

# CLAUSE 4.6 SUBMISSION EXCEPTION TO DEVELOPMENT STANDARD FOR HEIGHT UNDER GOSFORD LEP 2014

Construction of 75 Assisted-Care Apartments  
Under SEPP Seniors Housing

Property:

Forresters Beach Retirement Village  
Lot 600 DP 1099102  
No. 1001 The Entrance Road, Forresters Beach

Applicant:

Retire Australia Pty Ltd



Date:

July 2018

Prepared by:

**tim shelley planning**

phone: 0409 306186

email: [tim@tsplanning.com.au](mailto:tim@tsplanning.com.au)

postal address: PO Box 3165 Erina NSW 2250

# CLAUSE 4.6 SUBMISSION

## SUMMARY

|                                       |   |
|---------------------------------------|---|
| <b>APPLICANT:</b>                     | Retire Australia Pty Limited  |
| <b>PROPOSAL:</b>                      | Construction of 75 assisted care apartments under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 in a three (3) storey building |
| <b>PROPERTY:</b>                      | Forresters Beach Retirement Village<br>Lot 600 DP 1099102<br>No. 1001 The Entrance Road, Forresters Beach   |
| <b>RELEVANT DEVELOPMENT STANDARD:</b> | Clause 4.3 Height of Buildings  |

## INTRODUCTION

The objectives of Clause 4.6 of Gosford LEP 2014 (GLEP) are as follows:

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

To this end and in accordance with Clause 4.6(3), this submission requests and seeks to justify an exemption to the development standard contained in Clause 4.3 of GLEP 2014, specifically the 8.5m height limit under Clause 4.3(2) of the GLEP which applies to the subject land. The submission seeks approval for a variation to the development standard as it applies to the proposed building on the following basis:

1. Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
2. There are sufficient environmental planning grounds to justify contravening the development standard;
3. The proposed development will be in the public interest on the basis it is consistent with the objectives of the particular standard and the objectives for development within the R2 Residential zone in which the development is proposed to be carried out; and
4. Departure from the standard on this occasion will achieve a better built outcome for and from the proposed development, will not raise any matter of significance for state or regional environmental planning and no particular public benefit will be served by maintaining the standard.

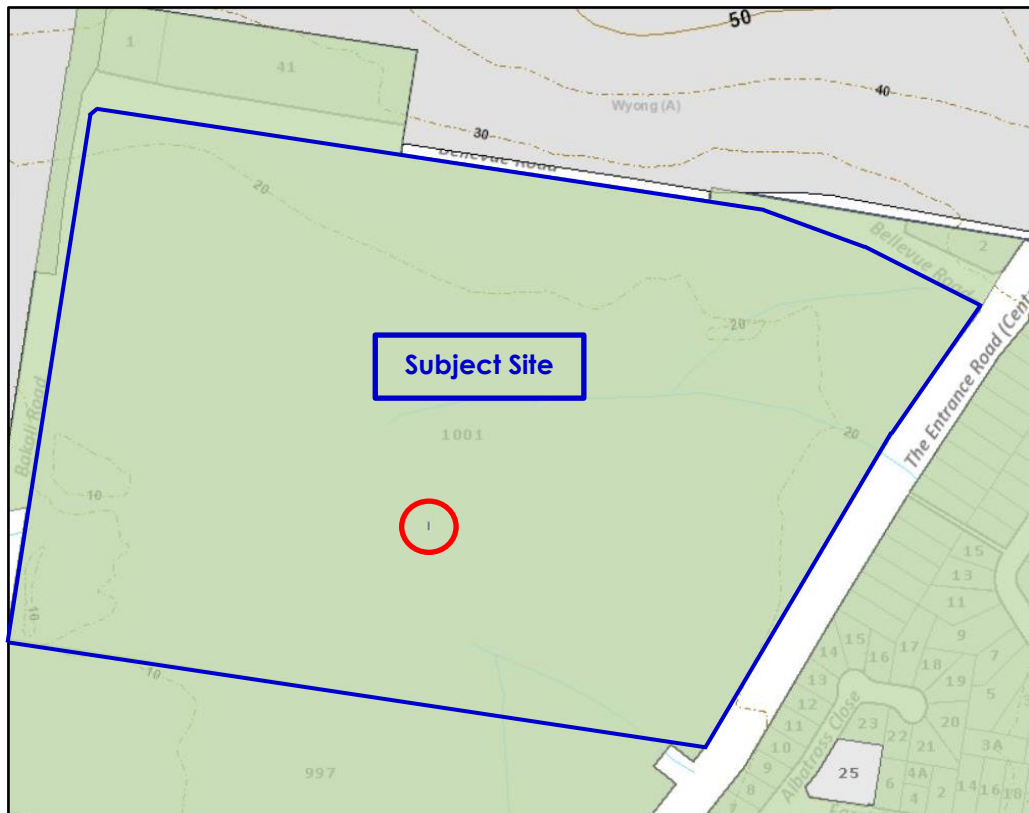
## THE DEVELOPMENT STANDARD TO WHICH THE REQUEST RELATES

### Clause 4.3 – Height of Buildings

Clause 4.3 (2) of the GLEP states:

*The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Building Map.*

As shown on Figure 1 on the following page, the respective Height of Building (HoB) map identifies the site as being within Category I, which has a height limit of **8.5 metres**.



