

Clause 4.6 Variation Request – Car Parking

Proposal: To carry out alterations and additions to the existing building and adaptively reuse it to provide a commercial tenancy and parking on the ground floor level and a co-living housing development with 25 rooms above

Site: 269 Marrickville Road, Marrickville (Lot 12 DP 593725)

1. Introduction

This Clause 4.6 Variation Request (**Variation Request**) has been prepared in support of a Development Application (**DA**) at 269 Marrickville Road, Marrickville, being the land legally described as Lot 12 DP 593725 (**Site**). Accordingly, this Variation Request is made to Inner West Council (**Council**) pursuant to Clause 4.6 of *Inner West Local Environmental Plan 2022 (IWLEP 2022)*.

The Proposal seeks consent to carry out alterations and additions to the existing building and adaptively reuse it to provide a commercial tenancy and parking on the ground floor level and a co-living housing development with 25 rooms above (**Proposal**). The works include the following:

- Partial demolition of the existing improvements on the Site, including removing the drive-through access and vehicular crossing from Despointes Street
- Alterations and additions to Ground Floor level of the building to accommodate:
 - New pedestrian entry and foyer to Despointes Street for co-living housing residents, with new accessible toilet and manager's reception
 - New space for future retail tenancy with accessible entry off Marrickville Road
 - New retail and residential waste storage areas
 - 19 bicycle parking spaces, 1 motorcycle parking space, and 1 accessible car parking space
- Internal alterations to the First Floor level to accommodate:
 - Bin room and garbage chute, communal cooking and dining area, communal laundry,
 - 10 co-living rooms, including 7 double rooms and 3 single rooms
- Internal alterations to the Second Floor level to accommodate:
 - Bin room and garbage chute, cleaners store, communal living area and kitchen, communal open space,
 - 5 co-living rooms, including 2 double rooms and 3 single rooms
- Retention and re-waterproofing of the existing Second Floor swimming pool, including new pool fencing and new retractable awning over
- Expanded Third Floor level to accommodate:
 - Bin room and garbage chute, cleaners store
 - 6 co-living rooms, including 2 double rooms and 4 single rooms, including 3 private balconies
- New Fourth Floor level to accommodate:
 - Bin room and garbage chute, cleaners store, communal terrace with pergola over,
 - 4 co-living rooms, including 1 double room and 3 single rooms
- Retention of the existing communications tower, and construct new access stairs and balustrade
- Associated signage, landscaping, civil works, and public domain works

The Site is zoned E1 Local Centre pursuant to IWLEP 2022. The Proposal involves commercial premises and co-living housing which is permitted with consent in the E1 zone pursuant to IWLEP 2022 and *State Environmental Planning Policy (Housing) 2021 (Housing SEPP)* and aligns with the zone objectives.

This Variation Request relates to the car parking non-discretionary development standard prescribed by Clause 68(2)(e) of the Housing SEPP. The Site is identified as being located on land in an accessible area and therefore a parking rate of 0.2 parking spaces for each private room applies. Accordingly, a minimum car parking requirement in relation to the co-living housing component of the development of 5 car parking spaces applies. The Proposal provides one (1) car parking space on the Site for the commercial tenancy, and nil car parking for the co-living component of the development. Therefore, the Proposal results in a variation to the non-discretionary development standard of 5 spaces or 100%.

Clause 68(2)(e) is a non-discretionary development standard, and Council may still grant consent despite the non-compliance with this standard if it is satisfied that the development is acceptable having regard to this element of the development.

This Variation Request has been prepared in accordance with the objectives contained within Clause 4.6 of IWLEP 2022 and the car parking non-discretionary development standard prescribed by Clause 68(2)(e) of the Housing SEPP. The objectives of Clause 4.6 are to provide an appropriate level of flexibility in applying a certain development standard to development, and to achieve better outcomes for and from development, by allowing flexibility in particular circumstances.

