



Clause 4.6 Variation

Height of Building Standard
70-76 Alexander Street, Crows Nest

Prepared for 70-76 Alexander Street Pty Ltd (Watermark Living)

30.09.25
24051

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Executive Summary

Clause 4.6 of the NSLEP 2013 enables the consent authority to grant consent for development even though it contravenes a development standard. Its objectives are to provide an appropriate degree of flexibility in applying certain development standards and to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Clauses 4.6(3) requires that development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that:

- Compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- There are sufficient environmental planning grounds to justify the contravention of the development standard.

The table below provides a summary of the key matters required in a Clause 4.6 Variation set out in the Department of Planning and Environments *Guide to Varying Development Standards November 2023*.

Where is the development site?	70-76 Alexander Street, Crows Nest.
What is proposed development?	The proposed development involves the demolition of the existing three-storey commercial building and the construction of a mixed-use development comprising five levels of independent living units (ILUs) for seniors housing above ground-floor retail uses, with rooftop communal open space and associated amenities. Two and a half levels of basement car parking are also proposed.
What is the variation?	The variation relates to Clause 4.3 of the North Sydney Local Environmental Plan (LEP) 2013, which stipulates a maximum building height of 16m for the site. The proposed development seeks a maximum height of 23.9m to the main roof and 25.0m to the top of the lift overrun, resulting in a variation of 9m (56%).
Why is compliance with the building height development standard is unreasonable and unnecessary in the circumstances of the case?	The proposal achieves the objectives of the Height of Building standard, notwithstanding the non-compliance as: • The development responds appropriately to the natural slope of the site, stepping with the topography and incorporating recessed upper levels to ensure the building. • The proposal does not impact any significant public or private view corridors. • Solar access is maintained to nearby dwellings and the public domain, with overshadowing impacts limited to a few apartments at 13 Ernest Place for a short duration on the winter solstice. • Privacy for both existing and future residents is protected through setbacks, screening, and careful window placement that reduces opportunities for overlooking. • The building height achieves compatibility with surrounding development, providing a logical transition between the emerging higher-density development near the Crows Nest Metro Station and the lower-scale residential areas to the east. • The podium height aligns with the established street wall along Alexander Street, while upper levels are recessed so that the additional height is not visually prominent in the public domain. • The proposal is consistent with recent approvals in the locality that also exceed the height standard, thereby reinforcing the evolving mid-rise character of Alexander Street.

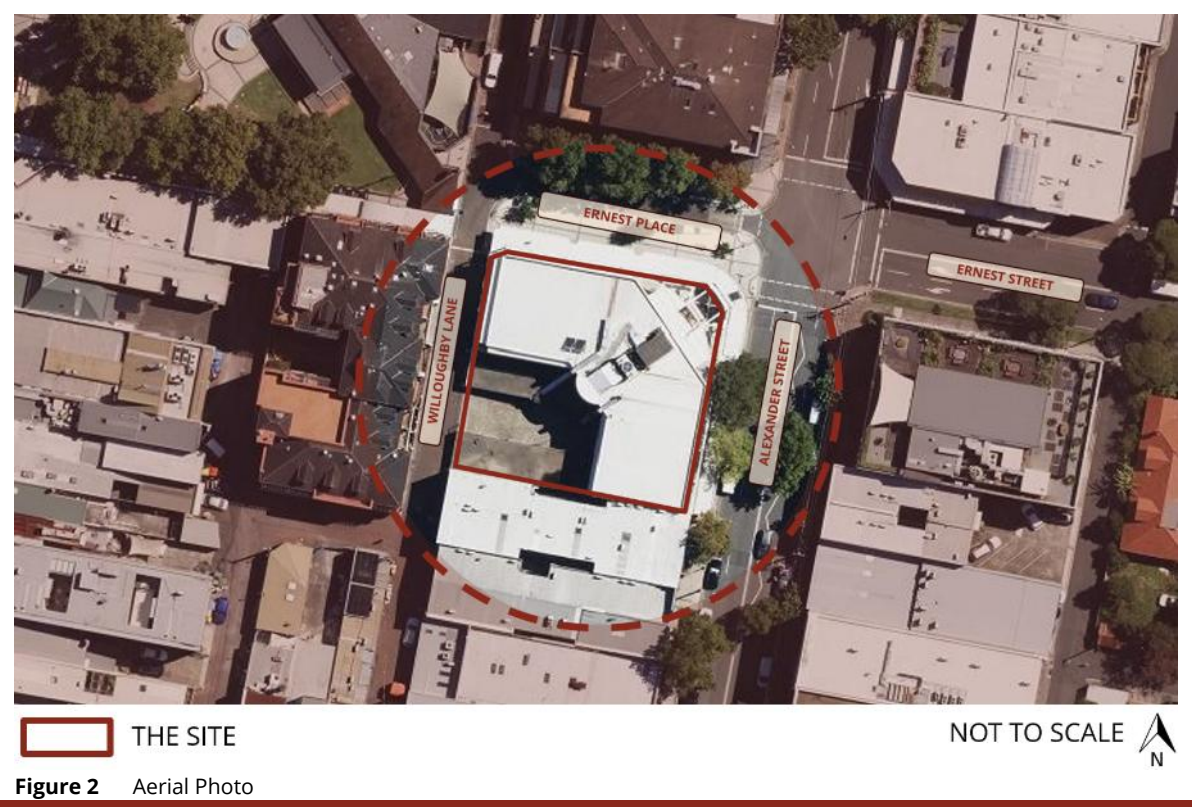
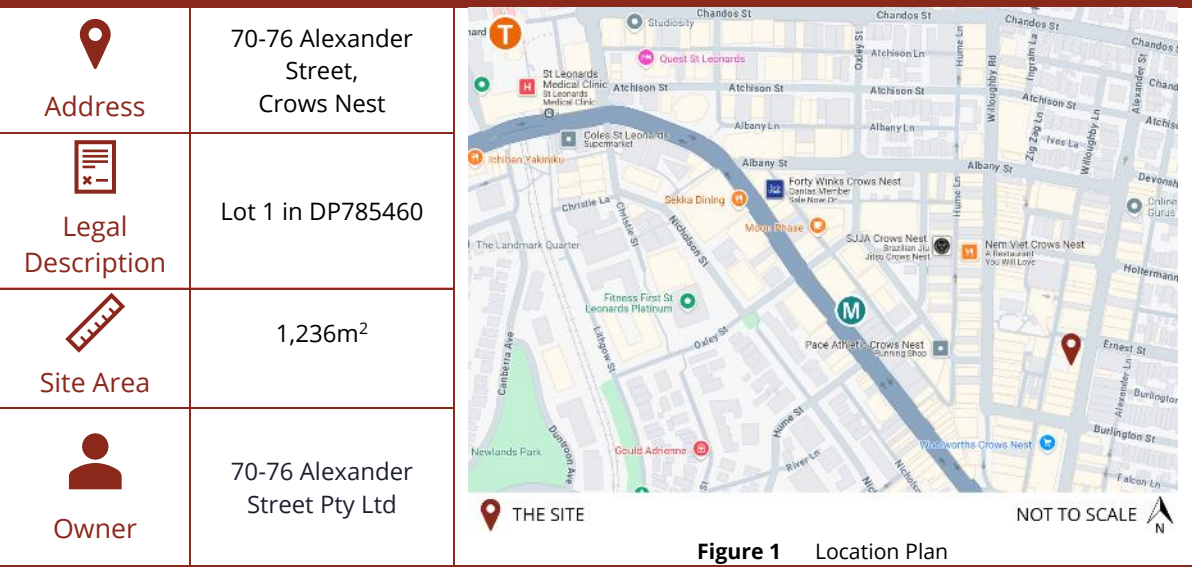
What are the sufficient environmental planning grounds to justify contravention of the development standard?

