



Clause 4.6

Variation Request

Residential Aged Care
Facility


Seniors SEPP - Clause
40(4)(b) – 2 Storeys

No. 290 Avoca Drive, Kincumber

Submitted to Central Coast Council
On Behalf of Catholic Healthcare Limited

OCTOBER 2019

REPORT REVISION HISTORY

Revision	Date Issued	Revision Description	
01	16/10/19	DRAFT	
		Prepared by	
		Murray Blackburn-Smith <i>Regional Director</i>	
02	25/10/19	FINAL	
		Prepared by	Verified by
		Jillian Kuczera <i>Snr. Project Planner</i>	 Mark Schofield <i>Director</i>

Disclaimer

This report has been prepared by City Plan Strategy & Development P/L with input from a number of other expert consultants (if relevant). To the best of our knowledge, the information contained herein is neither false nor misleading and the contents are based on information and facts that were correct at the time of writing. City Plan Strategy & Development P/L accepts no responsibility or liability for any errors, omissions or resultant consequences including any loss or damage arising from reliance in information in this publication.

Copyright © City Plan Strategy & Development P/L
ABN 58 133 501 774

All Rights Reserved. No material may be reproduced without prior permission.

TABLE OF CONTENTS

1. Executive Summary	4
2. Introduction	5
3. Standard to be Varied	6
4. Extent of Variation.....	7
5. Unreasonable or Unnecessary	10
5.1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard	10
5.2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;	16
5.3. The objective would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;	17
5.4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence the standard is unreasonable and unnecessary; or.....	17
5.5. The zoning of the land is unreasonable or inappropriate.....	17
6. Sufficient Environmental Planning Grounds	18
7. Public Interest.....	20
8. State or Regional Environmental Planning	23
9. Conclusion.....	24

FIGURES

Figure 1: Broader Brentwood Village Site and Context.....	4
Figure 2: Aerial image of subject site	5
Figure 3: Site plan	8
Figure 4: Sections through the proposed RACF building	9
Figure 5: Northern elevation of the proposed building	11
Figure 6: Artist's impression of the proposed building viewed from Avoca Drive	12
Figure 7: Artist's impression of the proposed building viewed from Avoca Drive	12
Figure 8: Southern elevation of the proposed building.....	13
Figure 9: Artist's impression of the proposed building viewed from Scaysbrook Drive	14
Figure 10: Artist's impression of the proposed building viewed from Scaysbrook Drive.....	14
Figure 11: Western elevation of the proposed building	15

TABLES

Table 1: Achievement of Seniors SEPP Objectives.....	16
Table 2: Consistency with Zone Objectives.	20

1. EXECUTIVE SUMMARY

This is a formal written request in accordance with Clause 4.6 of the *Gosford Local Environmental Plan 2014* (GLEP), to support a development application submitted to Central Coast Council for the construction of a Residential Aged Care Facility (RACF) at No. 290 Avoca Drive, Kincumber. The proposed RACF would comprise a multi-winged building ranging in height from part single-storey, to 3 and 4-storeys. The subject site forms part of the larger senior housing development known as the 'Brentwood Village retirement precinct'.

The purpose of this Clause 4.6 request is to address a variation to Clause 40(4)(b) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (Seniors SEPP).

The numeric value of Clause 40(4)(b) 'Height in zones where residential flat buildings are not permitted' development standard is 2-storeys where adjacent to a site boundary.

The objectives of Clause 4.6 are to provide an appropriate degree of flexibility in applying development standards to achieve better outcomes for, and from, development. As the following request demonstrates, by exercising the flexibility afforded by Clause 4.6 in the particular circumstances of this application, compliance with the 2-storey development standard is unreasonable and unnecessary in the circumstances of the case and there are sufficient environmental planning grounds to justify contravening the standard. This request also demonstrates that the proposal will be in the public interest, as the proposed development will be consistent with the inferred objectives of the development standard and the zoning of the site.



Figure 1: Broader Brentwood Village Site and Context (Source: Sixmaps)

2. INTRODUCTION

This is a formal written request in accordance with Clause 4.6 of the *Gosford Local Environmental Plan 2014* (GLEP), to support a development application submitted to Central Coast Council for the construction of a part single, 3 and 4-storey Residential Aged Care Facility (RACF) at No. 290 Avoca Drive, Kincumber.

The objectives of Clause 4.6 are:

- (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.*

As the following request demonstrates, a better planning outcome will be achieved by exercising the flexibility afforded by Clause 4.6 in the particular circumstances of this application.

This request has been prepared having regard to the Department of Planning and Environment's *Guidelines to Varying Development Standards* (August 2011) and various relevant decisions in the New South Wales Land and Environment Court and New South Wales Court of Appeal (Court).