This request is structured to explicitly address the matters required to be addressed by the applicant under Clause 4.6(3) (a) and (b) for which the consent authority must be indirectly satisfied according to *Preston J in Initial Action Pty Ltd v Woollahra Council [2018] NSWLEC 242*. This request has been prepared having regard to the Department of Planning and Environment's Guidelines to Varying Development Standards (November 2023) and various recent decisions in the New South Wales (NSW) Land and Environmental Court (LEC) and the NSW Court of Appeals (Appeals Court).

It considers various planning controls, strategic planning objectives and existing characteristics of the Site, and concludes that the Proposal, despite the variation, is the best means of achieving the objectives of encouraging orderly development of the Site under the *Environmental Planning and Assessment Act 1979 (EP&A Act)*.

2. Development Standard Variation

The parameters of the Site and the provisions of Clause 68(2)(e) of the Housing SEPP are outlined in **Table 1** below.

Table 1. Non-discretionary development standard proposed to be varied	
Housing SEPP Clause	Parameter
Clause 68(2)(e) – Car Parking	0.2 car parking spaces for each private room
Number of Rooms	25 (5 spaces required)
Car Parking provided	0 spaces for co-living component
Bicycle & Motorcycle Parking provided	19 bicycle spaces, 1 motorcycle parking space

The Proposal seeks variation of 5 spaces or 100% to the development standard. The circumstances of the Site and the Proposal warrant an appropriate degree of flexibility in the application of the development standard to achieve the best outcome for the Site.

The Proposal seeks to adaptively reuse the existing building by retaining the ground-level retail tenancy and replacing the current sex services premises with co-living accommodation. This approach represents a more appropriate and contemporary use of the building, benefitting the community, while working within its established physical footprint and inherent site constraints.

The existing building on the Site currently provides for vehicle access on the Despointes Street frontage for drive-through bottle shop access. Nevertheless, in order to accommodate to the proposed residential and retail waste areas, a new residential lobby and reception, activation of the commercial tenancy and new accessible toilet, and the required motorbike and bicycle parking which are essential to the co-living use, as well as retaining the existing building fabric where possible, there is not sufficient space to accommodate 5 car parking spaces.

In accordance with Control 2.10.4(2) and Objective 2.10.1(5) of Part 2.10 of Marrickville Development Control Plan 2011 (**MDCP 2011**), the Proposal seeks a reduced car parking provision, recognising that the existing built form does not readily accommodate additional parking without disproportionate intervention. Instead, the upgraded on-site car space to an accessible facility improves functionality and inclusivity amongst disadvantaged occupants within the site's constraints.

The Site is in Parking Area 1 under MDCP 2011 which is defined as the most constrained and most accessible area of the LGA. The provision of car parking for the co-living development would necessitate demolition of the existing building to provide a basement level to accommodate only 6 car parking spaces and would render the adaptive reuse of the building as commercially unviable.

A Traffic Impact Assessment (TIA) was prepared in support of the Proposal and is provided at **Appendix 6**. The TIA concludes that the proposed 'constrained' parking arrangement is considered entirely appropriate in this location for the following reasons:

- The Site is located approximately 515 metres north of Marrickville railway station, placing it within a comfortable walking distance of frequent rail services and significantly reducing reliance on private vehicle ownership.
- There is a bus stop directly outside the Site, providing frequent bus services.
- The site is located within the Marrickville Town Centre, providing immediate pedestrian access to a wide range of retail and commercial services, including Woolworths Metro Marrickville approximately 100 metres to the south along Illawarra Road. This high level of amenity further diminishes the practical need for resident car ownership.
- The Site is located within the *low and mid rise housing area* pursuant to Chapter 6 of the Housing SEPP, recognising that the Site is in a highly accessible location for public transport and a strategic area for more housing provision.

With multiple public transport and active travel opportunities within walking distance of the site, as well as provision for 19 bicycle and 1 motorbike space, the Proposal positively encourages the use of sustainable transport modes.