**Figure 1** – Extract from Gosford LEP 2014 Building Height Map

### The Objectives of the Development Standard

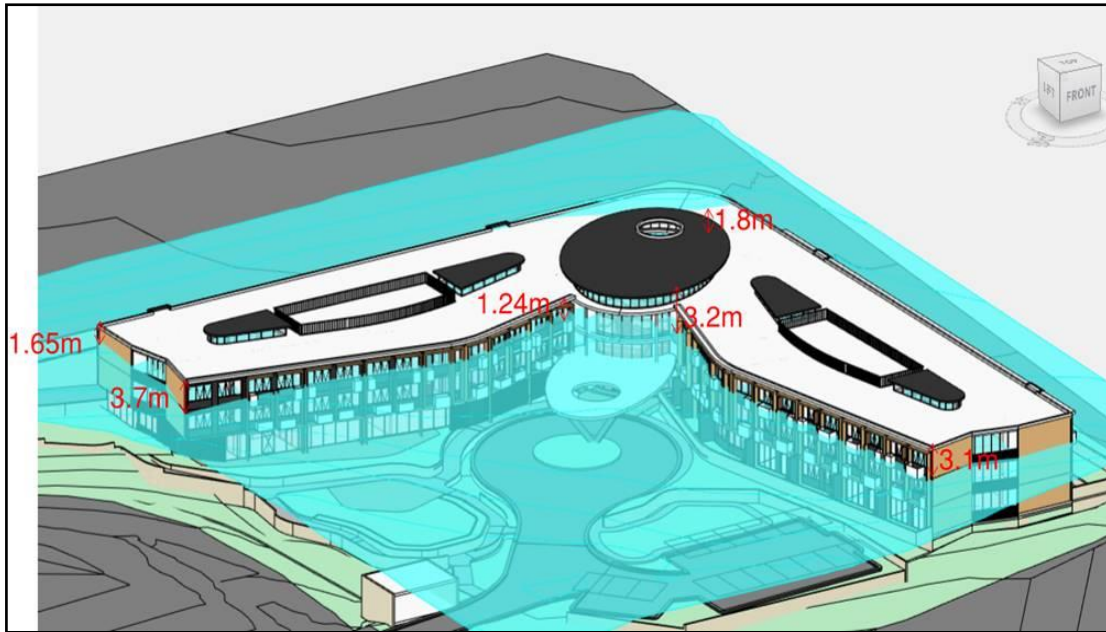
As indicated under Clause 4.3(1), the objectives of the development standard are:

- (a) to establish maximum height limits for buildings,
- (b) to permit building heights that encourage high quality urban form,
- (c) to ensure that buildings and public areas continue to receive satisfactory exposure to sky and sunlight,
- (d) to nominate heights that will provide an appropriate transition in built form and land use intensity,
- (e) to ensure that taller buildings are located appropriately in relation to view corridors and view impacts and in a manner that is complementary to the natural topography of the area,
- (f) to protect public open space from excessive overshadowing and to allow views to identify natural topographical features.

### THE NATURE OF THE DEPARTURE FROM THE DEVELOPMENT STANDARD

As indicated on the height plane graphic prepared by Marchese Architects provided as Figure 1 on the following page, a number of sections of the building exceed the 8.5 metre maximum height allowable under the HoB map. These encroachments range in size from 0.74 metres to 3.2 metres.

**Note:** The height encroachments shown on Figure 1 are in relation to the 8.0 metre height restriction pertaining to the site under Clause 40(4)(a) of SEPP Seniors Housing. As such, the range of encroachments shown on this Figure are 0.5m less at each point (i.e. 1.15m, 3.2m, 0.74m, 2.7m, 1.3m and 2.6m when reading from left to right).



**Figure 1** – Height Plane Graphic Showing Encroachments to 8.0m Height Limit under SEPP Seniors Housing. All encroachments shown are actually 0.5m less when compared to 8.5m limit under GLEP.