This request is structured to explicitly address the matters required to be addressed by the applicant under Clause 4.6(3) (a) and (b) for which the consent authority must be indirectly satisfied according to Preston J in *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 2018. This request also addresses the matters in Sections 4.6 (4) and (5) regarding which the consent authority and delegate of the Secretary must directly form their own opinion of satisfaction.



Figure 2: Aerial image of subject site (Source: Nearmap)

3. STANDARD TO BE VARIED

The standard that is proposed to be varied is the 'Height in zones where residential flat buildings are not permitted' development standard which is set out in Clause 40(4)(b) of *State Environmental Planning Policy (Housing for Seniors or People with Disability) 2004* (Seniors SEPP), as indicated below:

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, ...

Note.

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

...

The numerical value of the development standard applicable in this instance is 2-storeys.

For the avoidance of doubt, the development standard to be varied is not excluded from the operation of Clause 4.6 of the LEP.

4. EXTENT OF VARIATION

As show in Figure 3 below, approval is sought to vary the standard by up to 2 storeys on parts of the development. The proposed building heights adjacent to the northern, western and southern boundaries are 3 and 4 storeys respectively, as shown in Figure 4. The maximum exceedance is therefore 2 storeys.

We note that Clause 40(4)(b) applies to buildings "adjacent to a boundary". Given that the proposal is setback at least 29m from Scaysbrook Drive, arguably the standard does not apply in the case of this boundary. To avoid any doubt however, the matter has been addressed on a 'without prejudice' basis.

For the avoidance of doubt, it is confirmed that the proposed building is not considered to be 'adjacent to' the site's eastern boundary, as it is separated from the boundary by over 80m of bushland and open space. Therefore there is no non-compliance with the development standard in relation to the site's eastern boundary.

As shown on the site survey, the site topography drops from RL 45.05 AHD at the Avoca Drive frontage to RL 32.05 AHD along Scaysbrook Drive.

Architecturally, the best approach to the layout of the building is to enable additional height in the southern wing, which effectively provides for a lower ground floor. In doing so, this enables level access across each wing of the building, ensuring disability access compliance can be achieved. In addition, the additional height enables level ground access to landscaped areas and avoids the need for extensive cut and fill across the site, which would ordinarily be required to address the slope from Avoca Drive to Scaysbrook Drive.

A compliant development could be achieved on the site through provision of a larger and more expansive building footprint combined with significantly reduced front and side setbacks. However, this potential alternative design option would require more extensive tree removal, increased cut and fill and potentially lead to increased adverse amenity impacts on adjoining residences. In comparison, the proposed non-compliance enables an expansive building setback along Scaysbrook Drive (29+m) and Avoca Drive (minimum 10m).