The environmental planning grounds to justify contravention of the Height of Building standard are:

- The variation enables the delivery of purpose-built seniors housing in a highly accessible location, addressing strong demand from an ageing population and supporting housing diversity by freeing up larger family homes for other households.
- The proposal reflects the intent of the seniors housing bonus under the Housing SEPP, which provides additional height to facilitate this form of accommodation, but which cannot technically be applied to this site due to the site being slightly less than the minimum requirement.
- The additional height allows for the inclusion of a rooftop communal space, which is an important feature of contemporary residential and retirement developments and is consistent with other recent approvals along Alexander Street.
- The proposal will deliver significant public benefits through a Voluntary Planning Agreement, including upgrades to Willoughby Lane and Ernest Place, such as paving, lighting, landscaping, and outdoor dining facilities, which will improve pedestrian amenity in the centre.
- The site occupies a prominent gateway corner at Alexander Street and Ernest Place, and a modestly taller built form at this location provides a clear urban marker and contributes positively to the legibility and identity of the Crows Nest centre.
- The location within 300m of the Crows Nest Metro Station makes the site highly suitable for increased scale, and the variation addresses the anomaly created by the site's exclusion from recent State planning reforms that otherwise encourage greater density in well-connected locations.

In light of the above that the consent authority can be satisfied that there are sufficient grounds to support the proposed variation.

1.0 The Development Site



2.0 The Proposed Development

This DA seeks approval for a new shop top development comprising ILUs for senior residents, with rooftop amenities. Specifically, the proposed development will comprise the following scope of works:

- Site preparation and excavation works, including demolition of the existing commercial building on the site;
- The construction of a new 6-storey shop top ILU building comprising the following:
 - Ground floor retail tenancies fronting Alexander Street, Ernest Place, and Willoughby Lane;
 - Five levels of ILUs, comprising a total of 24 units, including: 1 x 2-bedroom units, and 23 x 3-bedroom units;
 - Rooftop communal facilities and landscaped open space, including indoor and outdoor recreation areas, wellness amenities and passive seating areas;
- Two and a half levels of basement, accommodating:
 - 36 resident parking spaces;
 - 2 retail parking spaces;
 - Storage, waste management and building services;
 - Bike storage areas;
- Vehicular access via Willoughby Lane and pedestrian access from all frontages;
- Associated landscaping, public domain upgrades, and site works; and
- Extension and augmentation of physical infrastructure and utilities as required.

Architectural drawings and a design report prepared by Koichi Takada Architects illustrating the proposed development are included at **Appendix A** and **Appendix B** of the SEE respectively. An artist Impression of the proposed development is shown at **Figure 3**.



Figure 3 Artist Impression – Alexander Street

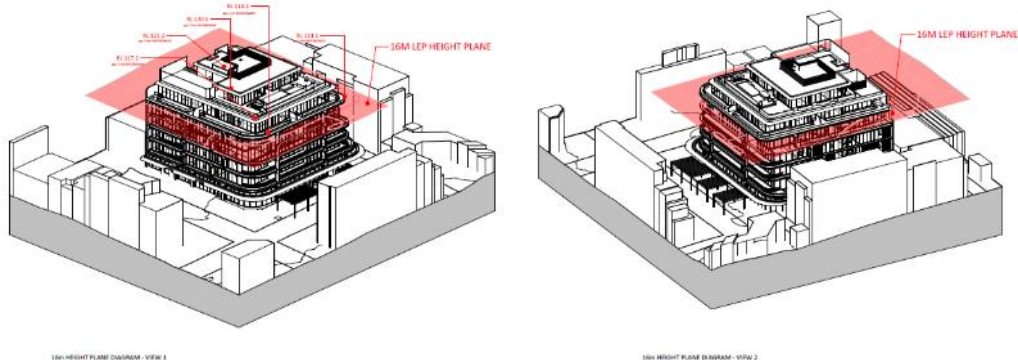
Source: Koichi Takada Architects

3.0 The Proposed Variation

This section outlines the relevant environmental planning instrument (EPI), the development standard to be varied and proposed variation.