#### WHY COMPLIANCE WITH THE DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE

It is contended that compliance with the 8.5m height limit is unreasonable or unnecessary in the circumstances of the case for the following reasons:

- The encroachments of the height limit are a result of the topography of the site, with the building exceeding 8.5 metres in height in some places only due to the fall of the land, which drops from a level of approximately 28.0m AHD at the top end of the building footprint down to approximately 22.0m AHD at the southern end of the building footprint. As it is not practical to split the floor level from an operational and access point of view to absorb the drop in the level of the land, the encroachments requested are essentially unavoidable.
- The additional height is advantageous and necessary from an operational point of view. In this regard, the building needs to be designed in a manner that maximises efficiency for both staff and residents in terms of access and servicing, which necessitates the length of building wings and corridors to be limited, and lifts, stairwells and other facilities to be appropriately positioned and spaced. As such, a more vertical design that maximises movement up and down quickly such as that presented better achieves these outcomes, as opposed to a longer, more elongated and lower building (which isn't suited to the shape and topography of this site).
- Further to the above point, not allowing the variations would actually result in a poorer operational outcome for the staff and future residents than would be the case if actually allowing the variations, contrary to the objectives of SEPP Seniors Housing to increase the supply and diversity of residences that meet the needs of seniors or people with a disability.
- The encroachments don't result in any adverse impact in terms of overshadowing or privacy on existing dwellings in the Village. Rather, the increase in height is a means to consolidate, or reduce, the building footprint and allow it to be positioned as far to the north and east of the site as possible and in doing so, maximise the separation to the existing villas in Stages 6 and 9 to the west and Stage 5 to the south. The shadow

diagrams included in the plans submitted with the application confirm that the proposed building does not overshadow these surrounding villas on the 21<sup>st</sup> June to any tangible degree.

- The encroachments are design and operationally based and have not been proposed to increase the yield, as it is clear that a higher yield is achievable due to the substantial size of the site.
- The overall height, bulk and scale of the building as a result of the encroachments is essentially unaffected and is scaled by the slope of the site towards Bellevue Road and the higher land further to the north again on Longs Road.
- The impact of the additional height is unlikely to affect any development on surroundings properties due to the size and self-contained nature of the site and the limited extent of development either adjoining or in close proximity to the site. This view was confirmed by both Ms Danielle Dickson and Mr Scott Cox of Council during pre-lodgement meetings (see discussion in relation to pre-lodgement discussions in Section 4.0 of the SOEE and associated Record of Meeting submitted with the application). On this basis, both Ms Dickson and Mr Cox raised no objections to the overall height of the proposed building or the likely encroachments to the height restriction.
- Further to the above point, the proposed height encroachments will be almost imperceptible from outside of the site due to the higher levels of the land surrounding the site (particularly to the north) and the fact this portion of the site is screened by an impervious perimeter fence approximately 2.0 metres in height, as well as landscaping and signage. This is demonstrated in the 3D render of the building from the intersection of The Entrance Road and Longs Road provided as Attachment 1. In any event, the land to the north of the site fronting Bellevue Road is vacant for much of the section opposite the proposed development, whilst the remainder is occupied by a service station (on significantly higher land) which is a non-habitable land use and therefore of no consequence in terms of visual impact or view loss.

In addition, the dwellings located on the northern side of Longs Road (particularly the western end) are well elevated such that they would continue to look over the site and therefore be unaffected by the height encroachments. The distance of these dwellings from the site and their elevation above the subject site are demonstrated in photographs 1 and 2 on the following page.

For those dwellings further to the east along Longs Road, the service station immediately to the south on Bellevue Road significantly obscures any view of the existing site anyway, in turn meaning that the proposed development would also result in very little (if any) view loss from the dwellings in question. This is demonstrated in photographs 3 and 4.





**Photograph 1** – looking north from Bellevue Road at the dwellings at the western end of Longs Road. The elevation of these dwellings will ensure they continue to look out over the subject site with any existing views essentially unimpeded by the proposed development.



**Photograph 2** – looking south-east from ground level in front of the dwellings located at the western end of Longs Road. Given the higher elevation of these dwellings from this location, they will continue to look out over the site and be unimpeded by the proposed development.



**Photographs 3 and 4** – demonstrating the extent to which the location of the proposed development is obscured by the service station from dwellings at the eastern end of Longs Road (even at a higher elevation the roof over the building and forecourt of the service station continue to obscure this view).



- The impact of the height encroachments would also be negligible with respect to the single storey dwellings to the east due to the lower level of these properties, the extensive separation provided by The Entrance Road and screening provided by the perimeter fence and landscaping along this frontage. These viewpoints are shown in photographs 5 and 6 below and are demonstrated further in the 3D renders of the proposed building from The Entrance Road provided as Attachments 2 and 3.



**Photographs 5 and 6** – looking north-west from The Entrance Road towards the site of the southern and middle portions of the building respectively. The impact of the additional height of the building would be limited from this aspect due to the drop in levels of the building behind the wall as well the screening provided by the existing wall and landscaping.



Given the above, it is apparent that the underlying objectives behind the 8.5 metre height limit have been fully satisfied and a better built form outcome realised, notwithstanding the numerical departure from this standard. As such, it is unreasonable and unnecessary that the 8.5m standard be strictly applied in this instance.