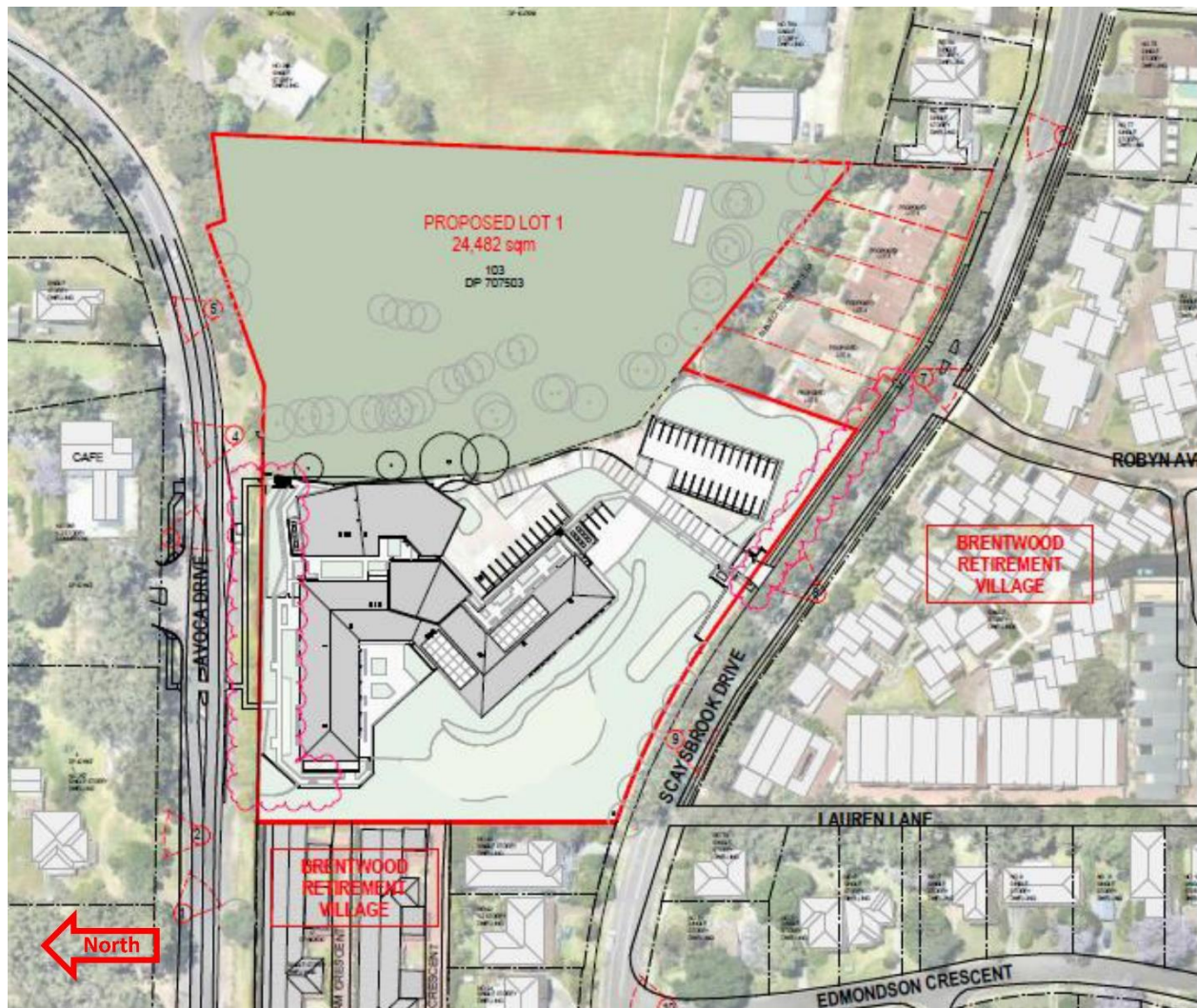


Figure 3: Site plan illustrating the layout of the proposed RACF and its position in relation to boundary alignments.