Given the high accessibility of the Site and the reasonable provision of bicycle and motorbike parking on site, the variation from the car parking non-discretionary development standard is acceptable and would not have an unreasonable impact on the amenity or mobility of future residents. In this context, the reduced parking provision is justified given the Site's strategic location, adaptive reuse intent, and the contemporary shift toward walkability and public transport over private vehicle dependence.

By exercising the flexibility sought in this Variation Request, a better outcome is achieved by the development. The Proposal is consistent with the following objectives for car parking as outlined in Part 2.10 of MDCP 2011:

- *To improve the integration of land use and transport by applying strict constraints to car parking within accessible areas.*

The development will deliver co-living housing in a well-located area being within 500m from Marrickville Railway Station, as well as multiple bus stops along Marrickville Road, positively encouraging the use of sustainable transport nodes. The proposed development is in a highly accessible area reducing the need for individual car ownership.

- *To ensure parking provision and design is compatible with the particular development proposed.*

The nil car parking and replacement with bicycle parking is compatible with co-living housing given the demographics of this form of accommodation.

- *To allow for appropriate variation of provision rates and design parameters for developments with particular characteristics, such as affordable housing or re-use of older buildings.*

The Proposal seeks to adaptively reuse an underutilised building in a highly accessible area to deliver a suitable use for the Site, promoting the orderly and economic use of land through the sensitive redevelopment.

- *To provide for current and future demand for bicycle parking and to ensure bicycle parking is well designed and located.*

The Proposal provides 19 bicycle parking spaces for the co-living development which are safe, and well designed and located to serve residents.

- *To ensure all parking facilities achieve positive visual, environmental, sustainable transport and pedestrian safety outcomes through adoption of best practice principles.*

The Proposal improves pedestrian safety outcomes with the removal of the drive-through vehicular crossing on Despointes Street and contributes to a better urban design outcome.

- *To give priority, in larger developments and where appropriate, to certain users in allocating parking, including emergency vehicle parking, service/delivery, mobility parking, bus/bicycle priority and parking for carshare and environmental vehicles.*

The Proposal gives priority to the commercial tenancy and provides one (1) accessible car parking space to prioritise mobility parking.

It is therefore considered appropriate in this circumstance to vary the non-discretionary development standard.

3. Provisions of Clause 4.6

Clause 4.6 of IWLEP 2022 facilitates exceptions to strict compliance with development standards in certain circumstances. Clause 4.6(3) states (our emphasis added):

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, and
- (b) there are **sufficient environmental planning grounds to justify the contravention** of the development standard.

*Note— The Environmental Planning and Assessment Regulation 2021 requires a development application for development that proposes to contravene a development standard to be **accompanied by a document setting out the grounds** on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b)*

Accordingly, a consent authority must be satisfied:

- a) that the Clause 4.6 variation application addresses the matters in Clause 4.6(3); and
- b) of those matters itself which means that there is greater scope for a consent authority to refuse a Clause 4.6 variation.

These matters are addressed in this Variation Request.

4. Objectives of the Standard

Clause 68(1) identifies that the object of this section is to identify development standards for particular matters relating to development for the purposes of co-living housing that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.

Clause 3 of the Housing SEPP provides principles for the policy generally, which are reproduced below:

The principles of this Policy are as follows—

- (a) *enabling the development of diverse housing types, including purpose-built rental housing,*
- (b) *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,*
- (c) *ensuring new housing development provides residents with a reasonable level of amenity,*
- (d) *promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,*
- (e) *minimising adverse climate and environmental impacts of new housing development,*
- (f) *reinforcing the importance of designing housing in a way that reflects and enhances its locality,*
- (g) *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,*
- (h) *mitigating the loss of existing affordable rental housing.*

As no objectives specific to car parking are prescribed for Clause 68, the merits of the proposed variation have been assessed against the broader principles of the Housing SEPP have been discussed in **Table 2** below:

