

3 Farmhouse Road, Westmead

Clause 4.6 – FSR Development Standard

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Prepared under instructions from
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1.0 CLAUSE 4.6 REQUEST – FSR

1.1 Introduction

On 1 November 2017, development consent was granted to DA/1271/2016 for construction of a residential flat building containing 344 units over basement car parking with heights ranging between 6-20 storeys at 3 Farmhouse Road, Westmead (formally known as Lot 4, 158-164 Hawkesbury Road and 2A Darcy Road).

Since the time of the approval of DA/1271/2016, there have been significant strategic planning, transport planning and policy changes in relation to Westmead including the following:

- In November 2017, the Department of Planning and Environment announced Westmead as a Planned Precinct with a health and education area north of the rail line.
- Parramatta Light Rail – Stage 1 has been announced and construction is currently under way with the Westmead Light Rail stop to be built at corner of Hawkesbury Road and Railway Parade. Parramatta Light Rail Stage 1 will connect Westmead to Carlingford via Parramatta CBD and Camellia.
- Sydney Metro West line has been announced and construction is currently underway with the new Metro platform located south of the existing Westmead Station on the eastern side of Hawkesbury Road, Sydney Metro West will connect the Sydney City Centre (CBD) with Westmead.
- Sydney University has been chosen by the NSW Government to develop a new world class multi-disciplinary campus within the Westmead Health and Innovation District which will accommodate 25,000 students.
- In March 2020, the City of Parramatta Council's Local Strategic Planning Statement (LSPS) City Plan 2036 (LSPS) came into effect and sets out a 20-year land use planning vision for the City of Parramatta. The LSPS identifies that the Westmead Health and Education Precinct provides a major conglomeration of health, research and medical services. The LSPS also identifies target for 28,700 additional jobs and 4,500 dwellings in Westmead by 2036.
- The Westmead Place Strategy has been prepared and placed on public exhibition from December 2020 to March 2021. The Westmead Place Strategy identifies a bold vision for Westmead to be Australia's premier health and innovation district with a jobs growth of 50,000 by 2036. The Strategy includes an action to undertake further studies for housing intensification and diversification within 800 metres of Westmead Station.

The site is now exceptionally well located with immediate proximity to not just a single train station, but a train station, metro station and light rail station. The site is also within a precinct which is earmarked for significant jobs and student growth immediately around the site. Therefore, it is critically important to ensure that this significant landholding optimises the delivery of housing to support this growth, within an the previously identified urban design framework for the site. Accordingly, the changes in the strategic and planning context have prompted a design review of the approved development to understand whether it has sufficiently fulfilled the environmental capacity of the site.

This review has been undertaken by Gyde in collaboration with Turner architects which has identified that an alternative approach towards the development of the site compared to the approved development DA 1271/2016 would achieve urban design benefits including greater diversity of scale, increased variety of architectural expression, and an accentuation of the slenderness of form of the tower. These benefits also include the optimisation of housing on the site.

The proposed development is for alterations and additions to an approved residential development DA 1271/2016 for various changes to the layout and arrangement of apartments, an additional 4 floors to Buildings D and F respectively, and expansion of the basement level 04 at 3 Farmhouse Road, Westmead (formally known as Lot 4, 158-164 Hawkesbury Road and 2A Darcy Road, Westmead).



Figure 1:

Aerial view of the site (Source: Six Maps, Department of Lands 2021)

1.2 Clause 4.6 Exceptions to development standards

Clause 4.6(2) of the PLEP provides that development consent may be granted for development even though the development would contravene a development standard imposed by the PLEP, or any other environmental planning instrument.

However, clause 4.6(3) states that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstance of the case, and
- (b) there are sufficient environmental planning grounds to justify contravening the development standard.

In accordance with clause 4.6(3) the applicant requests that the height of buildings development standard be varied.

1.3 Development Standard to be varied

Clause 4.4 states:

- (1) The objectives of this clause are as follows:
 - (a) to regulate density of development and generation of vehicular and pedestrian traffic,
 - (b) to provide a transition in built form and land use intensity within the area covered by this Plan,
 - (c) to require the bulk and scale of future buildings to have regard to heritage sites and their settings,
 - (d) to reinforce and respect the existing character and scale of low density residential areas.
- (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

Floor space ratio is defined under Clause 4.5 of the PLEP as:

“the ratio of the gross floor area of all buildings within the site to the site area.”

