

# **Attachment F**

<p><b>Clause 4.6 Variation Request – Parking Spaces</b></p>
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# Clause 4.6 Variation Request

Non-discretionary development standard - Parking

82 Wentworth Park Road, Glebe

Prepared on behalf of:

NSW LAHC

**FPD**planning

## Document control

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### Project summary

<b>Applicant</b>	NSW Land and Housing Corporation
<b>Land to be developed</b>	82 Wentworth Park Road, Glebe
<b>Legal description</b>	Lot 1-4 DP82924
<b>Project description</b>	Clause 4.6 variation request for variation to car parking provisions in Clause 18(2)(f) of the Housing SEPP.

# Contents

Document control .....	ii
1 Introduction .....	5
2 The site and proposed development.....	7
3 Extent of proposed variation .....	9
4 Justification for the proposed variation .....	10
5 Conclusion.....	14
Table 1: Five ways to demonstrate compliance is unreasonable or unnecessary .....	10
Table 2: Consideration of Clause 3 Principles of Policy in the Housing SEPP .....	11
Table 3 Consideration of objectives of the R1 General Residential zone.....	12
Figure 1 Subject site.....	7

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# 1 Introduction

This report has been prepared to request a variation to a non-discretionary development standard within Clause 18 of the *State Environmental Planning Policy (Housing) 2021* (Housing SEPP) in connection with a development application for a residential flat building for the purpose of affordable housing (to be managed as 100% social housing by NSW LAHC) at 82 Wentworth Park Road, Glebe.

Clause 18 (2) (f) of the Housing SEPP contains non-discretionary developments standards for parking spaces where development is undertaken by a social housing provider in an accessible location.

In accordance with Section 4.15 (3(b) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), a provision in an environmental planning instrument that allows flexibility in the application of a development standard may be applied to a non-discretionary development standard.

Clause 4.6 of the *Sydney Local Environmental Plan 2012* (Sydney LEP) provides flexibility in applying certain development standards to particular development and allows for consent to be granted to development that does not comply with a development standard in the Sydney LEP or any other environmental planning instrument.

The site is currently zoned R1 General Residential under the Sydney LEP and the following built form controls apply:

- FSR of 1.75:1
- Maximum height of 12m

Clause 18 (2) (f) of the Housing SEPP contains non-discretionary developments standards for parking spaces and sets out the following car parking rates for development undertaken by a social housing provider:

- for each dwelling containing 1 bedroom—at least 0.4 parking spaces, or
- for each dwelling containing 2 bedrooms—at least 0.5 parking spaces, or
- for each dwelling containing at least 3 bedrooms— at least 1 parking space.

No car parking is proposed to be provided on site which is consistent with the use of maximum car parking rates in the Sydney LEP as well as LAHC's operational requirements. This approach is suitable given the sites excellent public transport accessibility and consistent with the approved NSW LAHC development at Cowper Street (currently under construction) which includes no on-site car parking.

Clause 4.6 of the Sydney LEP includes provisions that allow the consent authority to vary development standards in certain circumstances. The objectives of clause 4.6 are:

- To provide an appropriate degree of flexibility in applying certain development standards to particular development.
- To achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Clause 4.6 requires the consent authority to consider a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating that:

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

The Department of Planning, Industry and Environment has issued the *Guide to Varying Development Standards November 2023* to assist applicants in applying to vary development standards. The guide sets out five common ways which have been established by the NSW Land and Environment Court which may be considered in applying Clause 4.6 to determine whether the objection to the development standard is well founded. The matters have been considered and addressed by this report.

## 2 The site and proposed development

### 2.1 The site

The site is located at 82 Wentworth Park Road, Glebe, and is legally described as Lot 1- 4 DP82924. The site has an approximate site area of 1,633sqm.

The site is bound by Wentworth Park Road to the east, Bellevue Street to the west, Cardigan Street to the south and the Glebe and Wentworth Park railway viaducts to the north. The site is directly opposite Wentworth Park, a significant regional open space asset.