Table 2. Objectives of the Housing SEPP

Objective	Comment
(a) <i>enabling the development of diverse housing types, including purpose-built rental housing</i>	The Proposal provides co-living housing in an area traditionally containing detached dwellings, shop top housing, and residential flat buildings to provide diversity in accommodation types. The Proposal is consistent with this objective, notwithstanding the variation.
(b) <i>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</i>	The Proposal encourages affordable housing by replacing an existing sex services premises and dwelling with a co-living housing development providing 25 rooms and accommodating up to 37 residents. The Proposal is consistent with this objective, notwithstanding the variation.
(c) <i>ensuring new housing development provides residents with a reasonable level of amenity</i>	The Proposal replaces an existing sex services premises and dwelling with a co-living housing development and is consistent with all amenity controls prescribed by the Housing SEPP, IWLEP 2022 and MDCP 2011. Despite the nil car parking, a high level of amenity is provided for future occupants, and sufficient bicycle and motorcycle parking is provided which encourages active and low-cost methods of personal transport. The Proposal is consistent with this objective, notwithstanding the variation.
(d) <i>promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services</i>	The Proposal is located within an accessible area as defined by the Housing SEPP. The Proposal utilises the accessible location of the Site to provide additional accommodation in an area well served by public transport, shops, educational establishments, and employment opportunities. The Proposal is consistent with this objective, notwithstanding the variation.
(e) <i>minimising adverse climate and environmental impacts of new housing development</i>	The Proposal retains a significant part of the existing built form on the Site and adaptively reuses the existing building for additional housing with minimal structural demolition. Therefore, the impact of the change of use on the climate and environment is minimal and is consistent with the principles of ESD. The Proposal is consistent with this objective, notwithstanding the variation.
(f) <i>reinforcing the importance of designing housing in a way that reflects and enhances its locality</i>	The Proposal retains a significant part of the existing built form on the Site and adaptively reuses the existing building for additional housing with minimal structural demolition. Therefore, the design of the building remains consistent with the prevailing character of the area. The Proposal is consistent with this objective, notwithstanding the variation.

(g) <i>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</i>	The Proposal will have a positive impact on the social, economic and environmental attributes of the Inner West LGA. The Proposal is consistent with this objective, notwithstanding the variation.
(h) <i>mitigating the loss of existing affordable rental housing</i>	The Proposal encourages affordable housing and therefore is consistent with this objective, notwithstanding the variation.

5. Objectives of the Zone

Clause 2.3 of IWLEP 2022 sets out specific objectives of the E1 Local Centre zone. Therefore, consideration has been given to the objectives of Clause 2.3 in **Table 3** below:

Table 3. Objectives of the Zone	
Objective	Comment
<i>To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.</i>	The Proposal includes a Ground Floor commercial tenancy that will serve the needs of people who live in, work in or visit the area. The Proposal is consistent with this objective, notwithstanding the variation.
<i>To encourage investment in local commercial development that generates employment opportunities and economic growth.</i>	The Proposal is a significant redevelopment of the existing Site, with an investment of almost \$4m that will generate employment opportunities and economic growth in Marrickville and the wider Inner West Local Government Area. The Proposal is consistent with this objective, notwithstanding the variation.
<i>To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.</i>	The Proposal contributes to the delivery of diverse and affordable housing in the Inner West LGA, consistent with the NSW Government's housing supply priorities, the Housing SEPP objectives, and Inner West Council's Local Housing Strategy. The delivery of 25 co-living rooms in a highly accessible E1 Local Centre zone represents an efficient use of existing urban infrastructure and aligns with the strategic direction for the Site and locality. Shop top housing is permitted with consent pursuant to IWLEP 2022 and therefore residential accommodation aligns with Council's strategic planning for residential development in the area.