Clause 4.6 Request – 2 storeys

No. 290 Avoca Drive Kincumber

Project # P-16121

October 2019

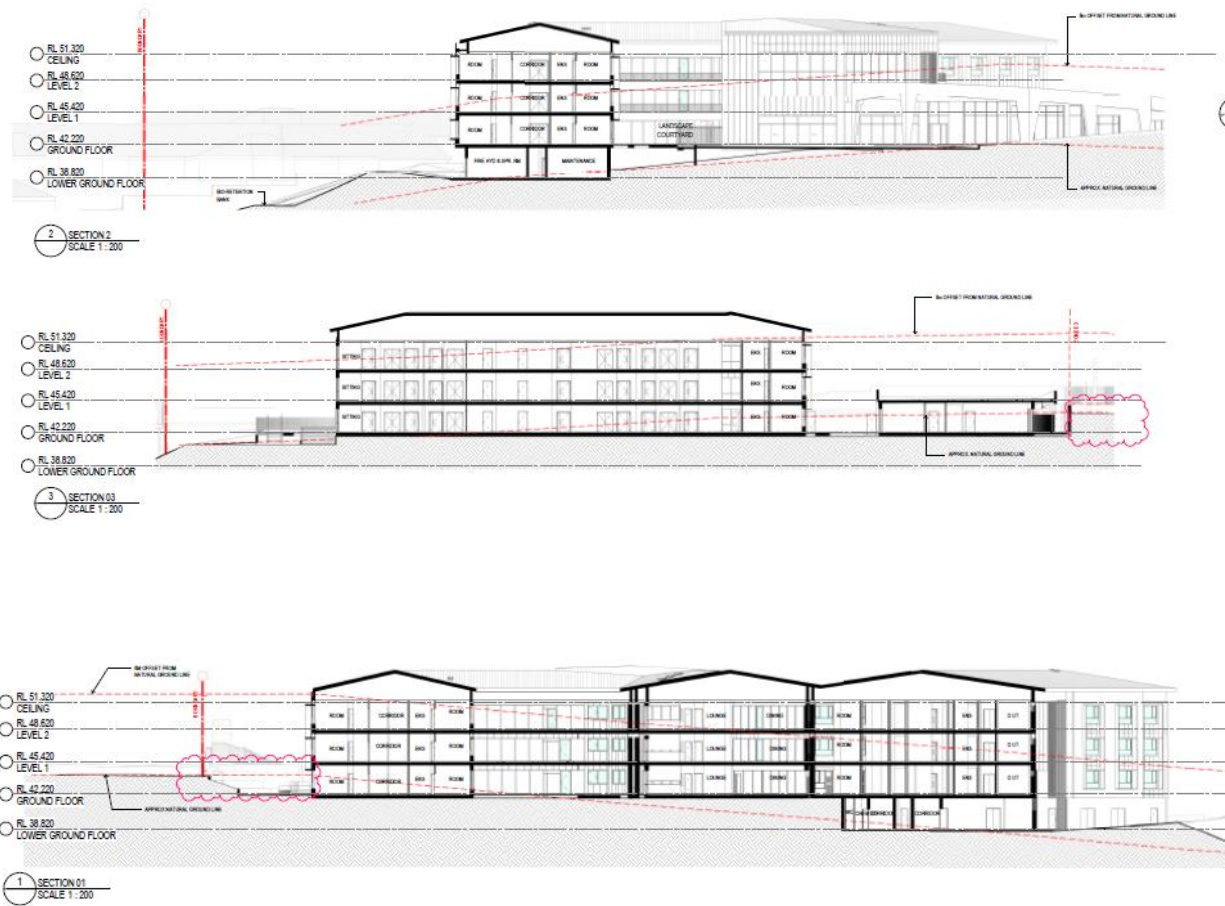


Figure 4: Sections through the proposed RACF building illustrating the part 3 and 4-storey components of the design.

5. UNREASONABLE OR UNNECESSARY

In this section we demonstrate why compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by Clause 4.6(3)(a) of the GLEP.

The Court has held that there at least five different ways, and possibly more, in which an applicant might establish that compliance with a development standard is unreasonable or unnecessary and that it is sufficient to demonstrate only one of these ways to satisfy Clause 4.6(3)(a) (*Wehbe v Pittwater Council* [2007] NSWLEC).

The five ways of establishing that compliance is unreasonable or unnecessary are:

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
3. The objective would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
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 the standard is unreasonable and unnecessary; and
5. The zoning of the land is unreasonable or inappropriate

We have considered each of the ways as follows.

5.1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard

Achieves the objectives of the standard

Compliance with Clause 40(4)(b) 'Height in zones where residential flat buildings are not permitted' development standard is unreasonable or unnecessary in the circumstances of this case because, as outlined below, the objectives of the development standard are achieved, notwithstanding non-compliance with the standard.

It is noted that the Seniors SEPP provides no specific instruction on the intent of the height controls in Clause 40(4)(b) and does not otherwise nominate any objectives to underpin the intent of the various height controls. Notwithstanding this, subclause (b) includes a note as follows:

"the purpose of this paragraph is to avoid an abrupt change in the scale of development in the streetscape".

It is therefore necessary to assess whether the development results in an *abrupt* change in the scale of development in the streetscape. Abrupt is typically defined as a "sudden and unexpected" or "steep" change. In the context of the development control, an abrupt change can therefore be viewed as a sudden or steep change in the scale of development when viewed from the boundaries. In this instance the important boundaries include to the north (Avoca Drive), south (Scaysbrook Drive), west (adjoining low and medium density residential development) and east (open space E3 zoned land).

A 3-storey building component is proposed in the northern portion of the site, while a partial 4-storey component is proposed in the southern portion. Each proposed building wing is connected to a central core which is 3-storeys in height. An additional single-storey 'front of house' area is proposed on the eastern side of the RACF.

Northern Boundary

The non-compliant northern wing is located approximately 17m from the closest adjoining building fronting Avoca Drive (i.e. a block of single-storey independent living units [ILUs] west of the site which are also part

of the Brentwood Village retirement precinct). The closest adjoining dwelling to the east along Avoca Drive is separated from the proposed building by over 130m, mature trees and a curve in the road. These setbacks between the proposed building and nearby existing buildings allow for appropriate visual separation, minimising the visual significance of the different heights and ensuring that there is no jarring juxtaposition between the built forms.

Further to the above, the ground floor of the proposed northern wing is located at RL 42.2 AHD, while Avoca Drive is situated approximately at RL 45 AHD. As a result, the building height will effectively present as approximately 2-storeys when viewed from Avoca Drive, particularly when the screening qualities of existing landscaping (proposed to be retained) and additional proposed landscaping is taken into account (see Figure 5 and Figure 6 below). It should be noted that the low pitch of the proposed roof is recessive, and further assists in minimising the overall bulk and scale of the building.

Moreover, the inclusion of the single-storey element on the eastern side of the RACF building further assists in providing a visually compatible building façade height when viewed from Avoca Drive, by transitioning the built form lower within the eastern portion of the site (see Figure 7 below).

Therefore it is submitted that the proposed strategic siting of the proposed height provides for a gradual and respectful transition along Avoca Drive that is neither sudden nor 'steep'.