#### THE ENVIRONMENTAL PLANNING GROUNDS WHICH JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARDS IN CLAUSE 4.3(2) OF GLEP 2014

In response to Clause 4.6(3)(b), sufficient environmental planning grounds exist to justify departure from the development standard on this occasion as follows:

1. The topography of the land promotes an innovative design response that leads to the height variation.
2. The proposed variations are entirely consistent with, or achieve, the objectives of the development standard identified in Clause 4.3(1) as follows:
  - *to permit building heights that encourage high quality urban form,*
  - *to ensure that buildings and public areas continue to receive satisfactory exposure to sky and sunlight,*
  - *to nominate heights that will provide an appropriate transition in built form and land use intensity,*
  - *to ensure that taller buildings are located appropriately in relation to view corridors and view impacts and in a manner that is complementary to the natural topography of the area,*
  - *to protect public open space from excessive overshadowing and to allow views to identify natural topographical features.*

In this regard, the building:

- exhibits a high urban form which satisfies each of the design principles of SEPP 65 and all requirements of the Apartment Design Guide, as verified by the SEPP 65 Design Verification report prepared by Marchese Architects submitted with the application. Conversely, a lower, wider building that complies with the height requirements may not exhibit the same degree of design merit nor provide the same degree of urban form and articulation. Such a building is also unlikely to respond to the topography to the same degree as that currently proposed or provide the same degree of separation and hence amenity to existing dwellings within the Village.
- doesn't result in any adverse impact in terms of overshadowing on existing dwellings in the Village. Rather, the increase in height is a means to consolidate, or reduce, the building footprint and allow it to be positioned as far to the north and east of the site as possible and in doing so, maximise the separation to the existing villas in Stages 6 and 9 to the west and Stage 5 to the south. As a result, the shadow diagrams included in the plans submitted with the application confirm that the proposed building does not overshadow these surrounding villas on the 21st June to any tangible degree.
- represents an appropriate transition in built form and land use intensity due to the extensive setbacks to the surrounding dwellings within the village and the positioning of the building adjacent to the Bellevue Road and The Entrance Road boundaries. At these interfaces, the streetscape presents as only one or two storeys given the ground floor is located below road level behind the existing perimeter wall, as shown in the 3D renders provided as Attachments 1 and 2. This elevation and resulting streetscape is consistent with the two storey nature of the R2 zone and surrounding area and the predominantly one and two scale of buildings on the opposite of The Entrance Road and in the locality generally.

- is located adjacent to the northern and eastern boundaries of the site where the impact on views from surrounding properties is minimal and where the building responds to the topography to the maximum extent possible on the site to ensure bulk and scale is minimised.
  - has no impact on public spaces by way of overshadowing.
3. The location and height of the building as currently proposed (i.e. inclusive of the proposed variations) better facilitates natural light, ventilation and hence energy efficiency of the development such that it is better able to meet the requirements of the Apartment Design Guide and the nine principles of SEPP 65, Section J of the BCA, as well as the requirements of SEPP SH. This is verified by the SEPP 65 Design Verification Statement and Section J Assessment submitted with the application.
  4. By consolidating the footprint and increasing the height of the building as proposed, the development provides greater areas of open space and increased landscaping around the site as encouraged by SEPP SH, which would not have been achieved via a lower, wider building built in strict accordance with the requirements of SEPP SH.

**THE PUBLIC INTEREST, CONSISTENCY WITH THE OBJECTIVES OF THE DEVELOPMENT STANDARD IN CLAUSE 4.3(2) AND THE OBJECTIVES FOR DEVELOPMENT WITHIN THE R2 LOW DENSITY RESIDENTIAL ZONE**

As indicated in the preceding section of this submission, the proposed development is consistent with the relevant objectives of the development standards requested to be varied. In addition, the consistency of the proposed development with the objectives of the R2 zone has been documented within the SOEE that accompanies the development application.

In this regard, it is apparent the proposed development is consistent with the following objectives of the R2 zone as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
  - *The development provides a vitally needed "next stage" housing option for both residents of the existing village and those in the surrounding community within a village that, with a floor space ratio of only 0.286:1, exhibits a low density residential environment, augmented by large areas of open space and an extensive array of on-site community facilities.*
- *To ensure that development is compatible with the desired future character of the zone.*
  - *As discussed extensively in section 5.5.1 of the SOEE submitted with the application, the location, design and appearance of the proposed development is entirely consistent with the desired future character of the surrounding area as identified within the Forresters Beach Character Statement under Gosford DCP 2013 Chapter 2.1 – Character.*
- *To encourage best practice in the design of low-density residential development.*
  - *The proposed development has been designed in accordance with industry-standard and best practice senior's living requirements as embodied in SEPP SH, the ADG and SEPP 65. The building is only two to three storeys in height and surrounded by extensive landscaping and areas of open space.*
- *To promote ecologically, socially and economically sustainable development and the need for, and value of, biodiversity in Gosford.*
  - *The proposed development complies with the energy efficiency provisions relevant to Class 3 buildings under section J of the Building Code of Australia and adopts a best-practice stormwater management system.*

## CONCLUSION

The proposed variations are consistent with the objectives of Clause 4.6 of the GLEP which provides an appropriate degree of flexibility in the application of development standards to permit a particular development where warranted. To this end, the preceding submission satisfies the considerations requiring assessment in the respective sub-clauses and demonstrates as follows:

1. strict compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
2. there are sufficient environmental planning grounds to justify contravening the development standard;
3. the proposed development will be in the public interest because it is consistent with the objectives of the development standard and the objectives of the R2 zone in which the development is proposed to be carried out; and
4. departure from the standard on this occasion will achieve an improved built form outcome, have a negligible impact on any surrounding residences or properties and will not raise any matter of significance for state or regional environmental planning.