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To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.	The Proposal includes a Ground Floor commercial tenancy. The Proposal is consistent with this objective, notwithstanding the variation.
To provide employment opportunities and services in locations accessible by active transport.	The Proposal includes a Ground Floor commercial tenancy which provides employment opportunities in an area well located and accessible by active transport. A total of 19 bicycle spaces are provided in the development to promote active transport and utilise the Site's ideal placement a short walk from Marrickville Railway Station and with bus stops directly outside. The Proposal is consistent with this objective, notwithstanding the variation.
To provide retail facilities and business services for the local community commensurate with the centre's role in the local centres hierarchy.	The Proposal includes a Ground Floor commercial tenancy for the local community. The Proposal is consistent with this objective, notwithstanding the variation.
To ensure Inner West local centres are the primary location for commercial and retail activities.	The commercial tenancy is located within the local centre. Therefore, the Proposal is consistent with this objective, notwithstanding the variation.
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.	The Proposal replaces an existing shopfront with no glazing with an active street frontage along Marrickville Road and Despointes Street. Additionally, the vehicular crossing to Despointes Street is proposed to be removed, improving the pedestrian experience which will contribute to vibrant, diverse and functional streets and public spaces. Removal of the vehicular crossing has a direct correlation with the amount of parking able to be provided on Site, and in this instance, the improved pedestrian experience is treated as a priority. Therefore, the Proposal is consistent with this objective, notwithstanding the variation.
To enhance the unique sense of place offered by Inner West local centres by ensuring buildings display architectural and urban design quality and contributes to the desired character and cultural heritage of the locality.	The Proposal has been carefully designed to achieve a high standard of architectural quality, appropriate to the unique sense of place offered by the Site's location. The selection of materials, façade articulation, and level of detailing have been refined to ensure durability, visual interest, and consistency with the surrounding built environment. In particular, the use of green-toned wall tiles at the Ground Floor introduces visual interest at the pedestrian level, enhancing the experience of the public domain. At the upper levels, green-toned Colorbond cladding contributes to a distinctive yet contextual architectural expression, adding visual interest to the skyline while remaining complementary to the broader streetscape character.

The existing building fabric has also been carefully considered. The face brickwork will be retained and unified through a bagged render finish, allowing the original materiality to be preserved while presenting a more cohesive and refined architectural language across the development. This approach balances respect for the existing structure with the introduction of a contemporary design expression.

6. Establishing if the development standard is unreasonable or unnecessary

The NSW Land and Environment Court in *Four2Five Pty LTD v Ashfield Council* [2015] NSWLEC 90, considered how numerical compliance with a development standard might be considered unreasonable or unnecessary and referred to the earlier Court decision in *Wehbe v Pittwater Council* [2007] NSWLEC 827. The court provided five tests in which numerical compliance with a development standard might be considered unreasonable or unnecessary as follows:

- **Test 1:** *Establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the standard are achieved notwithstanding the non-compliance with the standard*
- **Test 2:** *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary*
- **Test 3:** *The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable*
- **Test 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; and/or*
- **Test 5:** *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

This Variation Request has adopted the first test in *Wehbe* to establish that compliance is unreasonable or unnecessary because the objectives of the non-discretionary development standard are satisfied notwithstanding the variation, as follows:

- The Housing SEPP requires a minimum of 0.2 parking spaces for each private room for co-living housing in an accessible area. No maximum provisions are set under the Housing SEPP for co-living housing. The relatively low rate of parking provision (0.2 spaces per room) is reflective of the underlying intent to promote public transport use and active travel in accessible areas.
- The Site is located in a highly accessible area, being within 500m from Marrickville Railway Station, as well as multiple bus stops along Marrickville Road with regular and frequent services. Therefore, the Site is very well serviced by multiple public transport modes, as well as having a strong active travel network with a number of key amenities and services, including Marrickville Local Centre, within walking distance.
- The Transport Impact Assessment (TIA) provided at **Appendix 5**, found that the proposed provision of motorbike and bicycle parking complies with the Housing SEPP requirement for a “reasonable provision of bicycle and motorbike parking spaces”. Given the high accessibility of the Site and the reasonable provision of bicycle and motorbike parking on site, the non-compliance with the car parking standard is acceptable for the use of the site and would not have an unreasonable impact on the amenity or mobility of future residents.