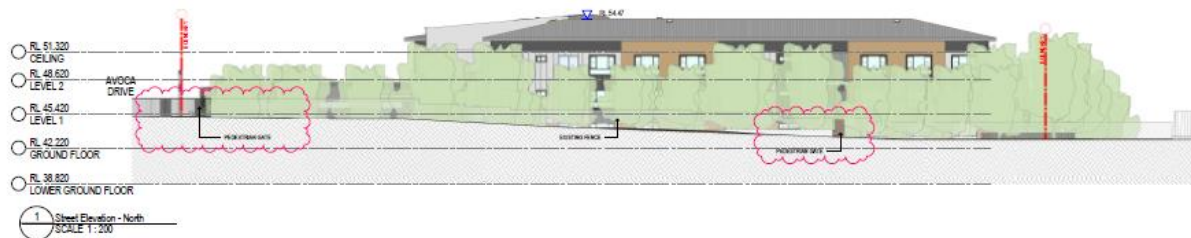


Figure 5: Northern elevation of the proposed building, viewed from outside the site boundaries (i.e. Avoca Drive), inclusive of existing and proposed landscaping



Figure 6: Artist's impression of the proposed building viewed from Avoca Drive (west of the site) looking south-east (Source: original DA architectural plans)



Figure 7: Artist's impression of the proposed building viewed from Avoca Drive (east of the site) looking south-west (Source: original DA architectural plans)

Southern Boundary

In relation to the southern wing, it is proposed that a partial lower ground floor be provided to accommodate 'back of house' functions, a central kitchen and loading dock thereby enabling services to be delivered via Scaysbrook Drive rather than Avoca Drive. The lower ground floor is effectively located below the existing ground level, which assists in reducing the perceived height when viewed in the context of the surrounding landscaped areas. The inclusion of the lower ground floor also provides for level access across the building, ensuring equitable access for future building occupants.

The southern wing has been setback a minimum of 29m to the Scaysbrook Drive site boundary and around 32m east of the nearest residential dwelling (i.e. at No. 90 Scaysbrook Drive). As for the Avoca Drive frontage, the setback between the proposed building and No. 90 Scaysbrook Drive allows for appropriate visual separation when viewed from the street, minimising the visual significance of the different heights and ensuring that there is no jarring juxtaposition between the built forms (refer to Figure 8, Figure 9 and Figure 10 below). Further, the proposed setbacks have enabled the preservation of mature vegetation along the site's southern frontage and inclusion of significant new native landscaped areas that will provide a visual buffer to the southern wing when viewed from Scaysbrook Drive and neighbouring development. In particular, an earthen bund is proposed along the southern façade of the building, which is proposed to be landscaped with a number of structural vegetation layers, including trees and low bushes. This assists in providing a more complex, 'layered' landscaping effect which serves to further soften and screen the building's bulk, giving the appearance of an approximately 2-storey building when viewed from the street (at least 29m away). The inclusion of 'ambassador' styled palisade fencing will further assist in screening views into the site.

In summary, the significant building setbacks in combination with the mature tree retention and proposed landscaping will ensure the additional height of the southern wing is not perceived as a sudden change, but rather the scale of the development is appropriately managed and provides for a gradual and respectful transition.

It should be noted that the proposed built form along the northern and southern street frontages is visually broken up so as to not appear as one building from key viewpoints. Rather, the design seeks to provide an innovative 'Z' shaped design solution that ensures the building provides an address to both Avoca Drive and Scaysbrook Drive. Moreover, the proposed materials, colours and finishes have been chosen with care and sensitivity to the site context, further assisting to reduce the perceived scale of the building. It follows that the development maintains a suitable residential address to the site's dual frontages whilst ensuring the bulk of the building is contextually appropriate to the area.



Figure 8: Southern elevation of the proposed building, viewed from outside the site boundaries (i.e. Scaysbrook Drive), inclusive of existing and proposed landscaping. The lower ground floor is effectively located below the existing ground level, which assists in reducing the perceived height when viewed in the context of the surrounding landscaped areas.



Figure 9: Artist's impression of the proposed building viewed from Scaysbrook Drive, looking north-west. No. 90 Scaysbrook Drive is visible in the left of the image, with the proposed southern wing visible to the right (Source: original DA architectural plans)



Figure 10: Artist's impression of the proposed building viewed from Scaysbrook Drive, looking north-east from approximately due south of No. 90 Scaysbrook Drive (Source: original DA architectural plans)

Western Boundary

As mentioned previously, the proposed building is separated from the site's western boundary and closest adjoining development by at least 17m – 32m. As for the northern and southern frontages, the setback between the proposed building and adjoining development allows for appropriate visual separation, minimising the visual significance of the different heights and ensuring that there is no jarring juxtaposition between the built forms. Further, the proposed setbacks have provided a generous area for significant landscaping, including taller tree forms adjacent to the proposed building (refer to Figure 11 below). This vegetation will assist in screening the development from neighbours.

Further, the separation from the boundary ensures that there are no adverse impacts on adjoining development such as overshadowing or overlooking, as demonstrated in the plans submitted with the DA.