There are two maximum floor space ratio controls shown for the land on the Map for the site to which the proposed development relates being 4.0:1 in area ‘X1’ and 1.5:1 in area ‘S1’ as shown in Figure 2.

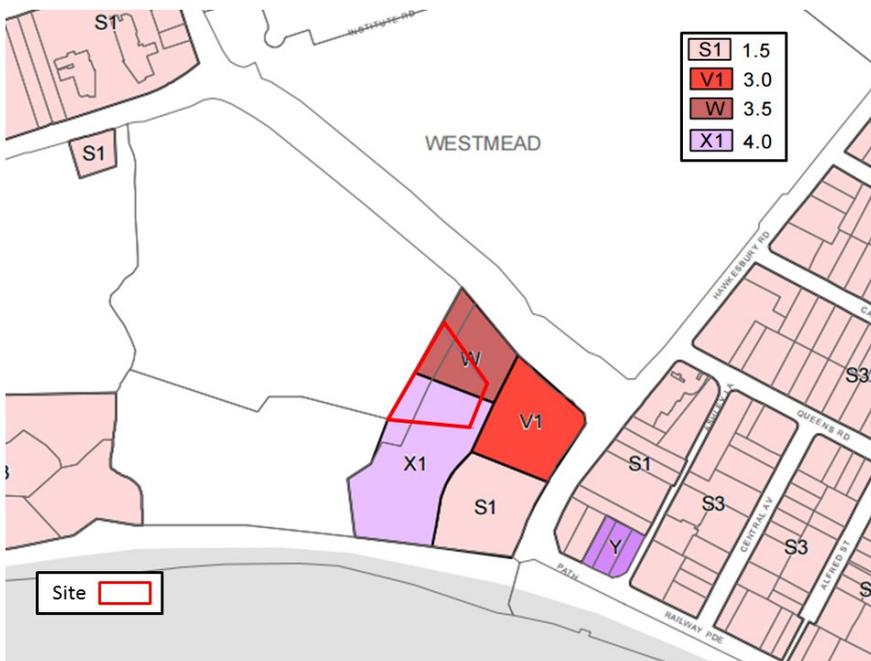


Figure 2:

Extract from the PLEP FSR Map

Extent of Variation to the Development Standard

At the time of approval of DA 1271/2016, it was accepted that where two FSR zones apply to a site, that a combined approach was taken in relation to an FSR figure for the development to arrive at one FSR number.

The approved development was identified as having an FSR of 4.34:1 against the standard of 4:1 and 3.5:1 which apply to the various parts of the site.

However, subsequently in *Mulpha Norwest Pty Ltd v The Hills Shire Council (No 2)* [2020] NSWLEC 74, the Land and Environment Court has decided that the FSR must be evaluated separately in the two different FSR areas.

The table below provides a breakdown of the site area of each FSR zone, the approved FSR within each FSR zone, and the proposed FSR within each zone:

	3.5:1 FSR zone	4:1 FSR zone
Site Area	3,239 sqm	3,349 sqm
Approved GFA/FSR	9,244sqm / 2.85:1	19,582sqm / 5.85:1
Approved variation %	-23% (i.e. no variation)	+46%
Proposed GFA/FSR	10,882sqm / 3.36:1	22,676sqm / 6.77:1
Proposed variation %	-4% (i.e. no variation)	+69%

The approved development of the site under DA 1271/2016 already departs significantly from the FSR controls, which was supported because the FSR controls for the site derive from a masterplan for the site which has since been abandoned by Council. As a result, the FSR development standards have also been abandoned by the granting of consents upon the subject and surrounding sites departing from the FSR standards.

1.4 Clause 4.6(3)(a) Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

Historically the most commonly invoked way to establish that a development standard was unreasonable or unnecessary was satisfaction of the first test of the five set out in *Wehbe v Pittwater Council* [2007] NSWLEC 827 which requires that the objectives of the standard are achieved notwithstanding the non-compliance with the standard.

This was recently re-affirmed in the matter of *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 [34] the Chief Judge held that “establishing that the development would not cause environmental harm and is consistent with the objectives of the development standards is an established means of demonstrating that compliance with the development standard is unreasonable or unnecessary”.