Table 1 Planning instrument, development standard and proposed variation

Matter	Comment
Environmental planning instruments (EPI) sought to be varied	North Sydney Local Environmental Plan 2013 (NSLEP 2013)
The site's zoning	Zone MU1 Mixed Use The objectives of this land use zone are: (a) To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities. (b) To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces. (c) To minimise conflict between land uses within this zone and land uses within adjoining zones. (d) To encourage business, retail, community and other non-residential land uses on the ground floor of buildings. (e) To create interesting and vibrant mixed use centres with safe, high quality urban environments with residential amenity. (f) To maintain existing commercial space and allow for residential development in mixed use buildings, with non-residential uses concentrated on the lower levels and residential uses predominantly on the higher levels.
LEP Development standard sought to be varied	Clause 4.3 Height of Buildings The objectives of this clause are: (a) to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient, (b) to promote the retention and, if appropriate, sharing of existing views, (c) to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development, (d) to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings, (e) to ensure compatibility between development, particularly at zone boundaries, (f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area, (g) to maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone C4 Environmental Living. The maximum building height for the site is 16m (refer to Figure 4).  Figure 4 Height of Buildings Map - Sheet HOB_001 Source: North Sydney LEP 2013 Height of Building Maps

Matter	Comment
The proposed variation	The proposed development has a maximum building height of 25m, which results in a 9m (52.25%) variation to the LEP height of building standard. Figure 5 illustrates the proposed variation to the LEP Height of Building development standard.  Figure 5 Proposed Variation Source: Koichi Takada Architects

4.0 Justification for Contravention of the Development Standard

Clause 4.6(3) of the LEP 2013 provides that:

- 3) *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that:*
- (a) *compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *there are sufficient environmental planning grounds to justify contravening the development standard.*

These key considerations are considered in their respective sections below.

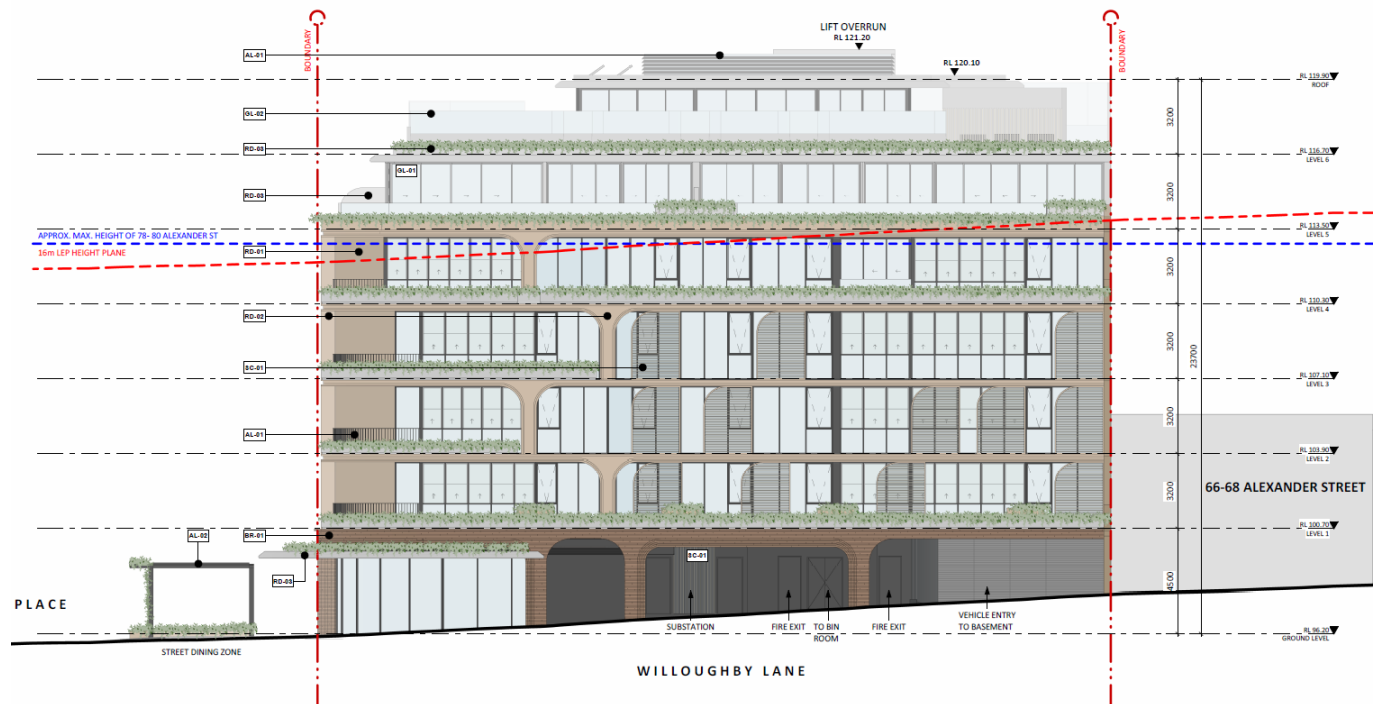
4.1 Clause 4.6(3)(a): Compliance with the development standard is unreasonable or unnecessary

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

The discussion under the following subheadings demonstrated how the proposed height variation achieves the objectives of the Height of Building development standard notwithstanding the non-compliance.

Objective 4.3(a) To promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient

The site has a moderate slope from Willoughby Lane (southwest corner) (approx. RL97.85) to Ernest Street (northeast corner) (approx. 95.92), constituting a fall of approximately 1.9m across the site. As depicted at **Figure 6**, the site falls to a greater extent from approximately halfway along the Willoughby Lane frontage to Alexander Street. While the slope is not pronounced, the proposed development has been designed to respond to the natural topography.



The built form steps with the fall of the land by aligning the lowest point of the building fronting Ernest Place before setting back and stepping multiple times, while the highest point is located near where the highest point in the site levels out at the southern boundary. This design approach ensures the building conforms to and reflects the sloping gradient of the land as required by the objective (refer **Figure 7**).