The site is occupied by 17 social housing dwellings comprising semi-detached dwellings and townhouses. The site has numerous trees within the boundary, particularly along on the northern and western boundary, and mature heritage-listed street trees are located along Wentworth Park Road.

To the rear of the site is a steep rock shelf between 3-10 metres high resulting in a significant level change to Bellevue Street in this location. Two to three storey residential terraces and Thomas Portley Reserve, a small local park and playground, are located on Bellevue Street.

To the south of the site is Cardigan Street and the carpark of the neighbouring commercial uses which are located in two storey buildings located between Cardigan Lane and Bellevue Street. A series of two storey terraces front Wentworth Park Road to the south of the site. The surrounding residential uses are predominantly low scale Victorian terraces and semi-detached housing or converted warehouse apartments.



Figure 1 Subject site



## 2.2 The proposal

The proposed development is for a four-storey residential apartment building providing 43 affordable housing dwellings. Key aspects of the proposal are described in further detail below.

The proposed development is for the construction of a four-storey residential apartment building for the provision of 43 affordable housing dwellings (100% affordable housing). Key aspects of the proposal are described below.

- 43 apartments within a residential flat building up to 4 storeys
- An apartment mix of 4 studio apartments, 29 x 1-bedroom apartments and 10 x 2 bedroom apartments.
- Landscaped setbacks and terrace style apartments facing Wentworth Park Road
- 44 resident bike parking spaces and 6 visitor bike parking spaces, and waste storage areas located at ground level
- 1 partial basement level accommodating building services
- Green roof and rooftop landscaping

No on-site car parking is proposed.



### 3 Extent of proposed variation

Clause 18 (2) (f) of the Housing SEPP contains non-discretionary developments standards for parking spaces and sets out the following car parking rates for development undertaken by a social housing provider:

- for each dwelling containing 1 bedroom—at least 0.4 parking spaces, or
- for each dwelling containing 2 bedrooms—at least 0.5 parking spaces, or
- for each dwelling containing at least 3 bedrooms— at least 1 parking space.

Based on the rates in the Housing SEPP, 18 parking spaces would need to be provided on site.

No car parking is proposed to be provided on site which is consistent with the use of maximum car parking rates in the Sydney LEP as well as LAHC's operational requirements.

This approach is suitable given the sites excellent public transport accessibility and consistent with the approved NSW LAHC development at Cowper Street (currently under construction) which includes no on-site car parking.

The proposal also includes bicycle parking in accordance with the Sydney DCP, providing 44 resident bike parking within the building at ground level and 6 visitor bike parking provided within the front setback along Wentworth Park Road.

The Traffic and Parking Report submitted as part of the development application and prepared by Transport and Traffic Planning Associates dated December 2022, outlines the suitability of providing no car parking for this site, as it is in very convenient proximity to public transport services (bus and light rail) as well as shopping/entertainment facilities in Glebe and the CBD, minimising the need for private vehicle use.

This non-compliance results in a variation to the car parking rates in Clause 18 (2) (f) of the Housing SEPP to facilitate the renewal and increase in affordable housing on the site and proposes no car parking in accordance with the maximum rates in the Sydney LEP. The proposal will facilitate the provision of 43 affordable housing dwellings on the site.

## 4 Justification for the proposed variation

This section of the report provides consideration of the requirements of Clause 4.6 and the matters set out in the *Guide to Varying Development Standards November 2023*.

### 4.1 How is compliance with the development standard is unreasonable or unnecessary in the circumstances of this particular case?

Compliance with the development standard is considered unreasonable and unnecessary in this instance as it is consistent with Clause 3 ‘Principles of Policy’ in the Housing SEPP and the objectives of the R1 General Residential zone.

As demonstrated in Table 2 and Table 3 the objectives are achieved notwithstanding non-compliance. This is consistent with the five-part test established in *Wehbe vs Pittwater* and one of the five ways that compliance can be demonstrated to be unreasonable or unnecessary in the *Guide to Varying Development Standards* (refer to Table 1).