Whilst it is only necessary to address the first method of the five part test described in *Wehbe v Pittwater Council* [2007] NSWLEC 827, which alone is sufficient to satisfy the ‘unreasonable and unnecessary’ requirement, all five tests are addressed below followed by a concluding position which demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case:

1. the objectives of the standard are achieved notwithstanding non-compliance with the standard;

The specific objectives of the floor space ratio development standard, as specified in clause 4.4(1) of the Parramatta Local Environmental Plan 2011 are identified below. A comment on the proposal's consistency with each objective is also provided.

- (a) to regulate density of development and generation of vehicular and pedestrian traffic,

The Traffic and Parking Assessment prepared by JMP Consulting which accompanies the application provides an analysis of the existing traffic conditions as they relate to the subject site. The assessment finds that the significant improvement in public and active transport infrastructure planned for Westmead will result in small reduction in traffic generation under the proposed alterations and additions application when compared to the assumptions contained in the traffic assessment supporting the approved development application for the site. Accordingly, the proposed increase in density will not result in any increase in the generation of traffic beyond that which was anticipated to result from the previously approved development on the site under DA 1271/2016.

- (b) to provide a transition in built form and land use intensity within the area covered by this Plan,

The proposed distribution of height across the site provides a transition in scale from south to north which sits comfortably within the family of buildings within this precinct. The highest component of the proposed development (the 24 storey tower) is located on the south western portion of the site and is consistent with the intent of the LEP in terms of the distribution of height across the overall site. The proposal incorporates lower building heights on the northern and eastern portions of the site, and accordingly provides an appropriate transition in built form and land use intensity within the area.

- (c) to require the bulk and scale of future buildings to have regard to heritage sites and their settings,

The proposed distribution of built form and massing of the building across the site is the result of a considered analysis of the context of the site and the desire to deliver a positive urban design outcome that will provide an appropriate curtilage to the heritage significant buildings located to the south east. The height of the building increases away from the heritage significant buildings. The proposed materials and finishes have been chosen to compliment the heritage significant buildings. The proposed development will have an acceptable impact on views to and from heritage items. Overall the proposal will have an acceptable impact on the heritage significance of nearby heritage items and their settings

- (d) to reinforce and respect the existing character and scale of low density residential areas.

Low density residential development is located to the south of the site on the opposite side of the railway corridor and with frontage to Alexandra Avenue. The subject site is visually isolated from the low density residential development with frontage to Alexandra Avenue given the width of the railway corridor, the dense landscaping that surrounds the railway corridor, and the location of recently completed development at 5-7 Maple Tree Road between the site and the railway corridor. The level of separation between the subject site and nearby low density residential development will ensure that the character of these areas are respected and not unreasonably compromised by the proposed development.

2. the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;

The underlying objectives and purpose of the floor space ratio control is relevant to the proposed development. However, the proposed development is consistent with those objectives on the basis that the proposed floor space ratio still results in a development which is consistent with the desired future character for the subject site and the Westmead precinct generally, conserves the significance of the existing heritage buildings and sits comfortably within the context of the site with no significant adverse impacts to adjacent properties.

3. **the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;**

Strict compliance is no longer a relevant consideration as the previously approved development on the site has already varied the FSR control which has effectively been abandoned on the subject site. Nonetheless, the underlying objective of the floor space ratio control is to achieve an appropriate density on the site which is compatible with the context of the site. Due to the design, location and configuration of the proposed development, the proposal successfully achieves these objectives and will provide a considered built form response that will deliver a positive urban design outcome.

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

The FSR controls for the site were derived from the ARUP masterplan which informed the Planning Proposal for the site. However, this masterplan has more recently been considered by Council to be “suboptimal” and Council has approved a substantially different site layout and suggested arrangement of buildings under the infrastructure DA for the entire precinct DA/571/2014 which relied upon a Clause 4.6 request in relation to height. As a result, the FSR controls and boundaries no longer correspond with the approved site arrangement and configuration such that Council has effectively abandoned the FSR control for the site.

In addition, the approved development of the site under DA 1271/2016, which is proposed to be amended by the subject application, also departs significantly from the FSR control. As a result, the FSR development standard has been abandoned, for good reason, in the granting of a consent on the subject site which substantially departs from the standard. Notwithstanding this, the broad principles reflected by the FSR to accommodate an appropriate density of development and distribution of scale and mass, with increasing height to the west and the south, are considered to remain relevant and the amended development adheres to these principles with the tallest component of the building located in the south western corner of the site.