Existing



Proposed

Figure 7 Existing versus Proposed Step Down

Objective 4.3(b) To promote the retention, and if appropriate, sharing of existing views

The site is located within a transitioning area surrounded predominately by existing mid-rise commercial buildings and located adjacent to the emerging Crows Nest Transit-Oriented Development (TOD) precinct. There are no identified public view corridors or significant private views across the site from surrounding properties that will be impacted by the variation.

While the proposed development, inclusive of the height exceedance, may alter some incidental district views from towers along the Pacific Highway and in St Leonards approximately 300m away, the proposal will not obstruct or diminish views of significant landmarks and will positively contribute to the visual character of the Crows Nest centre which is the general focus of these views.

Objective 4.3(c) To maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,

The proposed development has been designed to appropriately manage overshadowing impacts through upper-level setbacks, a modulated built form, and the careful placement of rooftop elements.

On the Winter Solstice (**Figure 8**) the additional shadows cast by the proposal fall predominantly on the rooves of the surrounding commercial buildings, Willoughby Lane and Alexander Street. No overshadowing occurs on any public open space or key public domain areas.

13 Ernest Place is the only residential flat building in close proximity to the site that is impacted by overshadowing, this is the result of the building, which pre-dates the Apartment Design Guide, being built to the boundary with Willoughby Lane and thereby making it impossible for a compliant redevelopment of the site to avoid overshadowing.

The proposed height variation only impacts 3 additional apartments for a 30 minute period between 9 and 9:30am. In the case of two of the apartments, the dwellings are mezzanine 1 bedroom apartments with dormer windows (see **Figure 10**) that continue to get solar access to the living room area below due to the mezzanine design. These impacts are considered minor in nature, only occurring for a short period in midwinter, with the apartment continuing to get solar access for periods either side and still having a good level of amenity.

Because of the era in which the building was designed, solar access has not been optimised, with only 23% of apartments receiving 2 hours during mid winter which is primarily a result of the building self shadowing itself with protruding walls and balconies. The proposal, including the variation to the height limit has no impact on 13 Ernest Place's overall percentage of solar access calculated in accordance with the ADG.

Therefore despite some very minor overshadowing, the proposal is considered to still achieve objective 4.3(c) as it generally maintains solar access to existing dwellings, public reserves and streets, and promotes solar access for future development.

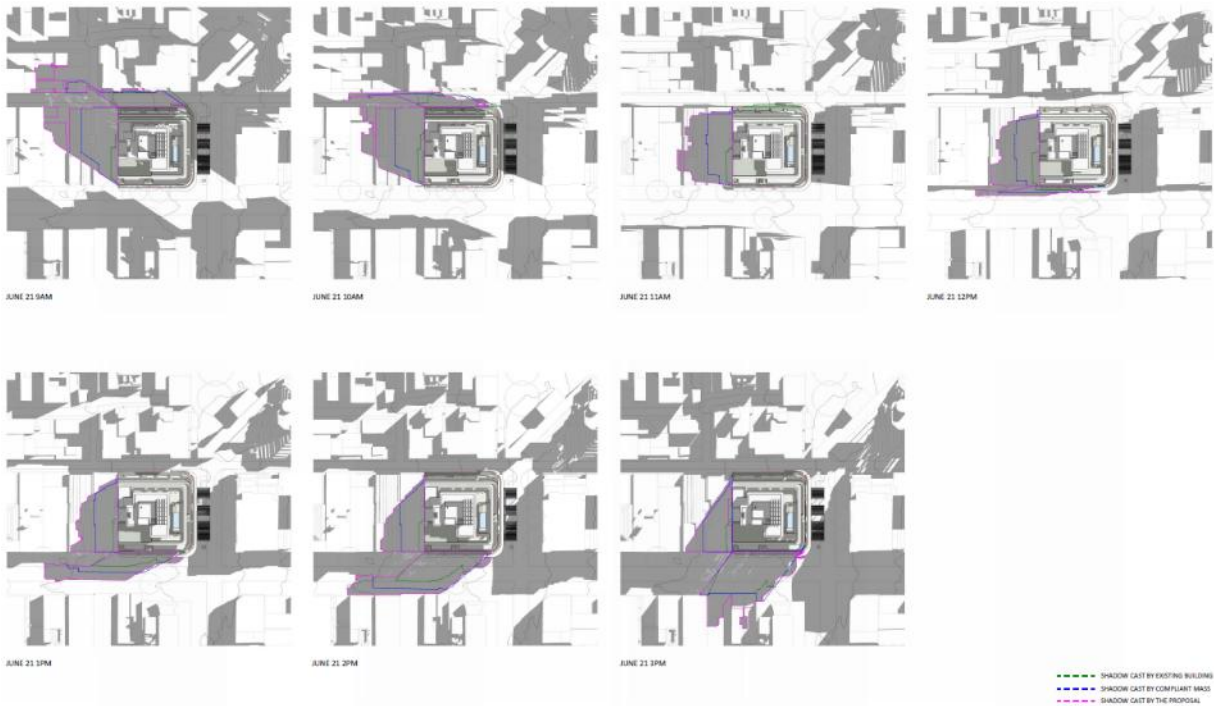


Figure 8 Shadow Diagrams – June 21
Source: Koichi Takada Architects



Figure 9 Elevational Shadow Diagrams – June 21
Source: Koichi Takada Architects



Figure 10 View inside Apartment 34/13 Earnest Place illustrating the dormer windows also provide solar access to the living room area below due to the mezzanine design

Source: Domain

Objective 4.3(d) To maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings

The proposed height variation includes one additional habitable floor above the LEP height limit, as well as a communal rooftop area and lift overruns. While the additional storey introduces an increase in building mass, it has been appropriately set back from adjoining properties, particularly along Willoughby Lane, reducing its visual prominence and mitigating opportunities for direct overlooking. All habitable levels are designed to accommodate larger-format seniors' apartments, with primary orientation directed outward to public streets, not toward neighbouring private open space.