Figure 11: Western elevation of the proposed building, viewed from outside the site boundary, inclusive of proposed landscaping

In conclusion, the preservation of the natural site characteristics in combination with the building siting, design features and proposed landscaping treatment will result in a gradual and respectful transition in building height. It follows that the proposal will not result in a sudden or 'steep' change in the scale of development. For the reasons set out above, it is therefore considered unreasonable and unnecessary to maintain the standard in this instance as the development achieves the intended purpose of the standard.

Seniors SEPP objectives

In addition to the above objectives, the proposed variation should also be considered as to whether it is consistent with the Seniors SEPP aims / objectives pursuant to Clause 2(1) - Aims of the Policy, which are outlined below:

"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"*

The proposal is consistent with and achieves the aims of the policy as outlined in Table 1 (below):

Table 1: Achievement of Seniors SEPP Objectives.

Objective	Discussion
<i>(a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability;</i>	The proposed development will assist in providing additional diversity in housing and accommodation types for a specific sector of our community. Its design is a result of an exhaustive in-depth evidence-based design process. The outcome will be the development of a new state-of-the-art RACF providing a home with 108 beds, inclusive of 36 dementia care beds.
<i>(b) make efficient use of existing infrastructure and services, and</i>	<p>This application seeks to redevelop an area within the existing Brentwood Village precinct to provide additional beds which directly achieve the aims under Clause 2(1)(a) and (b). The existing precinct is provided with all the necessary utility services to support seniors housing.</p> <p>The additional demands associated with the extra accommodation is not expected to be beyond the capacity of the existing utility and infrastructure services, which will be augmented as necessary to meet the requirements of relevant service providers.</p>
<i>(c) be of good design</i>	<p>The proposed development comprises a modern, efficient and high-quality design that responds sympathetically to the site's constraints and opportunities. It has been designed to fit comfortably within the local context and streetscape, and ensures impacts upon neighbouring development is appropriately minimised and mitigated.</p> <p>Further to the above, the proposal is considered to be consistent with the principles outlined in <i>PC No 5 (Wombarra) Pty Ltd v Wollongong City Council</i> [2003] NSWLEC 268 based on the following:</p> <ul style="list-style-type: none"> ▪ The built form is visually broken up so that it does not appear as one building. The different sections of the building are separated by generous breaks and landscaping; ▪ The design largely preserves existing site characteristics, including vegetation and topography, which assist in reducing the visual dominance of development; and ▪ The proposed built form and materials have been chosen with care and sensitivity to the site context; and ▪ The design is considered to be compatible with the streetscape.

As demonstrated in the sections and table above, the assumed objectives of the development standard and overarching aims of the SEPP are achieved notwithstanding the proposed variation.

In accordance with the decision in *Wehbe v Pittwater Council* [2007] NSWLEC, therefore, compliance with the development standard is demonstrated to be unreasonable or unnecessary on this aspect alone.

5.2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;

On this occasion we do not believe that the underlying objective or purpose is not relevant to the development and therefore we do not rely on this reason.

5.3. The objective would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;

We do not consider the objective would be defeated or thwarted if compliance was required, even though we have demonstrated above that the objectives of the standard are also achieved by the elements that do not comply with the development standard. In this regard we do not rely on this reason.

5.4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence the standard is unreasonable and unnecessary; or

We do not rely on this reason.

5.5. The zoning of the land is unreasonable or inappropriate.

We do not consider the zoning of the land is unreasonable or inappropriate and therefore we do not rely on this reason

6. SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS

In this section we demonstrate that there are sufficient environmental planning grounds to justify contravening the 'Height in zones where residential flat buildings are not permitted' development standard as required by Clause 4.6(3)(b) of the LEP.

We note that in *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 118, Preston CJ observed that in order for there to be 'sufficient' environmental planning grounds to justify a written request under Clause 4.6 to contravene a development standard, the focus must be on the aspect or element of the development that contravenes the development standard, not on the development as a whole.

We also note that in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, Pain J observed that it is within the discretion of the consent authority to consider whether the environmental planning grounds relied on are particular to the circumstances of the proposed development on the particular site.

Specific environmental grounds to justify the variation of the standard are summarised as follows:

- A compliant development could be achieved on the site through provision of a slightly larger building footprint combined with significantly reduced setbacks. However, this potential design option would require more extensive tree removal, increased cut and fill and potentially lead to increased adverse amenity impacts on adjoining residences. In comparison, the proposed non-compliance enables an expansive building setback along Scaysbrook Drive (29+m) and Avoca Drive (minimum 10m). Consequently, the proposed non-compliance effectively provides for:
 - An architecturally innovative design that sensitively responds to the change in topography across the site, providing for a partial lower ground floor level that accommodates centralised 'back of house' facilities, whilst also enabling level access throughout upper levels of the building;
 - Reduced cut and fill across the site, increased retention of mature native vegetation and increased provision of landscaping (minimum 50% of site area) that complements the adjoining E3 zoned land;
 - The proposed variation of the development standard will result in reduced amenity impacts on neighbours, particularly in relation to overshadowing, privacy and acoustics most notably for the adjoining property owners to the west; and
 - The proposed variation to the development standard will not lead to any perceptible loss of views or increase in overshadowing of adjoining properties over and above that associated with a compliant development.
- Given the extensive scale of the existing independent living units (ILUs) within the Brentwood Retirement village, to the west and south of the site, it is considered that the existing precinct forms its own character, which is not that of a low-density residential development. Rather, the precinct has the character of a medium-density residential area. It follows that the variation of the standard allows for a development that is consistent with the existing and desired future character of the area.
- The proposed accommodation will not be beyond the capacity of the existing utility services or transport network, indicating that the additional development can be sustainably accommodated on the site.
- The proposed building has been located centrally within the broader site. Importantly, the built form has been setback significantly from the site's boundaries with the neighbouring residential uses with the extent of overshadowing from the proposal contained within the subject site between the critical hours of 10am to 3pm at June 21.
- The proposed building is largely self-contained both in its internal design and layout and within the site boundaries. The closest neighbouring properties would be the existing remaining residential ILUs to the north-western corner of the site, a dwelling house at No. 90 Scaysbrook Drive and the proposed new vacant residential subdivision to the south-east. The building layout and design has been carefully designed to ensure significant separation distances and limited windows / balconies face out onto these properties.

- All large open communal areas will be located away from nearby residential receptors. Any plant, equipment and associated servicing rooms will be centrally located and significantly separated from residential properties. Minimal impact is expected to occur in this regard.
- The proposed contravention enables a built form response that meets the special circumstances associated with a contemporary RACF. Specifically, the development provides for internal accessibility and large level floor plates, suitable sight distances from centralised nursing stations and the need for a certain number of beds for operational and commercial viability. The combination of these specialist built form requirements generally leads to multi-storey development. When combined with a sloping site this can increase the non-compliance as in this case. Accordingly, the proposed contravention enables a built form that meets the needs of future occupants whilst also enabling the preservation of the natural site features.
- The proposal has been found to be consistent with the relevant objectives of the applicable environmental planning framework, including relevant local and State based environmental planning instruments. The proposed land use is suitable for the site and the site does not pose any prohibitive constraints.

In light of the above, the proposed development achieves the objectives of the standard as well as being consistent with the planning controls and thus the objection is well founded. Strict compliance in the circumstances of this case is unnecessary and unreasonable to achieve the specified objective of the standard.

7. PUBLIC INTEREST

In this section we explain how 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 as required of the consent authority by Clause 4.6(4)(a)(ii) of the GLEP.

In section 5 it was demonstrated that the objectives of the development standard are achieved notwithstanding the variation of the development standard.

The table below considers whether the proposal is also consistent with the objectives of the zone.

Table 2: Consistency with Zone Objectives.

Objectives of R2 Low Density Residential Zone	Discussion
<i>To provide for the housing needs of the community within a low-density residential environment.</i>	<p>The RACF is designed to be at the forefront of aged care facilities and services to provide for a modern, caring, supportive and safe environment which creates a sense of community and fosters social inclusiveness. The new RACF will ensure completeness and connectedness to the existing Brentwood Village creating opportunities for seniors to 'age in place', provide enhanced choices for independent living while providing a full suite of healthcare services for more needing residents.</p> <p>The proposal provides additional specifically designed housing for the needs and requirements of the local area, and specifically for addressing the local market demand for seniors housing. The proposed variation of the standard will assist in enabling this objective to be achieved.</p>
<i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>	<p>The variation of the standard does not result in an inconsistency with this objective. The proposed development incorporates a limited range of ancillary uses and services including a café, hair salon and chapel. The limited scale and internalised location of the uses will ensure they do not adversely affect the residential amenity of the area.</p>
<i>To ensure that development is compatible with the desired future character of the zone.</i>	<p>The variation of the standard does not result in an inconsistency with this objective. The existing character of the area is comprised of a mixture of medium density and low-density residential dwellings, institutional buildings and retail premises. Within this context, the proposed development is not inconsistent with the desired future character and dwelling densities of the area.</p>
<i>To encourage best practice in the design of low-density residential development.</i>	<p>The variation of the standard does not result in an inconsistency with this objective. The proposed new RACF will be in the form of a 'Z' shaped part single, 3 and 4 storey building containing 108 beds. The seniors housing has been designed around the concept of providing 'households'. The households seek to provide a homelike environment for residents by grouping bedrooms with their own living, dining, kitchen, and laundry areas, all within a secure household environment. This new approach to aged care design is 'resident focussed' and moves</p>