- The Proposal provides no car parking spaces, 19 bicycle spaces, and 1 motorcycle space. The prioritisation of bicycle parking encourages the use of active travel and minimises vehicle use and traffic as a result of the Proposal. The provision of no car parking spaces has been demonstrated above as being reasonable and appropriate given the sites highly accessible location, results in a negligible impact from traffic generation. Therefore, the objective to minimise the amount of vehicular traffic is met despite not complying with the required car parking numbers.
- The TIA concludes that the Proposal will not result in any unsatisfactory traffic, parking or servicing implications.
- It is noted that Draft Inner West Development Control Plan 2026 (**Draft IWDCP**) identifies the Site in Parking Area 2 and prescribes no minimum car parking requirements for co-living housing, further signalling a transition from private vehicle use to public and active transport by reducing parking requirements in high-accessibility areas which is supported by the Proposal.

As demonstrated above, the underlying objectives of the car parking non-discretionary development standard are achieved notwithstanding the proposed variation.

In view of the circumstances of the Proposal, strict compliance with Clause 68(2)(e) of the Housing SEPP is both unnecessary and unreasonable. The Proposal does not conflict with the intent of Clause 68(2)(e) of the Housing SEPP as demonstrated above and satisfies its objectives, notwithstanding the proposed numerical variation.

The Proposal will retain compatibility with surrounding development and continue to support the mixed residential and commercial nature of the Site whilst increasing housing supply in the area, consistent with the objectives of the E1 Local Centre zone.

7. Sufficient environmental planning grounds to justify contravening the development standard

The Variation Request is considered well founded because, notwithstanding the proposed variation to the minimum site area, there are sufficient environmental planning grounds to justify the contravention of the development standard, as follows:

- The car parking is consistent with the underlying objective of the standard as demonstrated in **Section 4**.
- The car parking is consistent with the objectives of the E1 Local Centre zone as described in **Section 5**.
- Compliance with the standard would be unreasonable and unnecessary for the reasons outlined in **Section 6**.
- The underlying objective of the non-discretionary development standard is to identify the required number of parking to meet the needs of the use, as well as minimising the amount of vehicular traffic generated because of proposed development. The proposed development is in a highly accessible area reducing the need for individual car ownership. With no parking proposed, this would have no impact on the surrounding road network. As such, it is considered that the objectives of the development standard are met despite the non-compliance.
- The Site is in Parking Area 1 under MDCP 2011 which is defined as the most constrained and most accessible area of the LGA.
- The Proposal aligns with the objectives of MDCP 2011, particularly *to allow for appropriate variation of provision rates and design parameters for developments with particular characteristics, such as affordable housing or re-use of older buildings*
- The Proposal will deliver co-living housing in a well-located area, positively encouraging the use of sustainable transport nodes.

- An underutilised building in a highly accessible area will be adaptively reused to deliver a suitable use for the site, promoting the orderly and economic use of land through the sensitive redevelopment.
- The TIA concludes that the proposed bicycle and motorbike parking provides sufficient transport options for residents, despite no car parking provision, and is therefore acceptable.
- Draft Inner West Development Control Plan 2026 (**Draft IWDCP**) identifies the Site in Parking Area 2 and prescribes no minimum car parking requirements for co-living housing, further signalling a transition from private vehicle use to public and active transport by reducing parking requirements in high-accessibility areas which is supported by the Proposal.

For the reasons outlined above, it is considered that the variation to the minimum site area development standard under Clause 68(2)(e) of the Housing SEPP is appropriate and can be clearly justified having regard to the matters listed within Clause 4.6(3)(b) under IWLEP 2022.

8. Objectives of the EP&A Act

Table 4 below outlines the objectives of the EP&A Act.

