

OBJECTION TO CLAUSE 4.6 VARIATION (BUILDINGS G, A & F)

Timber Yards State Significant Development

1. Introduction

This submission objects to the clause 4.6 variation sought for **Buildings G, A and F** in the Timber Yards State Significant Development proposal.

These buildings significantly exceed the **Housing SEPP cl 16(3)** height standards applicable to their frontages.

Height Exceedances

Sydenham Road (Building G)

- LEP height control: **11 m**
- SEPP bonus height ($\times 1.2$): **13.2 m**
- Proposed height: **~28.7 m**
- **Exceedance**: approx. **15.5 m ($\approx 117\%$)**

Farr Street (Buildings A, F and part of G)

- LEP height control: **20 m**
- SEPP bonus height: **up to 24 m permissible**
- **Building A**: proposed **31.2 m $\rightarrow +7.2 m$ ($\approx 30\%$)**
- **Building F**: proposed **29.2 m $\rightarrow +5.2 m$ ($\approx 21.7\%$)**
- **Building G (Farr-facing portion)**: proposed **28.7 m $\rightarrow +3.3 m$ ($\approx 13.7\%$)**

These exceedances create overshadowing, bulk, transition and character impacts that **do not arise under a compliant envelope**.

2. Impacts Arising Only From the Additional Height

2.1 Overshadowing (Primary Issue)

The applicant's own comparative diagrams show:

- **Additional winter overshadowing** to dwellings on Sydenham Road.
- This shadow occurs **only** in the over-height scheme.
- The compliant 13.2 m envelope **avoids this impact entirely**.
- Affected areas include **private open space and living rooms** during peak winter sun hours.

This is a clear planning impact triggered solely by the height contravention.

2.2 Visual and Bulk Impacts

- The proposal creates a **bulky, visually dominant edge** on Sydenham Road and Farr Street.
- Height is concentrated in locations where the planning framework expects **transition down**, not up.
- The compliant envelope presents a materially lower and more appropriate edge condition.

2.3 Traffic and Yield Effects

- Additional height → additional GFA → additional dwellings → **additional vehicle movements**.
- The applicant does not separate traffic effects arising from the **exceedance** versus the **underlying redevelopment**.

2.4 Precedent Effects Across the Precinct

Approving heights more than 120% above the SEPP limit will:

- Undermine the intended **height hierarchy** in the precinct.
- Make future departures difficult to resist.
- Shift the precinct away from the **Victoria Road-to-Sydenham Road step-down model** envisaged under cl 6.31 and the DCP.

3. Clause 4.6(3)(a): Compliance Has Not Been Demonstrated to Be Unreasonable or Unnecessary

Clause 4.6(3)(a) requires the applicant to **demonstrate** that compliance with the development standard is unreasonable or unnecessary.

The applicant relies on the **First** and **Third** Wehbe Methods.
Neither is satisfied.

3.1 First Wehbe Method — “Objectives Achieved Despite Non-Compliance”

The relevant development standard is **Housing SEPP cl 16(3)** (maximum height under ARH bonus).

The standard's purpose is to:

- Set the **outer height limit** when using affordable housing uplift.
- Maintain a **predictable and capped** built form outcome.
- Achieve a **step-down** to sensitive interfaces (in conjunction with the LEP height control).
- Avoid **overshadowing and excessive bulk** (in conjunction with the LEP height control).

This purpose is **not achieved** because:

- Building G exceeds the limit by **117%**.
- Buildings A and F exceed the **24 m limit** by **30%** and **21.7%**.
- These exceedances create the very impacts (shadow, bulk, transition failure) the standard aims to avoid.

The First Wehbe Method is not satisfied.

3.2 Third Wehbe Method — “Purpose of the Standard Not Relevant”

This method only applies where the purpose of the development standard is irrelevant to the site.

Here:

- The SEPP height standard is **fundamental** to setting the built form envelope.
- It remains directly engaged because exceeding it produces concrete impacts.
- It governs the district-wide **uplift logic** for affordable housing.

The Third Method does not apply.

3.3 Conclusion on Clause 4.6(3)(a)

Because neither Wehbe method is met, the applicant has **not demonstrated** that compliance with the height standard is unreasonable or unnecessary.

Clause 4.6(3)(a) is not satisfied.

4. Clause 4.6(3)(b): Sufficient Environmental Planning Grounds Have Not Been Demonstrated

To justify a contravention, the applicant must demonstrate **environmental planning grounds** that relate to the **purpose** of the height standard.

However:

- No alternative massing options are tested.
- No analysis is made of shifting height **internally**.
- No case is made that height must be located at the **edge** of the site.
- OLS constraints do not explain the **location** of excess height.

There are **no demonstrated planning grounds** to justify placing the tallest built form at the most sensitive interfaces.

Clause 4.6(3)(b) is not met.

5. Relationship Between Bonus Height and Bonus Floor Space

The applicant assumes the full bonus FSR must be accommodated regardless of envelope constraints.

This is incorrect.

- Height and floor space are **paired controls**.
- If bonus height cannot be achieved acceptably, **bonus FSR must be capped**.
- No testing has been done of yields achievable within a compliant or justified envelope.

6. Desired Future Character — LEP cl 6.31 and Timber Yards DCP

The planning framework provides:

- Greater height directed **internally** and toward **Victoria Road**.
- A **controlled step-down** to Sydenham Road and Farr Street.
- Protection of residential amenity.

Buildings G, A and F reverse this pattern by locating the taller elements at the lowest-scale edges.

This outcome is inconsistent with cl 6.31 and the DCP.

7. Impacts Above the Complying Envelope (Summary)

- **Additional overshadowing** to Sydenham Road dwellings.
- **Excessive bulk** and loss of transition.
- **Increased traffic and activity** due to higher GFA.
- **Precedent risk** undermining broader precinct controls.

These impacts do not occur under compliant envelopes.

8. Requirement for Planning Proposal Where Exceedance Exceeds 20%

As a matter of Departmental practice:

- Where an SSDA seeks to exceed development standards (height or FSR) by more than **20%**,
- The application should be accompanied by a **planning proposal** to amend the LEP.

Here:

- Building G exceeds the standard by **117%**.
- Building A exceeds by **30%**.
- Building F exceeds by **21.7%**.
- **No planning proposal has been lodged.**

This circumvents the strategic planning process and denies the community the opportunity to consider height changes through the proper mechanism.

9. Conclusion

The applicant has not demonstrated either limb of clause 4.6(3).

Therefore:

- The consent authority **cannot be satisfied** that compliance is unreasonable or unnecessary; and
- The consent authority **cannot be satisfied** that sufficient environmental planning grounds justify the contravention.

The clause 4.6 variation should not be approved for Buildings G, A or F.