Therefore, the request for a departure from the development standard in relation to the maximum height of buildings contained in Clause 4.3(2) of Gosford LEP 2014 to permit the proposed development is considered worthy of support.

Tim Shelley

**Director – Tim Shelley Planning**



Bachelor Urban and Regional Planning, University of New England

## ATTACHMENT 1



3D Render Showing Elevation of Proposed Building from the intersection of The Entrance Road and Bellevue Road



## ATTACHMENT 2



3D Render Showing Elevation of Proposed Building to The Entrance Road (northern end)



### ATTACHMENT 3



3D Render Showing Elevation of Proposed Building to The Entrance Road (southern end)

# CLAUSE 4.6 SUBMISSION TO DEVELOPMENT STANDARDS FOR HEIGHT UNDER SEPP SENIORS HOUSING 2004

Construction of 75 Assisted-Care Apartments  
Under SEPP Seniors Housing

Property:

Forresters Beach Retirement Village  
Lot 600 DP 1099102  
No. 1001 The Entrance Road, Forresters Beach

Applicant:

Retire Australia Pty Ltd



Date:

July 2018

Prepared by:

**tim shelley planning**

phone: 0409 306186

email: [tim@tsplanning.com.au](mailto:tim@tsplanning.com.au)

postal address: PO Box 3165 Erina NSW 2250

# CLAUSE 4.6 SUBMISSION

## SUMMARY

|  |   |
|--|---|
| <b>APPLICANT:</b>                        | Retire Australia Pty Limited  |
| <b>PROPOSAL:</b>                         | Construction of 75 assisted care apartments under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 in a three (3) storey building |
| <b>PROPERTY:</b>                         | Forresters Beach Retirement Village<br>Lot 600 DP 1099102<br>No. 1001 The Entrance Road, Forresters Beach   |
| <b>RELEVANT DEVELOPMENT STANDARD(S):</b> | Clauses 40(4)(a) and (b) of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 or SEPP Seniors Housing ("SEPP SH")                  |

## INTRODUCTION

The objectives of Clause 4.6 of Gosford LEP 2014 (GLEP) are as follows:

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

To this end and in accordance with Clause 4.6(3), this submission requests and seeks to justify an exemption to the development standards contained in Clauses 40(4)(a) and (b) of SEPP SH, specifically the 8.0m maximum height limit and the restriction to two (2) storeys adjacent to the property boundary. The submission seeks approval for a variation to these development standards as they apply to the proposed building on the following basis:

1. Compliance with the development standards is unreasonable or unnecessary in the circumstances of the case;
2. There are sufficient environmental planning grounds to justify contravening the development standards;
3. The proposed development will be in the public interest on the basis it is consistent with the objectives of the particular standards and the objectives for development within the R2 General Residential zone in which the development is proposed to be carried out; and
4. Departure from the standards on this occasion will achieve a better built outcome for and from the proposed development, will not raise any matter of significance for state or regional environmental planning and no particular public benefit will be served by maintaining the standard.

## THE DEVELOPMENT STANDARD(S) TO WHICH THE REQUEST RELATES

### 1. Clause 40(4)(a)

Clause 40(4)(a) states as follows:

#### **40 Development standards—minimum sizes and building height**

##### **(4) Height in zones where residential flat buildings are not permitted**

*If the development is proposed in a residential zone where residential flat buildings are not permitted:*



- (a) *the height of all buildings in the proposed development must be 8 metres or less, and*

Under SEPP SH, “height” is defined as follows:

*“height” in relation to a building, means the distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point.*

As the site is zoned R2 Low Density Residential under Gosford LEP 2014 in which residential flat buildings are not permitted, the 8.0 metre maximum height restriction applies to the subject land.

## 2 Clause 40(4)(b)

Clause 40(4)(b) states as follows:

### **40 Development standards—minimum sizes and building height**

- (4) *Height in zones where residential flat buildings are not permitted*

*If the development is proposed in a residential zone where residential flat buildings are not permitted...*

- (b) *a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height*

As the site is zoned R2 Low Density Residential under Gosford LEP 2014 in which residential flat buildings are not permitted, the restriction to 2 storeys adjacent to a boundary applies to the subject land.

## THE OBJECTIVES OF THE DEVELOPMENT STANDARD(s)

The basis for the introduction and hence the underlying objectives of Clause 40(4)(a) are not specifically identified within SEPP SH and hence remain unclear. However, the overarching purpose of Chapter 3 of the SEPP in which it falls are identified under Clause 14, which states that *“the objective of this Chapter is to create opportunities for the development of housing that is located and designed in a manner particularly suited to both those seniors who are independent, mobile and active as well as those who are frail, and other people with a disability regardless of their age”*.