To further maintain privacy, the proposal incorporates a range of design measures. Habitable room windows and balconies are appropriately separated from adjacent buildings in accordance with the ADG. Privacy is reinforced through the use of screening elements, solid balustrades, and planter boxes to reduce direct sightlines. Windows have been placed to limit overlooking, and the eastern interface, adjacent to lower-scale development, is treated with additional sensitivity through setbacks and limited openings.

The rooftop communal area, which forms part of the height exceedance, is screened along its perimeter with a combination of vertical screening and landscaped buffers, ensuring the use of this space does not compromise the privacy of adjacent properties. The lift overruns and service elements, while technically contributing to the height variation, are non-habitable and generate no privacy impacts.

Objective 4.3(e) To ensure compatibility between development, particularly at zone boundaries

The site is located within the MU1 Mixed Use zone and does not directly adjoin a zone boundary. This mixed use area along Alexander Street forms part of a transition between the high-density development along the Pacific Highway and Metro Station as part of the Crows Nest TOD, the 'village scale' of Willoughby Road and the low density residential areas further to the east (see **Figure 11**). In this broader context, the proposed building height supports a logical and appropriate transition in scale between these areas and would be considered of a scale that is compatible with the different surrounding areas which is both smaller and larger.

In the immediate context, there are several contemporary and historical developments on the western side of Alexander Street (see **Figure 12**) that establish a character of 5 storey street wall with setback upper levels above the height limit.

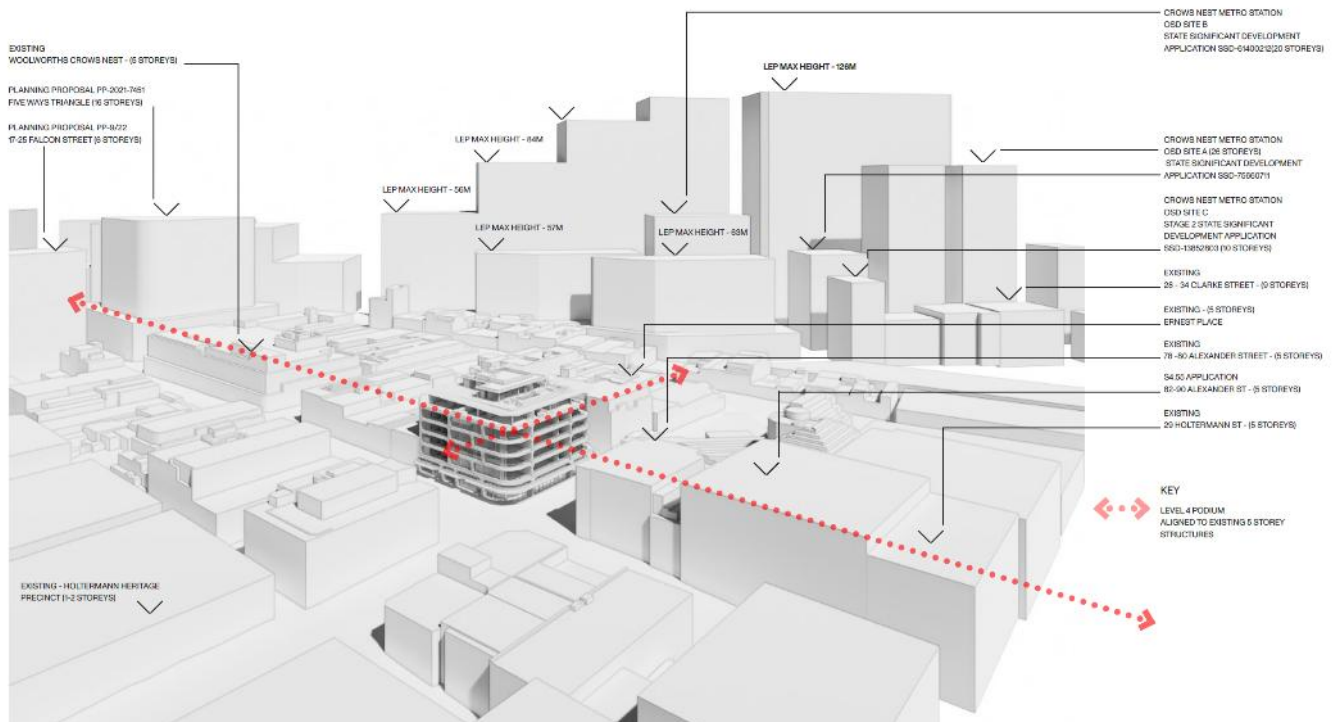


Figure 11 Building Height Comparison

Source: Koichi Takada Architects

As demonstrated in **Figures 9 and 10**, the proposed five-storey podium aligns with the established mid-rise character along Alexander Street and contributes to a coherent streetscape. The podium provides a human-scale interface to the public domain, and the recessed upper levels that sit above the height limit are not discernible from most locations.

In this context, the proposal (inclusive of the variation) achieves a built form outcome that is compatible with both existing and future development on adjoining and nearby sites.

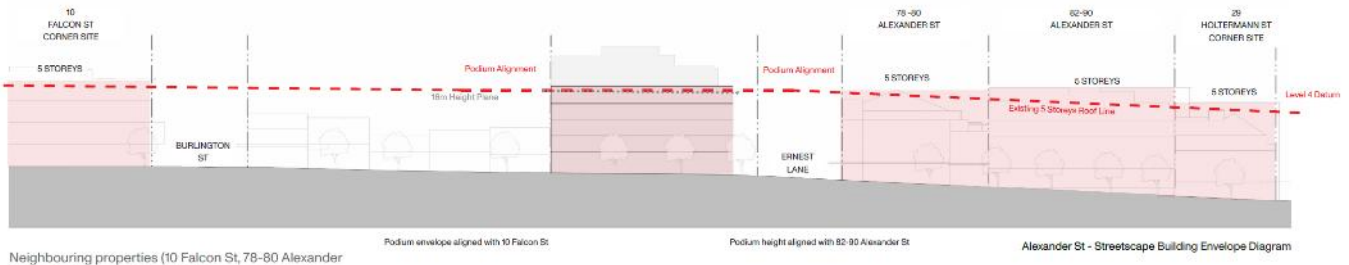


Figure 12 Podium Height Comparison

Source: Koichi Takada Architects

Objective 4.3(f) To encourage an appropriate scale and density of development that is in accordance with, and promotes the character of an area

The proposed development delivers a scale and density that is consistent with the evolving built form along Alexander Street and responds to the site's strategic location within 300m of the Crows Nest Metro Station. The site forms part of a transitioning mixed-use precinct identified for urban renewal under the *St Leonards and Crows Nest 2036 Plan* and the NSW Government's TOD program where the current 16m height control is inconsistent with strategic planning policy and the surrounding development outcomes.