Objectives of R2 Low Density Residential Zone	Discussion
	<p>away from the traditional large institutional ‘ward’ type accommodation model.</p> <p>As discussed earlier, the design largely preserves existing site characteristics such as vegetation and topography, which enhances the character of the area. The proposed built form and materials have also been chosen with care and sensitivity to the site context, ensuring a sense of ‘domesticity’ to the building.</p>
<p><i>To promote ecologically, socially and economically sustainable development and the need for, and value of, biodiversity in Gosford.</i></p>	<p>The proposed development is considered to promote ecologically sustainable development as it makes adaptive use of a brown-field site for seniors care and accommodation in close proximity to an existing operational retirement village. Any environmental impacts of the proposal would be appropriately minimised and mitigated; impacts upon adjacent E3-zoned land are avoided; and the proposed compensatory landscaping regime will provide alternative habitat for local fauna as well as providing amenity benefits.</p> <p>Importantly, the proposal has been found to be consistent with the relevant aims and objectives of the applicable environmental planning framework, including relevant local and State based environmental planning instruments.</p> <p>The provision of a new innovative RACF will assist in delivering positive social outcomes for the residents of the development in the provision of a new purpose designed high-level aged care and 24/7 dementia care facility.</p> <p>The new RACF will increase housing opportunities for seniors and / or people with a disability in the local community. Those new opportunities will be offered in line with the most recent best practice standards and to a high level of amenity.</p> <p>The new RACF will also offer opportunities for long term local residents to age in their community, thereby maintaining important networks and relationships with family and friends in a familiar community.</p> <p>The proposal's immediate economic impacts are also viewed as being positive in that it will provide on-going local employment opportunities for civil works contractors and the like during the construction phase. Similarly, the long-term economic benefits are also positive in that this proposal is intended to assist with the delivery of a future RACF at the site. It will provide additional employment opportunities in range of occupations including in the health care, social services, food and beverage, and maintenance sectors. Lastly, the facility will generate demands for the provision of goods and services provided by local companies and suppliers. Approximately 40 staff would be employed permanently at the site on any given day.</p>
<p><i>To ensure that non-residential land uses do not adversely affect residential amenity or place demands on services beyond the level</i></p>	<p>The variation of the standard will not compromise this objective. As noted previously, the only non-residential land uses proposed as part of the RACF is a small café, chapel and hairdressers that will be largely patronised by residents and their families. These</p>

Objectives of R2 Low Density Residential Zone	Discussion
<i>reasonably required for low-density housing.</i>	small non-residential land-uses are located towards the centre of the site near the front-of-house building. Due to their nature, size and location, it is considered that the future use of these minor non-residential spaces will not have any undesirable consequences.

As demonstrated in Table 2, the proposal is consistent with the objectives of the zone and in Section 5 it was demonstrated that the proposal is consistent with the objectives of the development standard. According to Clause 4.6(4)(a)(ii), therefore, the proposal is in the public interest.

There is no public benefit in maintaining strict compliance with the development standard given that there are no unreasonable impacts that will result from the variation to the development standard and hence there are no public disadvantages. Conversely, non-compliance with the development standard would allow for the consolidation of seniors housing in a single location (rather than ad-hoc piecemeal seniors development), whilst retaining significant views and vegetation and not having any unreasonable environmental impacts. Moreover, the proposal will provide additional seniors accommodation and care for the community in an area highly serviced by suitable retail, medical services and public transport. Therefore, the advantages of the proposal outweigh the disadvantages.

8. STATE OR REGIONAL ENVIRONMENTAL PLANNING

In this section we consider whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and the public benefit of maintaining the development standard, and any other matters required to be taken into consideration by the Secretary before granting concurrence required by Clause 4.6(5).

There is no identified outcome which would be prejudicial to planning matters of state or regional significance that would result as a consequence of varying the development standard as proposed by this application.

As demonstrated already, the proposal is consistent with the objectives of the zone and the objectives of the development standard and in our opinion, there are no additional matters which would indicate there is any public benefit of maintaining the development standard in the circumstances of this application.

Finally, we are not aware of any other matters required to be taken into consideration by the Secretary before granting the concurrence of the Secretary required by Clause 4.6(4)(b).

9. CONCLUSION

This Clause 4.6 variation request demonstrates that:

- Compliance with the development standard would be unreasonable and unnecessary in the circumstances of this development;
- There are sufficient environmental planning grounds to justify the contravention;
- The development achieves the objectives of the development standard and is consistent with the objectives of R2 Zone.
- The proposed development, notwithstanding the variation, is in the public interest and there is no public benefit in maintaining the standard; and
- The variation does not raise any matter of State or Regional significance.

On this basis, therefore, it is appropriate to exercise the flexibility provided by Clause 4.6 in the circumstances of this application.