With respect to the SEPP generally, Clause 1 indicates that:

*“This Policy aims to encourage the provision of housing (including residential care facilities) that will:*

- (a) *increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and*  
(b) *make efficient use of existing infrastructure and services, and*  
(c) *be of good design.”*

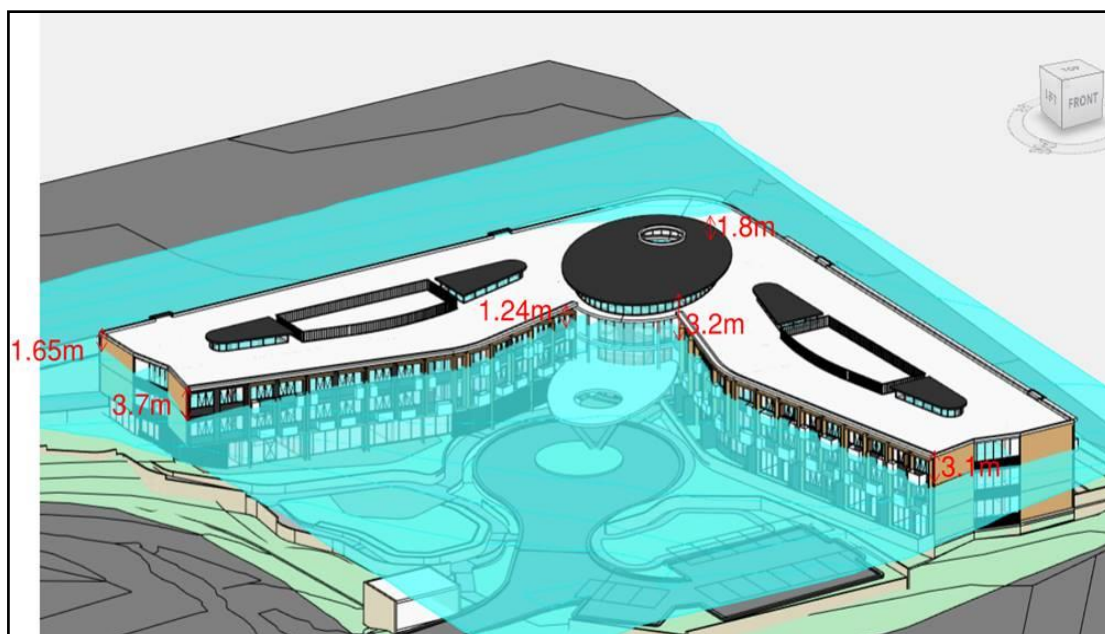
With respect to Clause 40(4)(b), the “Note” immediately following indicates the express purposes of this clause as follows:

**“Note.** *The purpose of this paragraph is to avoid an abrupt change in the scale of development in the streetscape.”*

## THE NATURE OF THE DEPARTURE(S) FROM THE DEVELOPMENT STANDARD

### 1. Clause 40(4)(a) – 8.0 metres

As indicated on the height plane graphic prepared by Marchese Architects provided as Figure 1 below, a number of sections of the building exceed the 8.0 metre maximum height allowable under clause 40(4)(a), with encroachments ranging in size from 1.24 metres to 3.7 metres.



**Figure 1** – Height Plane Graphic

### 2. Clause 40(4)(b) – 2 Storeys Adjacent to Boundary

As indicated on the architectural plans prepared by Marchese Architects submitted with the application, the eastern wing of the proposed building located adjacent to The Entrance Road boundary of the site is three (3) storeys in height.

Note: The northern wing of the building adjacent to the Bellevue Road site boundary contains an undercroft car park on the lower floor which does not extend more than 1 metre above ground level. As per Clause 3(2) of SEPP SH, a car park that does not extend above ground level by more than 1 metre is not to be counted as a storey in calculating the number of storeys in a development for the purposes of SEPP SH. As such, this wing of the building is only two storeys and therefore not in breach of the requirements of Clause 40(4)(b).

## WHY COMPLIANCE WITH THE DEVELOPMENT STANDARDS IS UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE

It is contended that compliance with the development standards under both Clauses 40(4)(a) and 40(4)(b) is unreasonable and unnecessary for the following reasons.

- The encroachments of the 8.0m height limit are a result of the topography of the site, with the building exceeding 8.0 metres in height in some places only due to the fall of the land, which drops from a level of approximately 28.0m AHD at the top end of the building footprint down to approximately 22.0m AHD at the southern end of the building footprint. As it is not practical to split the floor level from an operational and access point of view to absorb the drop in the level of the land, the encroachments requested are essentially unavoidable.