The proposed height variation enables a mid-rise, seniors housing development that reflects the site's capacity to accommodate additional density in a well-connected location. The built form is appropriately recessed, maintains a consistent podium height with adjoining developments, and delivers high levels of amenity whilst avoiding adverse impacts. Unlike Willoughby Road, which retains a village-scale character, Alexander Street supports a more varied urban form and is a suitable location for this type of development.

Numerous nearby approvals, including 13 Ernest Place, 78–80 Alexander Street, and 88 Alexander Street, demonstrate a shift toward mid-rise built form, with building heights ranging from 17.8m to 20m. These approvals have also established a clear pattern of rooftop communal areas projecting above the LEP control, reflecting a broader change in character that supports functional rooftop use while retaining appropriate street-level scale. The proposed development, inclusive of the height variation, therefore, is consistent with the emerging context of the immediate locality and does not result in a development that is inconsistent with this objective.

The site is located within the St Leonards/Crows Nest Planning Area of the North Sydney DCP. The proposal is consistent with the Planning Area Character Statement, which seeks high-density mixed-use development within walking distance of the Metro, ground floor activation, housing diversity and improved public domain amenity. The development responds directly to these objectives by delivering seniors housing above active ground floor retail, providing articulated facades and active frontages, and delivers public domain works to Willoughby Lane that will improve pedestrian amenity and accessibility.

The proposal further aligns with the Desired Future Character for the Crows Nest Town Centre, as set out by Section 3.2.2 of the DCP. It intensifies mixed-use development within 300m of the Metro Station by providing retail at ground level and residential uses above, consistent with Principle 1. It also aligns with Principle 3, delivering a medium-rise mixed-use building with setbacks to laneways and above the podium, with retail at ground level and residential above.

The exceedance in height is also consistent with the wider strategic intent for the precinct. The *St Leonards and Crows Nest 2036 Plan* and the State Government's TOD framework both recognise the role of the Metro Station as a catalyst for increased scale and density, supporting transit-oriented development. Specifically, the plan states that the land surrounding the Crows Nest Metro Station Link *"provides logical place for increased density delivered as transit-oriented development and will take advantage of the precinct's increased accessibility to deliver more jobs"*. The Metro Link is located approximately 190m west of the site and directly responds to this intent, providing additional housing in a highly connected location. The development will also assist in managing the transition between lower-scale residential areas to the east and the emerging higher-density development along Pacific Highway to the south and west.

Importantly, the proposal retains a strong ground-level retail interface, maintaining and improving upon the existing street activation. The design incorporates a four-storey podium with 3-4m setbacks to upper levels, ensuring a human scale to the street and aligning with the neighbouring built forms. The building also steps with the site's natural topography, reducing visual bulk. These elements ensure that the additional height does not result in a built form that is inconsistent with the desired character of Alexander Street.

In this context, the proposed variation is not only justified but better achieves the intent of this objective by promoting a scale and density that aligns with the area's changing role and supports housing diversity in a strategically significant location.

Objective 4.3 (g) To maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone C4 Environmental Living.

Not applicable. The site is zoned MU1 Mixed Use.

Furthermore, the proposed development (inclusive of the proposed Height of Building exceedance) is consistent with the objectives of the MU1 Mixed Use land use zone, as presented in **Table 2**.

Table 2 The proposed development's alignment with the objectives of the MU1 Mixed Use zone

Objective	Alignment
<i>To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.</i>	The proposal delivers a significant proportion of non-residential floor space (899.8m ² GFA) across active ground-floor tenancies fronting Alexander Street and Ernest Place. These spaces are highly visible and flexible in their configuration, enabling future retail uses that will support local employment and provide services for both the community and future residents.
<i>To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.</i>	The proposal provides active and well-articulated street frontages to both Alexander Street and Ernest Place, with clearly defined pedestrian entries and visually permeable facades. These design elements support passive surveillance and contribute to a safe, walkable public domain. The development reinforces the mixed-use character of the area and supports a functional and engaging streetscape.
<i>To minimise conflict between land uses within this zone and land uses within adjoining zones.</i>	The site adjoins to similarly zoned MU1 land. The proposed uses will not result in any land use conflicts.
<i>To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.</i>	The entirety of the ground floor is dedicated to retail tenancies and non-residential uses. This activates primary street frontages and aligns with the objectives of the North Sydney DCP 2013, and the LEP.
<i>To create interesting and vibrant mixed use centres with safe, high quality urban environments with residential amenity.</i>	The proposal presents a distinctive built form that contributes positively to the evolving identity of the precinct as well as providing diversity through seniors housing. The use of articulated façades, vertical landscaping, and curved corner treatments enhances visual interest while maintaining a respectful relationship with the surrounding built form. The design is contemporary and site-specific, yet remains sympathetic to the established urban scale and character of Crows Nest. Rooftop communal spaces, a landscaped podium, and active street interfaces collectively ensure a high level of residential amenity and public domain engagement, supporting a vibrant and safe urban environment.
<i>To maintain existing commercial space and allow for residential development in mixed use buildings, with non-residential uses concentrated on the lower levels and residential uses predominantly on the higher levels.</i>	The proposal maintains the retail function at ground level and delivers 25 ILUs on the upper levels. The design clearly separates land uses vertically, with no conflict between functions, and supports the efficient use of a strategically located site within walking distance of the Metro station and town centre.