5. **the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.**

The proposed zoning of the land is considered to be reasonable and appropriate

Strict compliance with the 4:1 floor space ratio development standard is unreasonable and unnecessary in the circumstances of the case in that:

- The floor space ratio controls applicable to the site relate to a previous masterplan which has since been abandoned and so the FSR control is no longer relevant to the subject site. Evidence of this is the recent approval on the subject site which departed from the FSR control.
- Since the approval of DA 1271/2016 on the site, two additional rail infrastructure projects have been announced and construction commenced, such that the site is not is now exceptionally well located with immediate proximity to not just a single train station, but a train station, metro station and light rail station. In addition, the site is also within a precinct which is ear marked for significant jobs and student growth immediately around the site. Therefore, it is critically important to ensure that this significant landholding optimises the delivery of housing to support this growth, within the previously identified urban design framework for the site.
- The proposed distribution of built form and massing of the building across the site is the result of a further review and considered analysis of the context of the site and the desire to deliver a positive urban design outcome that will provide an appropriate curtilage to the heritage significant buildings located on the site.
- The proposal will deliver a high quality transit orientated development that will increase the vibrancy of the precinct.
- The proposal is consistent with the desired future character outlined within PDOP 2011 for the subject site and the Westmead precinct generally.
- The density proposed does not prevent achievement of the 9 principles of SEPP 65.
- There are no unacceptable adverse impacts in terms of shadow, view, visual and acoustic privacy impacts resulting from the proposed variation to the floor space ratio development standard which would warrant strict compliance, noting that strict compliance is not longer considered a relevant benchmark in any event.
- The proposed density will not result in an acceptable impact on local traffic conditions and in fact the Traffic and Parking Assessment prepared by JMP Consulting which accompanies the application provides an analysis of the existing traffic conditions as they relate to the subject site and finds that the significant improvement in public and active transport infrastructure planned for Westmead will result in small reduction in traffic generation under the proposed alterations and additions application when compared to the assumptions contained in the traffic assessment supporting the approved development application for the site. Accordingly, the proposed increase in density will not result in any increase in the generation of traffic beyond that which was anticipated to result from the previously approved development on the site under DA 1271/2016.
- The proposed variation allows to site to optimise the delivery of housing in an ideal location within the demonstrated environmental capacity of the site and the proposed variation therefore allows for the most efficient and economic use of the land.
- Strict compliance with the development standard would result in an inflexible application of the control that would not deliver any additional benefits to the owners or occupants of the surrounding properties or the general public.
- Having regard to the planning principle established in the matter of Project Venture Developments v Pittwater Council [2005] NSWLEC 191 most observers would not find the proposed development offensive, jarring or unsympathetic to its location and the proposed development will be compatible with its context.

As the proposal is consistent with the objectives of the floor space control, strict compliance with the development standard is considered to be unreasonable and unnecessary in the circumstances of the case.

1.5 [Clause 4.6\(3\)\(b\) Are there are sufficient environmental planning grounds to justify contravening the development standard?](#)

The Land & Environment Court matter of Initial Action Pty Ltd v Woollahra Council [2018] NSWLEC 2018, provides assistance in relation to the consideration of sufficient environmental planning grounds whereby Preston J observed that:

- in order for there to be 'sufficient' environmental planning grounds to justify a written request under clause 4.6, the focus must be on the aspect or element of the development that contravenes the development standard and the environmental planning grounds advanced in the written request must justify contravening the development standard, not simply promote the benefits of carrying out the development as a whole; and
- there is no basis in Clause 4.6 to establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development

Since the time of the approval of DA/1271/2016, there have been significant strategic planning, transport planning and policy changes in relation to Westmead including the following:

- In November 2017, the Department of Planning and Environment announced Westmead as a Planned Precinct with a health and education area north of the rail line.
- Parramatta Light Rail – Stage 1 has been announced and construction is currently under way with the Westmead Light Rail stop to be built at corner of Hawkesbury Road and Railway Parade. Parramatta Light Rail Stage 1 will connect Westmead to Carlingford via Parramatta CBD and Camellia.
- Sydney Metro West line has been announced and construction is currently underway with the new Metro platform located south of the existing Westmead Station on the eastern side of Hawkesbury Road, Sydney Metro West will connect the Sydney City Centre (CBD) with Westmead.
- Sydney University has been chosen by the NSW Government to develop a new world class multi-disciplinary campus within the Westmead Health and Innovation District which will accommodate 25,000 students.
- In March 2020, the City of Parramatta Council's Local Strategic Planning Statement (LSPS) City Plan 2036 (LSPS) came into effect and sets out a 20-year land use planning vision for the City of Parramatta. The LSPS identifies that the Westmead Health and Education Precinct provides a major conglomeration of health, research and medical services. The LSPS also identifies target for 28,700 additional jobs and 4,500 dwellings in Westmead by 2036.
- The Westmead Place Strategy has been prepared and placed on public exhibition from December 2020 to March 2021. The Westmead Place Strategy identifies a bold vision for Westmead to be Australia's premier health and innovation district with a jobs growth of 50,000 by 2036. The Strategy includes an action to undertake further studies for housing intensification and diversification within 800 metres of Westmead Station.