- The additional height (particularly the inclusion of a third storey) is advantageous and necessary from an operational point of view. In this regard, the building needs to be designed in a manner that maximises efficiency for both staff and residents in terms of access and servicing, which necessitates the length of building wings and corridors to be limited, and lifts, stairwells and other facilities to be appropriately positioned and spaced. As such, a more vertical design that maximises movement up and down quickly such as that presented better achieves these outcomes, as opposed to a longer, more elongated and lower building (which isn't suited to the shape and topography of this site).
- Further to the above point, not allowing the variations would actually result in a poorer operational outcome for the staff and future residents than would be the case if actually allowing the variations, contrary to the objectives of the SEPP to increase the supply and diversity of residences that meet the needs of seniors or people with a disability.
- The encroachments don't result in any adverse impact in terms of overshadowing or privacy on existing dwellings in the Village. Rather, the increase in height is a means to consolidate, or reduce, the building footprint and allow it to be positioned as far to the north and east of the site as possible and in doing so, maximise the separation to the existing villas in Stages 6 and 9 to the west and Stage 5 to the south. The shadow diagrams included in the plans submitted with the application confirm that the proposed building does not overshadow these surrounding villas on the 21<sup>st</sup> June to any tangible degree.
- The encroachments are design and operationally based and have not been proposed to increase the yield, as it is clear that a higher yield is achievable due to the substantial size of the site.
- The overall height, bulk and scale of the building as a result of the encroachments is essentially unaffected and is scaled by the slope of the site towards Bellevue Road and the higher land further to the north again on Longs Road.
- The impact of the additional height is unlikely to affect any development on surroundings properties due to the size and self-contained nature of the site and the limited extent of development either adjoining or in close proximity to the site. This view was confirmed by both Ms Danielle Dickson and Mr Scott Cox of Council during pre-lodgement meetings (see discussion in relation to pre-lodgement discussions in Section 4.0 of the SOEE and associated Record of Meeting submitted with the application). On this basis, both Ms Dickson and Mr Cox raised no objections to the overall height of the proposed building or the likely encroachments to the height restriction.
- Further to the above point, the proposed height encroachments will be almost imperceptible from outside of the site due to the higher levels of the land surrounding the site (particularly to the north) and the fact this portion of the site is screened by an impervious perimeter fence approximately 2.0 metres in height, as well as landscaping and signage. This is demonstrated in the 3D render of the building from the intersection of The Entrance Road and Longs Road provided as Attachment 1. In any event, the land to the north of the site fronting Bellevue Road is vacant for much of the section opposite the proposed development, whilst the remainder is occupied by a service station (on significantly higher land) which is a non-habitable land use and therefore of no consequence in terms of visual impact or view loss.

In addition, the dwellings located on the northern side of Longs Road (particularly the western end) are well elevated such that they would continue to look over the site and therefore be unaffected by the height encroachments. The distance of these dwellings from the site and their elevation above the subject site are demonstrated in photographs 1 and 2 on the following page.



For those dwellings further to the east along Longs Road, the service station immediately to the south on Bellevue Road significantly obscures any view of the existing site anyway, in turn meaning that the proposed development would also result in very little (if any) view loss from the dwellings in question. This is demonstrated in photographs 3 and 4.



**Photograph 1** – looking north from Bellevue Road at the dwellings at the western end of Longs Road. The elevation of these dwellings will ensure they continue to lo out over the subject site with any existing views essentially unimpeded by the proposed development.



**Photograph 2** – looking south-east from ground level in front of the dwellings located at the western end of Longs Road. Given the higher elevation of these dwellings from this location, they will continue to look out over the site and be unimpeded by the proposed development.





**Photographs 3 and 4** – demonstrating the extent to which the location of the proposed development is obscured by the service station from dwellings at the eastern end of Longs Road (even at a higher elevation the roof over the building and forecourt of the service station continue to obscure this view).

- The impact of the height encroachments and third storey would also be negligible with respect to the single storey dwellings to the east due to the lower level of these properties, the extensive separation provided by The Entrance Road and screening provided by the perimeter fence and landscaping along this frontage. These viewpoints are shown in photographs 5 and 6 below and are demonstrated further in the 3D renders of the proposed building from The Entrance Road provided as Attachments 2 and 3.



**Photographs 5 and 6** – looking north-west from The Entrance Road towards the site of the southern and middle portions of the building respectively. The impact of the additional height of the building (particularly the third storey) would be limited from this aspect due to the drop in levels of the building behind the wall as well the screening provided by the existing wall and landscaping.

Given the above, it is apparent that the underlying objectives behind both the 8.0 metre and 2 storey height limits have been fully satisfied and a better built form outcome realised, notwithstanding the numerical departure from these standards. As such, it is unreasonable and unnecessary that the standards be strictly applied in this instance.