The Department of Planning, Industry and Environment has issued the *Guide to Varying Development Standards November 2023* to assist applicants applying to vary development standards. The guide sets out five common ways that compliance with a development standard may be demonstrated to be unreasonable or unnecessary as established by the NSW Land and Environment Court in determining whether the objection to the development standard is well founded. A Clause 4.6 application is not required to meet all of the tests.

**Table 1: Five ways to demonstrate compliance is unreasonable or unnecessary**

Objective	Consideration
The objectives of the standard are achieved notwithstanding non-compliance with the standard	The objectives of Clause 3 Principles of Policy of the Housing SEPP and the objectives of the R1 General Residential zone can be achieved, as outlined at 2 and 3 notwithstanding the non-compliance.
The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary	This test is not applicable in this instance.
The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable	<p>Compliance with the car parking rates in the Housing SEPP is considered unreasonable as it would impact the provision and delivery of affordable housing on the site.</p> <p>The proposed approach to provide no on-site car parking is consistent with the use of maximum car parking rates in the Sydney LEP as well as LAHC’s operational requirements and is suitable given the sites excellent public transport accessibility and proximity to a range of services and facilities.</p>
The development standard has been virtually abandoned or destroyed by council’s own actions in granting consents departing from the standard.	The approach is consistent with the NSW LAHC’s social housing development at Cowper Street in Glebe which was approved by Council on 30 November 2021 and includes no parking on-site.
The compliance with the development standard is unreasonable or inappropriate due to the existing use of the land and current character of	This test is not applicable in this instance.

<p>the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.</p>	
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The proposed development is consistent with the principles of the Housing SEPP and the objectives of the R1 General Residential zone as outlined in Table 2 and Table 3.

**Table 2: Consideration of Clause 3 Principles of Policy in the Housing SEPP**

Objective	Consideration
<p>Enabling the development of diverse housing types, including purpose-built rental housing,</p>	<p>The proposal will provide the housing needs of the community through the delivery of 43 new affordable housing dwellings (an increase from the 17 social housing dwellings currently on the site).</p>
<p>Encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability</p>	<p>The proposal will enhance the variety of housing types in the area providing increased affordable housing in the local area. The proposal is for a residential flat building to be used for the purpose of affordable housing.</p>
<p>Ensuring new housing development provides residents with a reasonable level of amenity,</p>	<p>The proposal ensures that housing meets current accessibility and amenity standards, delivering a positive impact.</p> <p>The proposal complies with the solar access requirements and cross ventilation requirements in the ADG, ensuring a high level of amenity for residents.</p> <p>The proposed apartments are appropriately designed to meet tenants needs and includes an internal lift for better accessibility, and in an area with good access to services.</p>
<p>Promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,</p>	<p>The site is extremely well serviced and in area and has excellent access to a range of social services and infrastructure.</p> <p>The site is opposite Wentworth Park, a significant regional open space, is within a 5-minute walk to the Glebe light rail stop, providing high frequency public transport services to the CBD and Central Station. Bus services are also available a short walk from the site on Pymont Bridge Road.</p> <p>The site also within 400-500m to Glebe Point Road high street which provides an extensive array of local shops and services, including Glebe library and local services.</p>
<p>Minimising adverse climate and environmental impacts of new housing development,</p>	<p>The proposal proposes no on-site car parking which will result in positive environmental outcomes. The proposal provides 44 resident bike parking spaces, and is located close to public transport, promoting active and sustainable travel modes.</p>
<p>Reinforcing the importance of designing housing in a way that reflects and enhances its locality,</p>	<p>The proposal has been designed to respond to the local context and character. The proposal represents</p>

	an appropriate built form on the site and is compatible with surrounding built form character.
Supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,	Not applicable
Mitigating the loss of existing affordable rental housing.	<p>The proposal will deliver significant public benefit in the form of renewed and increased supply of affordable housing within the local area.</p> <p>The proposal will significantly increase affordable housing on the site, increasing from 17 existing social housing dwellings to 43 modern and accessible affordable housing dwellings.</p>