4.2 Clause 4.6(3)(b): Sufficient environmental planning grounds to justify the contravention of the development standard

Clause 4.6(3)(b) of the LEP requires the contravention of the development standard to be justified by demonstrating that there are sufficient environmental planning grounds to justify the contravention. The focus is on the aspect of the development that contravenes the development standard, not the development as a whole.

Therefore, the environmental planning grounds advanced in the written request must justify the contravention of the development standard and not simply promote the benefits of carrying out the development as a whole (*Initial Action at [24]*). In *Four2Five*, the Court found that the environmental planning grounds advanced by the applicant in a Clause 4.6 Variation Request must be particular to the circumstances of the proposed development on that site at [60].

In this instance, there are a number of sufficient environmental planning grounds to justify the contravention, as described below. The proposed variation enables the delivery of one additional level of ILUs and a rooftop communal facility. This additional floor area is necessary to achieve a viable and high-quality seniors housing development that meets identified demand in the locality.

4.2.1 The Importance of Seniors Housing and the Senior Housing Bonus

Crows Nest is experiencing both population growth and an ageing population. Between 2024 and 2036, the local population is projected to increase by approximately 20%, with the most significant growth expected in the 70+ age group. This reflects a broader regional and state-wide trend toward increased demand for seniors housing that supports ageing in place. Encouraging downsizing by providing well-located, high-amenity seniors housing also addresses broader housing supply problems by enabling older residents to transition out of larger family homes, freeing up dwellings and contributing to a more efficient use of existing housing stock and overall housing affordability.

In recognition of the importance of this issue, the NSW Government introduced height and FSR bonuses for seniors housing under the 2021 Housing SEPP amendments as a targeted policy intervention to address the structural barriers to delivering viable seniors housing in NSW. Clause 87 of the Housing SEPP provides for an additional 15% FSR where development is for the purposes of ILUs. Part 2(c) of the clause then allows for that development to be approved with an additional 3.8m above the height limit to accommodate the additional floor space. However, as the site area is marginally under 1,500m², the development cannot technically utilise the 3.8m height bonus.

It is understood the minimum site area requirement tied to the bonus exists to ensure that as a State wide control which deals with a wide variety of urban and non-urban conditions, the sites that obtain the bonus are capable of accommodating the additional height and area without adverse impacts, such as inadequate building separation. However, the specific circumstances of the subject site, which has 3 street frontages, and as demonstrated in the SEE, complies with the relevant standards in the DCP and ADG, means that the site being slightly below 1,500sqm area is not considered an appropriate reason not to apply the bonus.

Without the potential for the additional floor space provided by the height bonus that would ordinarily apply to other similar seniors developments, the highest and best use of the site would be a redevelopment for market build to sell residential apartments, which would fail to respond to the identified need for delivering purpose-built seniors housing in a well-connected location. The inclusion of larger-format, three-bedroom ILUs represents a housing product that is under-supplied in the local market and addresses the demand for more spacious, flexible living arrangements that support autonomy, health needs, and multigenerational interaction. These units provide an important alternative for seniors who wish to age in place without compromising on accessibility, quality, or proximity to essential services.

Therefore the principle of applying the bonus to this site to incentivise seniors housing in recognition of the need to provide appropriate housing for our aging population and the financial constraints on the sector to compete against market residential uses is very clear, and it provides sufficient environmental planning grounds for an additional 3.8m (one residential floor).

4.2.2 Rooftop Communal Levels on Alexander Street

There are a number of recently constructed buildings and approvals for rooftop communal spaces located above the prescribed height limit along Alexander Street, including 13 Ernest Place, 78–80 Alexander Street, and 88 Alexander Street. These approvals demonstrate a shift toward mid-rise built form, with building heights ranging from 17.8m to 20m and have established Council's support for modest exceedances to the height limit where they deliver enhanced residential amenity without any adverse impacts. As a 'retirement living' product high quality rooftop amenities are of

particular importance to the amenity of the development and its attraction to potential occupants. The development therefore seeks to apply the same concessions that were given to other developments along Alexander Street to also have its residential communal facilities above the height limit.

4.2.3 Public Benefit

The proposed variation is supported by the offer to deliver additional public benefit to Crows Nest in the form of the delivery of public domain improvements, as outlined in the Letter of Offer to Council. The applicant, Watermark Living, has committed to enter into a Voluntary Planning Agreement (VPA) to deliver additional public benefits in conjunction with the proposal.

Specifically, the VPA will include the revitalisation of Willoughby Lane. The proposed works will improve pedestrian amenity and accessibility through upgraded paving, lighting and landscaping, supporting safer and more accessible connections within the Crows Nest Centre. The proposal will also deliver new outdoor furniture along the Ernest Place frontage, including dedicated dining facilities. These works will contribute to the activation of Ernest Place as a pedestrian-oriented space, complementing the site's active ground-floor retail use and enhancing opportunities for outdoor dining and social interaction.

The delivery of these works-in-kind will provide a measurable public benefit beyond the statutory contribution requirements. By improving the quality and functionality of the adjoining public domain, the proposal ensures that the modest exceedance in height is offset by tangible enhancements to the pedestrian experience and the broader amenity of the centre.

In this way, the public domain improvements associated with the development represent an important environmental planning ground that justifies the contravention of the height standard. They will contribute to the creation of a safe, attractive and accessible urban environment, consistent with both Council's public domain strategy and the intent of the Crows Nest Planning Area Character Statement.

4.2.4 The Site's Gateway Location

The site occupies a prominent gateway location at the intersection of Alexander Street and Ernest Place, forming a key entry point into the Crows Nest centre when approaching from the west. This corner position enhances the site's visibility and urban role, making it a suitable location for a higher built form that reinforces legibility and contributes to a coherent precinct structure. The proposed height and massing respond to this context by marking the corner with a clearly defined built form that establishes a strong urban edge without dominating the streetscape or adjoining development.