Table 4. Objectives of the EP&A Act	
Objective	Comment
(a) <i>to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,</i>	The Proposal will have positive social and economic impacts on the area and wider Inner West LGA given the employment generated by demolition and construction activities on the Site. No negative social or economic impacts are expected. The assessment carried out as part of the Statement of Environmental Effects has not identified any negative environmental outcomes as a result of the Proposal.
(b) <i>to promote the supply, delivery and maintenance of housing, including affordable housing,</i>	The Proposal promotes the supply and delivery of affordable housing by replacing an existing sex services premises and dwelling with a co-living housing development providing 25 rooms and accommodating up to 37 residents. The Proposal is consistent with this objective, notwithstanding the variation.
(c) <i>to promote productivity through the development and management of the State and its resources,</i>	The Proposal provides employment generation to promote productivity.
(d) <i>to protect the environment, including the conservation of threatened species of native animals and plants and ecological communities and their habitats,</i>	The Proposal will not have any adverse impact on the environment including threatened and other species of native animals and plants, ecological communities and their habitats.

(e) <i>to promote resilience to climate change and natural disasters through adaptation, mitigation, preparedness and prevention,</i>	The Proposal is consistent with this objective by achieving benchmark sustainability standards to achieve ecologically sustainable development (ESD). The Proposal promotes energy efficiency and prevents environmental impact.
(f) <i>to promote the sustainable management of built and cultural heritage, including Aboriginal cultural heritage,</i>	The Proposal does not impact on the heritage significance of any nearby heritage items or Heritage Conservation Areas thereby aligning with sustainable management practices for built and cultural heritage.
(g) <i>to promote good design, amenity and the proper construction and maintenance of built environments, including the protection of the health and safety of the occupants of buildings,</i>	The Proposal promotes a high level of architectural design and amenity outcomes for the Site. The Proposal adheres to current building standards and regulations, ensuring the safety and well-being of residents.
(h) <i>to provide opportunities for participation in environmental planning and assessment,</i>	The DA is subject to the relevant public notification requirements top allow for community consultation.
(i) <i>to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,</i>	A Section J Report was submitted with the DA which sets benchmark sustainability standards to achieve ESD. The Proposal minimises environmental impact by reducing car dependency and promoting active and public transport.
(j) <i>to promote a proportionate and risk-based approach to environmental planning and assessment,</i>	The Proposal results in a number of minor variations as a result of the adaptive reuse of the existing building, including car parking and FSR. Council is encouraged to partake in a proportionate and risk-based assessment of the Proposal in accordance with this objective.
(k) <i>to promote the orderly and economic use and development of land.</i>	The proposed variation supports the efficient use of the Site for commercial and residential purposes while ensuring compliance with planning principles. The Proposal optimises land use and contributes to the orderly and economic use and development of land in the area.

9. Matters of state and regional significance

The proposed variation will not give rise to any matters of significance for state or regional environmental planning. They will also not conflict with any State Environmental Planning Policy or Ministerial Directives under section 9.1 of the EP&A Act. Planning Circular PS 08-014, issued by the former NSW Department of Planning, requires that all development applications including a variation to a standard of more than 10% be considered by full Council rather than under delegation. It is noted that this proposed variation exceeds 10% and would be required to be determined by the Local Planning Panel.

10. Summary and Conclusion

For the reasons outlined above, it is considered that the variation to Clause 68(2)(e) of the Housing SEPP is well-founded in this instance and is appropriate in the circumstances. Furthermore, the Variation Request is well-founded for the following reasons as outlined in Clause 4.6 of IWLEP 2022 and relevant case law:

- The Proposal is consistent with the objectives of the particular standard and the objectives of the standard are achieved notwithstanding the non-compliance with the standard (refer to **Section 4**).
- The Proposal is consistent with the objectives for development within the zone (refer to **Section 5**).
- Strict compliance with the development standard is unreasonable and unnecessary in the circumstances (refer to **Section 6**).
- There are sufficient environmental planning grounds to justify contravening the development standard (refer to **Section 7**).
- The Proposal is consistent with the objectives of the Environmental Planning and Assessment Act 1979 (refer to **Section 8**).
- The Proposal does not give rise to any matter of significance for the State or regional environmental planning and is consistent with the visions and objectives of the relevant strategic plans (refer to **Section 9**).

Overall, it is considered that the proposed variation to the minimum lot size development standard control is entirely appropriate and can be clearly justified having regard to the matters listed within Clause 4.6 of IWLEP 2022.