**Table 3 Consideration of objectives of the R1 General Residential zone**

Objective	Consideration
To provide for the housing needs of the community	The proposal will provide the housing needs of the community through the delivery of 43 new affordable housing dwellings (an increase from the 17 social housing dwellings currently on the site).
To provide a variety of housing types and densities	The proposal will enhance the variety of housing types in the area and provide increased affordable housing in the local area.
To enable other land uses that provide facilities or services to meet the day to day needs of residents	Not applicable.
To maintain the existing land use pattern of predominately residential uses	The proposal is for a residential flat building to be used for the purpose of affordable housing.

It is not considered reasonable or necessary to comply with the non-discretionary standard for car parking in the Housing SEPP.

No car parking is proposed to be provided on site which is consistent with the use of maximum car parking rates in the Sydney LEP as well as LAHC’s operational requirements. This approach is suitable given the sites excellent public transport accessibility.

The variation to the non-discretionary development standard in Clause 18 (2) (f) of the Housing SEPP will not impact on the ability of the proposal to achieve the principles of the Housing SEPP or meet the objectives of the R1 General Residential zone.

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

As outlined below, there are sufficient environmental planning grounds to justify the variation to the car parking rates in the Housing SEPP in this instance.

No car parking is proposed to be provided on site which is consistent with maximum car parking rates in the Sydney LEP as well as NSW LAHCs operational requirements.

If the parking rates in Clause 18 of the Housing SEPP were complied with, the proposal would need to provide 18 on-site car parking spaces. This would impact the amount of new housing that could be provided on the site, add significant cost, and impact the design and layout of the proposal to accommodate parking on-site. It would also likely impact high value street trees along Wentworth Park Road to accommodate basement entry.

The proposal includes bicycle parking in accordance with the Sydney DCP, providing 44 resident bike parking within the building at ground level and 6 visitor bike parking provided within the front setback along Wentworth Park Road.

The Traffic and Parking Report prepared to support the development application outlines the suitability of providing no car parking for this site, as it is in very convenient proximity to public transport services (bus and light rail) as well as shopping/entertainment facilities in Glebe and the CBD, minimising the need for private vehicle use.

In summary, the non-compliance with the car parking rates in the Housing SEPP is justified for the following reasons:

- The proposal will promote the delivery of new and increased affordable housing on the site.
- The site has good connections to public transport and minimising car parking provision further encourages users to travel via sustainable modes.
- The proposal complies with the minimum bicycle parking rates in the Sydney DCP.
- The approach to car parking is consistent with NSW LAHC's approved development on Cowper Street which included no on-site car parking, consistent with the surrounding area and Council's objective to 'minimise the amount of vehicular traffic generated because of proposed development'.
- The proposal will facilitate sustainable development outcomes, by promoting sustainable travel modes and public transport use.

## 5 Conclusion

In summary the proposed variation to parking rates in the Housing SEPP is considered to be justified on the basis that:

- The proposal will deliver new and increased affordable housing on the site, more than doubling the number of dwellings on site to be managed by NSW as social housing.
- The proposal is consistent with the use maximum car parking rates in the Sydney LEP and objectives to minimise traffic generation in the City of Sydney LGA.
- The approach to car parking is consistent with NSW LAHC's approved development on Cowper Street which included no on-site car parking, consistent with the surrounding area and Council's objective to 'minimise the amount of vehicular traffic generated because of proposed development'.
- The proposal includes bicycle parking in accordance with the Sydney DCP, providing 44 resident bike parking within the building at ground level and 6 visitor bike parking provided within the front setback along Wentworth Park Road.
- The Traffic and Parking Report prepared to support the development application outlines the suitability of providing no car parking for this site, as it is in very convenient proximity to public transport services (bus and light rail) as well as shopping/entertainment facilities in Glebe and the CBD, minimising the need for private vehicle use.
- The site has excellent connections to public transport and minimising car parking provision further encourages more sustainable transport modes, improving environmental and sustainability outcomes.

On this basis the variation is appropriate and justified.