Given its proximity to the Crows Nest Metro Station and interface with a transitioning mixed-use block, the site plays an important role in supporting the precinct's evolution. The additional height contributes to a built form that reflects the site's gateway function while remaining compatible with nearby development through appropriate setbacks, podium alignment, and material articulation. In this context, the exceedance of the height standard enables a building that is both contextually appropriate and strategically justified, reinforcing the significance of the site within the broader urban framework.

4.2.5 Strategic Context

The site is located within 300m of the Crows Nest Metro Station and is immediately accessible to health services, public transport, shops, and community infrastructure. These locational attributes make it highly suitable for seniors housing, ensuring residents can maintain independence and access day-to-day services without reliance on private vehicles.

In this context, the height variation enables the delivery of a specialised housing product in a location that is strategically positioned to support it. It promotes housing diversity, responds to demographic need, and aligns with broader planning objectives for housing supply, accessibility, and sustainability.

The site lies 300m from the Crows Nest Metro Station, yet is excluded from both the Tier 1 TOD SEPP rezoning and the Low and Mid Rise Housing Reforms. This results in a 16m height control that is no longer aligned with strategic policy intent for this part of the town centre. The proposed height contributes to a logical transition between the significantly taller developments permitted near the Metro (up to 180m) and the lower-density R2 zone to the west. The variation supports the achievement of broader State objectives for infrastructure-led housing growth, and corrects an inconsistent planning outcome where strategically located, unconstrained land remains limited by outdated controls, despite the Government's push for additional well-located housing.

The Site is strategically located within 300m of the Crows Nest Metro Station, yet, it has been excluded from both:

- **The Crows Nest Tier 1 Transport Orientated Development (TOD) Precinct:** The site was omitted from the Tier 1 TOD mapping due to the Department's reliance on mapping prepared under the St Leonards and Crows Nest 2036 Plan, which designated the site and surrounding MU1 land for 'no change'. This mapping predated the Government's more recent TOD housing supply initiatives and does not reflect the current strategic or policy context.
- **The Low and Mid Rise Housing Reforms:** The site is also excluded from the recent Low and Mid Rise Housing Reforms (Chapter 6 of the Housing SEPP) because it is zoned MU1 Mixed Use, which is not an eligible zone for the application. These reforms primarily apply to residential zones (R2, R3 and R4), meaning that despite's the site's accessibility, its mixed-use zoning makes it ineligible.

The result is that nearby lower-order residential zones, including sites located further from the Metro, now permit greater height and density than this strategically located, mixed use site. This is illustrated in **Figure 13** which shows the site's immediate proximity to the Metro and surrounding properties that benefit from recent planning reforms. This inconsistency in policy application has created an anomalous situation where a prime, unconstrained and well-served site is disadvantaged, despite clearly aligning with the Government's strategic planning objectives.

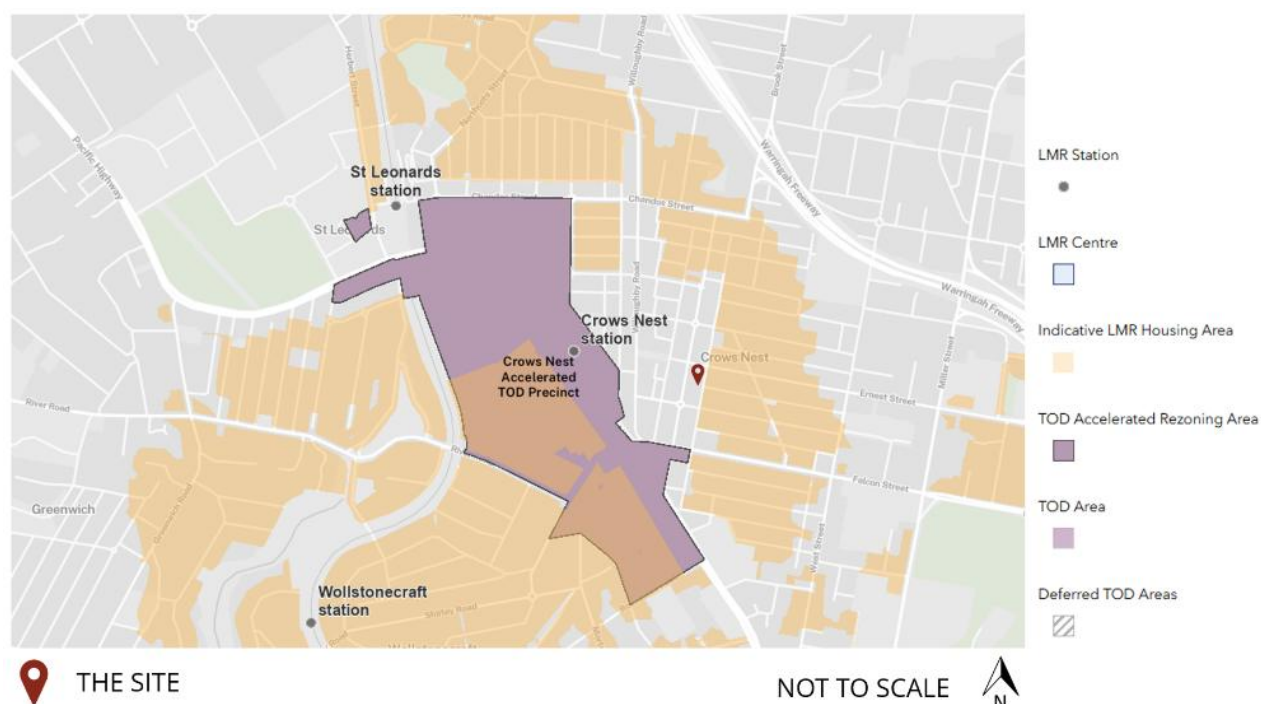


Figure 13 Strategic Exclusion of Site from TOD Precinct and LMR Housing Reform Areas

Source: SJB, edits by Beam Planning

In light of the above, it is clear that the strategic location of the site, the need for housing diversity and the minor environmental impacts associated with the additional height, collectively provide sufficient environmental planning ground to justify the contravention to the Height of Building development standard.