The following environmental planning grounds are sufficient to justify the proposed variation to the development standard:

- The site is now exceptionally well located with immediate proximity to not just a single train station, but a train station, metro station and light rail station. The site is also within a precinct which is ear marked for significant jobs and student growth immediately around the site. Therefore, it is critically important to ensure that this significant landholding optimises the delivery of housing to support this growth, within an

the previously identified urban design framework for the site. An alternative approach towards the development of the site compared to the approved development DA 1271/2016 as proposed will achieve urban design benefits and facilitate the optimisation of housing on the site within the demonstrated environmental capacity of the site.

- The proposal will deliver a high quality transit orientated development that will increase the vibrancy of the precinct whilst providing a greater diversity of housing to meet the demand generated by changing demographics and housing needs in an existing urban area with excellent access to public transport, health services, educational establishments, recreational opportunities and services and facilities.
- The proposed distribution of built form and massing of the building across the site is the result of a considered analysis of the context of the site and the desire to deliver a positive urban design outcome that will provide an appropriate curtilage to the heritage significant buildings located on the site.
- Apartments within the development are provided with a high level of amenity.
- The development provides the required provision of car parking and will have an acceptable impact on local traffic conditions. In fact, the Traffic and Parking Assessment prepared by JMP Consulting which accompanies the application concludes that the proposed alterations and additions application will actually result in small reduction in traffic generation under when compared to the assumptions contained in the traffic assessment supporting the approved development application for the site. Accordingly, the proposed increase in density will not result in any increase in the generation of traffic beyond that which was anticipated to result from the previously approved development on the site under DA 1271/2016
- There are no unreasonable impacts in terms of shadow, view, visual and acoustic privacy impacts resulting from the proposed variation to the floor space ratio development standard which would warrant strict compliance.
- The scale of the buildings which accommodate the proposed density will not be perceived as jarring or antipathetic in the future streetscape and urban design context which will develop in the area.

Strict compliance is no longer considered a relevant benchmark or consideration for the subject proposal given that a significant variation to the FSR standard has already been approved on the site. There are sufficient environmental planning grounds to warrant the proposed variation to the current FSR controls as the proposal will achieve a high quality urban design outcome which remains consistent with the key principle for distribution of height within this precinct for a transition of scale from south to north.

The objects specified in section 5(a)(i) and (ii) of the EP&A Act are:

‘to encourage:

i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,

ii) the promotion and co-ordination of the orderly and economic use and development of land..’

The proposed development is consistent with the aims of the Policy and the objects of the EP&A Act in that the proposed extent of FSR variation has been demonstrated to result in an acceptable urban design outcome. Furthermore, the additional density facilitates the proper management of this land because the site is within a precinct which is ear marked for significant jobs and student growth immediately around the site and therefore it is critically important to ensure that this significant landholding optimises the delivery of housing to support this

growth, within the previously identified urban design framework for the site. The proposed variation allows for the most efficient and economic use of the land.

On the basis of the above, it has been demonstrated that there are sufficient environmental planning grounds to justify the proposed FSR non-compliance in this instance.

1.6 Clause 4.6(4)(a)(i) consent authority satisfied that this written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3)

Clause 4.6(4)(a)(i) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3).

These matters are comprehensively addressed above in this written request with reference to the five part test described in *Wehbe v Pittwater Council* [2007] NSWLEC 827 for consideration of whether compliance with a development standard is unreasonable or unnecessary in the circumstances of the case. In addition, the establishment of environmental planning grounds is provided, with reference to the matters specific to the proposal and site, sufficient to justify contravening the development standard.

