

Amended Clause 4.6 Variation to Development Standard

Property Description: 24 Holford Crescent, Gordon

Development: Seniors Living Development

Development Standard: Building Height - Storey Control

Introduction

The proposed seniors living development seeks variation to the two storey development standard contained in clause 40(4)(b) of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. SEPP (Seniors Living).

It is noted the application is made under SEPP (Seniors Living) and Clause 40(4)(b) states:

(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, and

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

The proposed seniors living development contains two storeys plus basement parking. As a result of the topography the north-western basement wall is located out of ground level, which technically constitutes a storey and gives the appearance of 3 storeys on the north-western elevation.

The development proposal has been designed to present as a single storey form to the Holford Crescent streetscape. The three storey component of the development is located 12m from the north-western boundary.

The application to vary the development standard – storey control incorporates the relevant principles in the following judgements:

1. *Winten Property Group Limited v North Sydney Council*
2. *Wehbe v Pittwater Council, and*
3. *Four2Five Pty Ltd v Ashfield Council.*

What are the objectives of Clause 4.6?

The objectives of clause 4.6 – Exceptions to development standards 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.*

The proposed variation to the storey control development standard is consistent with the objectives of clause 4.6 as follows:

- The proposed seniors living development is located on a sloping site with vehicular access and primary pedestrian access to Holford Crescent. The site has secondary pedestrian access to bus stop on Ryde Road utilizing existing access handle at the lower portion of the site.
- The development proposal maintains the appearance of a single storey building when viewed from Holford Crescent. As a result of the site topography the basement is located in undercroft area beneath the ground floor. The north-western basement wall protrudes out of ground level and so technically constitutes a storey.
- The north-western, rear elevation of the building will not read as a three storey element from Ryde Road noting the setback from the escarpment at the rear of the site that visually recesses the development into the topography when viewed from the Ryde Road level.
- The development proposal complies with clause 40(4)(c) of the SEPP (seniors living) noting there is no development located on the rear 25% of the subject site.
- The three storey component of the development is located 12m from the rear boundary.
- The variation to the storey control achieves a better outcome for the development by reducing the level of excavation required to accommodate basement parking, and utilizing the site slope to provide vehicular access to basement.

In my opinion the variation to the two storey development standard contained in clause 40(4)(b) of SEPP (Seniors Living) is acceptable for the subject site allowing for flexibility to be applied to the control given the constraints of the subject site resulting from its steep topography.

What are the objectives of the development standard?

The purpose of clause 40(4)(b) is stated as follows:

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

The proposed development is consistent with the aims of this clause noting the proposal reads as a single storey building from Holford Crescent.

The three storey element of the proposal is located at the rear of the site 12m from the rear boundary. Further, the north-western, rear elevation of the building will not read as a three storey element from Ryde Road noting the setback from the escarpment at the rear of the site that visually recesses the development into the topography when viewed from the Ryde Road level.

Reference is made to the aims of SEPP (seniors living) contained in clause 2 as follows:

- (1) *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.*
- (2) *These aims will be achieved by:*
 - (a) *setting aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in this Policy, and*
 - (b) *setting out design principles that should be followed to achieve built form that responds to the characteristics of its site and form, and*
 - (c) *ensuring that applicants provide support services for seniors or people with a disability for developments on land adjoining land zoned primarily for urban purposes.*

The variation to the two storey development standard is not inconsistent with the aims of SEPP (seniors living). In fact the proposed seniors living development on this site meets the relevant aims of the policy with the proposal designed to utilize the existing site characteristics and location to add to the supply and diversity of residences to meet the housing needs of seniors.

Compliance with the development standard is unreasonable or unnecessary in this particular case?

The variation to two storey development standard is acceptable in the circumstances of this case and compliance with the development standard is considered unreasonable and unnecessary based on the following assessment:

- The development proposal has been designed to present as a single storey form to the Holford Crescent streetscape. The development proposal features peaked roofs, landscaped front and side setbacks and materials and finished consistent with the adjoining dwellings.
- The development proposal maintains the appearance of a single storey building when viewed from Holford Crescent. As a result of the site topography the basement is located in undercroft area beneath the ground floor. The north-western basement wall protrudes out of ground level and so technically constitutes a storey.
- The three storey element of the proposal is located at the rear of the site 12m from the rear boundary. Further, the north-western, rear elevation of the building will not read as a three storey element from Ryde Road noting the setback from the escarpment at the rear of the site that visually recesses the development into the topography when viewed from the Ryde Road level.
- The development proposal complies with clause 40(4)(c) of the SEPP (Seniors Living) noting there is no development located on the rear 25% of the subject site.

Are there sufficient environmental planning grounds to justify contravening the development standard?

The grounds for variation to the two storey development control pursuant to clause 40(4)(b) of SEPP (seniors living) contained in this application confirms the variation is acceptable noting the development proposal has been designed to present as a single storey form to Holford Crescent noting the variation to storeys is the result of part of basement being located above ground.

The development proposal complies with clause 40(4)(c) of SEPP (seniors living) noting there is no development located on the rear 25% of the subject site.

The proposed seniors living development is an orderly and economic development of the land adding to the supply and diversity of residences within accessible areas to meet the housing needs of seniors.

Is the proposed Development in the public interest?

Clause 4.6(4)(ii) of the LEP states:

Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) 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, and

(b) the concurrence of the Secretary has been obtained.

The proposed seniors living development on this site is in the public interest with the proposal designed to utilize the existing site characteristics and location to add to the supply and diversity of residences to meet the housing needs of seniors.

The proposed variation to the storey control is suitable for the subject site noting the proposal reads as a single storey building from Holford Crescent. Further, the north-western, rear elevation of the building will not read as a three storey element from Ryde Road noting the setback from the escarpment at the rear of the site that visually recesses the development into the topography when viewed from the Ryde Road level.

Conclusion

The development proposal has sufficient grounds to vary the two storey development standard contained in clause 40(4)(b) of SEPP (seniors living).

The proposed seniors living development contains two storeys plus basement parking. As a result of the topography the north-western basement wall is located out of ground level, which technically constitutes a storey and gives the appearance of 3 storeys on the north-western elevation.

The development proposal has been designed to present as a single storey form to the Holford Crescent streetscape. The development proposal features peaked roofs, landscaped front and side setbacks and materials and finished consistent with the adjoining dwellings.

The three storey component of the development is located 12m from the north-western boundary.

The variation to the storey control achieves a better outcome for the development by reducing the level of excavation required to accommodate basement parking, and utilizing the site slope to provide vehicular access to basement.

The proposed seniors living development on this site is in the public interest with the proposal designed to utilize the existing site characteristics and location to add to the supply and diversity of residences to meet the housing needs of seniors.

In my opinion the application to vary the two storey development standard is well founded. As addressed the proposed seniors living development is an acceptable development outcome for the subject site that is in the public interest. In accordance with the environmental planning grounds addressed in this clause 4.6 variation the two storey development standard can be supported.



Garry Chapman
Chapman Planning Pty Ltd