#### THE ENVIRONMENTAL PLANNING GROUNDS WHICH JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARDS

In response to Clause 4.6(3)(b), sufficient environmental planning grounds exist to justify departure from the development standards in question as follows:

1. With respect to the 8.0m height restriction under Clause 40(4)(a), the proposed variation is consistent with the underlying intent of Chapter 3 or SEPP SH generally as it is specifically aimed, or will facilitate, the development of housing that is located and designed in manner suited to seniors who are mobile and independent and also those that are less so. In addition, the development meets the objectives of clause 1 as it will increase the supply and diversity of seniors housing, makes use of existing infrastructure already available to the site and is of good design.
2. With respect to the 2 storey height restriction under Clause 40(4)(b), the proposed variation is consistent with the specific intent of the clause *"to avoid an abrupt change in the scale of development in the streetscape"*. In this regard, the elevation to The Entrance Road streetscape presents as only two storeys given the ground floor is located below road level behind the existing perimeter wall, as shown in the 3D renders of the building provided as Attachments 1 and 2. This elevation and resulting streetscape is clearly not abrupt and therefore consistent with the two storey height restriction in the R2 zone applying to the site and surrounding area and the predominantly one and two scale of buildings on the opposite of The Entrance Road and in the locality generally. Any potential abruptness in scale has also been minimised by the presence of the perimeter wall along the boundary and the extent and height of landscaping behind this wall; the large setback of the building to The Entrance Road (up to 11.0 metres at the southern end) and the wide carriageway of The Entrance Road which provides substantial separation to the dwellings opposite (see photographs 5 and 6).
3. The location and height of the building as currently proposed (i.e. inclusive of the proposed variations) better facilitates natural light, ventilation and hence energy efficiency of the development such that it is better able to meet the requirements of the Apartment Design Guide and the nine principles of SEPP 65, Section J of the BCA, as well as the requirements of SEPP SH. This is verified by the SEPP 65 Design Verification Statement and Section J Assessment submitted with the application.
4. By consolidating the footprint and increasing the height of the building as proposed, the development provides greater areas of open space and increased landscaping around the site as encouraged by SEPP SH, which would not have been achieved via a lower, wider building built in strict accordance with the requirements of SEPP SH.

#### THE PUBLIC INTEREST, CONSISTENCY WITH THE OBJECTIVES OF THE DEVELOPMENT STANDARDS AND THE OBJECTIVES FOR DEVELOPMENT WITHIN THE R2 LOW DENSITY RESIDENTIAL ZONE

As indicated in the preceding section of this submission, the proposed development is consistent with the relevant objectives of the development standards requested to be varied. In addition, the consistency of the proposed development with the objectives of the R2 zone has been documented within the SOEE that accompanies the development application.



In this regard, it is apparent the proposed development is consistent with the following objectives of the R2 zone as follows:

- To provide for the housing needs of the community within a low density residential environment.
  - *The development provides a vitally needed "next stage" housing option for both residents of the existing village and those in the surrounding community within a village that, with a floor space ratio of only 0.286:1, exhibits a low density residential environment, augmented by large areas of open space and an extensive array of on-site community facilities.*
- To ensure that development is compatible with the desired future character of the zone.
  - *As discussed extensively in section 5.5.1 of the SOEE submitted with the application, the location, design and appearance of the proposed development is entirely consistent with the desired future character of the surrounding area as identified within the Forresters Beach Character Statement under Gosford DCP 2013 Chapter 2.1 – Character.*
- To encourage best practice in the design of low-density residential development.
  - *The proposed development has been designed in accordance with industry-standard and best practice senior's living requirements as embodied in SEPP SH, the ADG and SEPP 65. The building is only two to three storeys in height and surrounded by extensive landscaping and areas of open space.*
- To promote ecologically, socially and economically sustainable development and the need for, and value of, biodiversity in Gosford.
  - *The proposed development complies with the energy efficiency provisions relevant to Class 3 buildings under section J of the Building Code of Australia and adopts a best-practice stormwater management system.*

## CONCLUSION

The proposed variations are consistent with the objectives of Clause 4.6 of the GLEP, which provides an appropriate degree of flexibility in the application of development standards to permit a particular development where warranted. To this end, the preceding submission satisfies the considerations requiring assessment in the respective sub-clauses and demonstrates as follows:

1. strict compliance with the development standards is unreasonable or unnecessary in the circumstances of the case;
2. there are sufficient environmental planning grounds to justify contravening the development standards;
3. the proposed development will be in the public interest because it is consistent with the objectives of the development standards and the objectives of the R2 zone in which the development is proposed to be carried out; and
4. departure from the standards on this occasion will achieve an improved built form outcome, have a negligible impact on any surrounding residences or properties and will not raise any matter of significance for state or regional environmental planning.

Therefore, the request for a departure from the development standards in relation to the height of buildings contained in Clauses 40(4)(a) and (b) of SEPP SH to permit the proposed development is considered worthy of support.



Tim Shelley  
Bachelor Urban and Regional Planning (UNE)  
**Director**  
**TIM SHELLEY PLANNING**



## ATTACHMENT 1



3D Render Showing Elevation of Proposed Building from the intersection of The Entrance Road and Bellevue Road



## ATTACHMENT 2



3D Render Showing Elevation of Proposed Building to The Entrance Road (northern end)



### ATTACHMENT 3



3D Render Showing Elevation of Proposed Building to The Entrance Road (southern end)