1.7 Clause 4.6(4)(a)(ii) consent authority satisfied that the proposal is in the public interest because it is consistent with the zone and development standard objectives

Clause 4.6(4)(a)(ii) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that 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.

Objective of the Development Standard

The proposal's consistency with the objectives of the development standard have been addressed in detail in this clause 4.6 request.

Objectives of the Zone

Clause 4.6(4) also requires consideration of the relevant zone objectives. The site is located within the B4 Mixed Use zone pursuant to the Parramatta Local Environmental Plan 2011 (PLEP) which has the following objectives:

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To encourage development that contributes to an active, vibrant and sustainable neighbourhood.
- To create opportunities to improve the public domain and pedestrian links.
- To support the higher order Zone B3 Commercial Core while providing for the daily commercial needs of the locality.
- To protect and enhance the unique qualities and character of special areas within the Parramatta City Centre.

The vision for the overall site has been for a transit-oriented development that intensifies and diversifies activity around public transport infrastructure allowing for multiple activities and services, local employment and diverse housing options. The site is extremely well located in terms of access to public transport infrastructure. The amended proposal will deliver additional housing choice within a regionally significant health and education hub that is in close proximity to a range of recreational opportunities and services and facilities and will maximise public transport patronage, cycling and walking.

The architecture of the amended development with buildings orientated where possible to the street and toward an internal common landscaped open space, combined with the development being set within a high quality public domain will result in activated and vibrant places that are used at all times of the day, increasing safety.

The amended proposal exhibits a high level of environmental performance, provides a high level of amenity and an attractive contemporary architectural expression.

For the reasons given the amended proposal remains consistent with the objectives of the B4 Mixed Use zone.

The proposal has been demonstrated to be consistent with both the objectives of the FSR development standard as well as the objectives of the zone and therefore the consent authority can be satisfied that the proposal is in the public interest. Furthermore, the public interest is appropriately served by providing an improved urban design outcome and additional housing, within the demonstrated environmental capacity of the site.

1.8 Clause 4.6(5) Secretary Considerations

The matters for consideration under Clause 4.6(5) are addressed below:

(5) In deciding whether to grant concurrence, the Secretary must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning,

The contravention of the standard does not raise any matters of significance for state or regional environmental planning. The development does not impact upon or have implications for any state policies in the locality or impacts which would be considered to be of state or regional significance.

(5) In deciding whether to grant concurrence, the Secretary must consider:

(b) the public benefit of maintaining the development standard,

This Clause 4.6 request has demonstrated there are significant environmental planning benefits associated with the contravention of the standard. There is no material impact or benefit associated with strict adherence to the development standard and in my view, there is no compelling reason or public benefit derived from maintenance of the standard, which has already been abandoned for this site.

1.9 Objectives of Clause 4.6

The specific 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 demonstrated above the proposal is consistent with the objectives of the zone and the objectives of Clause 4.3 notwithstanding the proposed variation to the maximum height of buildings development standard.

The architectural package prepared by Turner Architects which accompanies the subject application illustrates the relationship of the proposed development within the context of the site. It demonstrates a high quality outcome for the site which will result in the delivery of a residential development surrounding by landscaping and a built form that will provide for an integrated community set around a central open space area which combined will contribute significantly to the amenity afforded to the general public and future occupants alike.

Allowing the flexible application of the maximum FSR development standard in this instance is not only reasonable but also desirable given the context of the site and desire to deliver a positive result for the site which will facilitate an acceptable urban design outcome whilst optimising the delivery of housing in an ideal location.

Accordingly, it is considered that the consent authority can be satisfied that the proposal meets objective 1(a) of Clause 4.6 in that allowing flexibility in relation to the maximum FSR development standard and will achieve an acceptable and better urban design outcome in this instance in accordance with objective 1(b).

1.10 Conclusion

Strict compliance with the maximum FSR development standard contained within clause 4.4 of the Parramatta Local Environmental Plan 2011 has been found to be unreasonable and unnecessary in the circumstances of the case. In addition there are sufficient environmental planning grounds to justify the variation. In this regard it is reasonable and appropriate to vary the FSR development standard to the extent proposed in this circumstance. Finally, the proposed development and FSR variation is in the public interest because it facilitates a development which is consistent with the objectives of the standard and the zone and which delivers additional housing within the demonstrated environmental capacity of the site. In this regard it is reasonable and appropriate to vary the FSR development standard to the extent proposed.