use.

Furthermore the built form proposed for the site clearly demonstrates the feasibility of developing the site in accordance with relevant environmental planning framework and providing a high-quality, desirable development on the site whilst preserving neighbouring amenity.

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The proposal is consistent with all other controls of WLEP 2009 and significantly increases the health services available to the community whilst not resulting in any unacceptable impacts.

It is considered that the Clause 4.6 Variation is unreasonable or unnecessary in this case for the following reasons:

- No existing breach will be exacerbated.
- The proposed extension is consistent with the existing (and desired) character of the site and the surrounding area. The health precinct character of the locality will not be impeded, nor will the ability for such development to be carried out.
- The development will significantly augment the health related use of the site through the provision of a contemporary design that will serve the needs of the community. This is achieved through the provision of additional mental health beds over multiple levels and associated facilities that will contribute to a successful operation.
- The proposal is compatible with surrounding development and the environmental planning framework in terms of visual appearance, scale, design and land use.

3.4 Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard

The variation to the development standard to the Floor Space Ratio standard is considered well founded in this instance as:

- The increased floor area and resulting Floor Space Ratio correlates the previously approved FSR to the fact that the site area has now increased and does not represent an overdevelopment of the previous smaller lot size.
- The proposed development is consistent with the underlying objective or purpose of the standard.
- The proposed development will not exhibit any adverse visual impact and will not adversely impact on the amenity of adjoining sites in relation to solar access, privacy or views.
- The proposed development is compatible with the established essential service infrastructure. The proposed extension will integrate with the existing hospital and not present as a segregated portion of development.
- Compliance with the remaining applicable development standards is achieved.
- The alternative is to provide facilities offsite, which will reduce efficiencies, sustainability and resources.
- The encouragement of health-related development under relevant strategic plans supports the proposal.

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4. Conclusion

It is requested that Council support the proposed variation to Clause 4.4A of WLEP 2009 for the following reasons:

- Compliance with the development standard is unreasonable and unnecessary in the circumstances of the case.
- There are sufficient environmental planning grounds to justify contravening the development standard.
- The proposal will support the use of the site for health services to alleviate demand within a major regional health precinct, providing vital services to the community.
- No unreasonable environmental impacts are introduced as a result of the proposal.
- There is no public or material benefit in maintaining strict compliance with the standard.
- No reasonable alternative is available to meeting the objective of increased services in this locality.

Given the above justification provided above this Clause 4.6 Variation is well founded and should be favorably considered.