

Attachment C

Clause 4.6 Variation Request – Height of Building



Clause 4.6 Variation

Clause 4.3 Height of Building – Sydney LEP 2012
20-26 Bourke Road, Alexandria

Prepared for City West Housing

02.10.25
24162

Beam Planning acknowledge that Aboriginal and Torres Strait Islander peoples are the First Peoples and Traditional Custodians of Australia. We pay respect to Elders past and present and commit to respecting the lands we walk on, and the communities we work with.

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Executive Summary

Clause 4.6 of the *Sydney Local Environmental Plan 2012* (SLEP 2012) enables the consent authority to grant consent for development even though it contravenes a development standard. Its objectives are to provide an appropriate degree of flexibility in applying certain development standards and to achieve better outcomes for and from development by allowing flexibility in particular circumstances. Clause 4.6(3) requires that development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that:

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

The table below provides a summary of the key matters required in a Clause 4.6 Variation set out in the Department of Planning and Environments *Guide to Varying Development Standards November 2023*.

Where is the site?	20-26 Bourke Road, Alexandria
What is the proposed development?	The proposed development is for the redevelopment of an industrial site in Alexandria to deliver a new 15 storey residential building comprising 161 affordable housing dwellings, ground level commercial and community facilities, and associated landscaping and public domain works. The development also seeks to retain the existing Mecca building on site, which is currently used for the purposes of a coffee roasting facility and café.
What is the variation?	The proposed development has a maximum height of building of 51.4m, measured to the top of the lift overrun and localised plant enclosure, which represents: • A 6.4m (14.2%) variation to the current 45m height limit, or • A 1.9m (3.8%) variation to the future height limit of 49.5m (if the 10% bonus is applied once the Sydney Housekeeping Amendments are gazetted). By way of background, the Sydney Housekeeping Amendments proposed a number of amendments to the Sydney Local Environmental Plan 2012 (Sydney LEP 2012) and the Sydney Development Control Plan 2012 (Sydney DCP 2012). Of particular relevance to this project is the proposed change to allow the 10% design excellence bonus under Clause 6.21D of the Sydney LEP 2012 to be granted to both height and floor space ratio. These amendments have been endorsed by the Central Sydney Planning Committee and Council and are anticipated to be finalised by late 2025 while the development application is under assessment. Therefore, this Clause 4.6 Variation Request has been prepared to assess the variation to the current building height of 45m. However, it acknowledges the forthcoming amendments to the Sydney LEP 2012, which will be gazetted while the application is under assessment and therefore, reduce the variation to just the lift overrun and localised plant.
Why is compliance with the building height development standard is unreasonable and unnecessary in the circumstances of the case?	The proposal achieves the objectives of Clause 4.3 Height of Building standard under the Sydney LEP 2012, notwithstanding the non-compliance as: • The height of development is appropriate to the condition of the site and its context. • It achieves an appropriate height transition to surrounding development, particularly from the Green Square Town Centre to the east. • It protects and enhances the amenity of the public domain, while ensuring a built form that contributes to the definition of the street network and public spaces.
What are the sufficient environmental planning grounds to justify contravention of the development standard?	The environmental planning grounds to justify contravention of the height of building development standard are: • There are imminent changes to the LEP that will allow for an additional 10% height to be achieved on the site through a design excellence process. The design is the direct result of a rigorous and comprehensive design excellence process undertaken in collaboration with Council and the Design Advisory Panel (DAP), who have ultimately confirmed in a Design Statement that the project demonstrates the potential to achieve design excellence. • The height protrusion will not result in any adverse environmental impacts, particularly in terms of visual impact and overshadowing. • The provision of affordable housing is directly aligned with several NSW strategic planning objectives and will assist in alleviating the current housing crisis, and strict compliance with the controls will reduce the number of affordable dwellings on the site by 24 dwellings, which would otherwise provide housing for 34-68 people. • The proposed development is compliant with the floor space ratio controls and therefore, is consistent with the built form and overall bulk and scale envisaged for the site. In light of the above that the consent authority can be satisfied that there are sufficient grounds to support the proposed variation.

1.0 The Development Site

 Address	20-26 Bourke Road, Alexandria
 Legal Description	Lot 1 in DP 333175 Lots 2-3 in DP 230211 Lot 14 in DP 536846
 Site Area	3,306m ²
 Owner	City West Housing

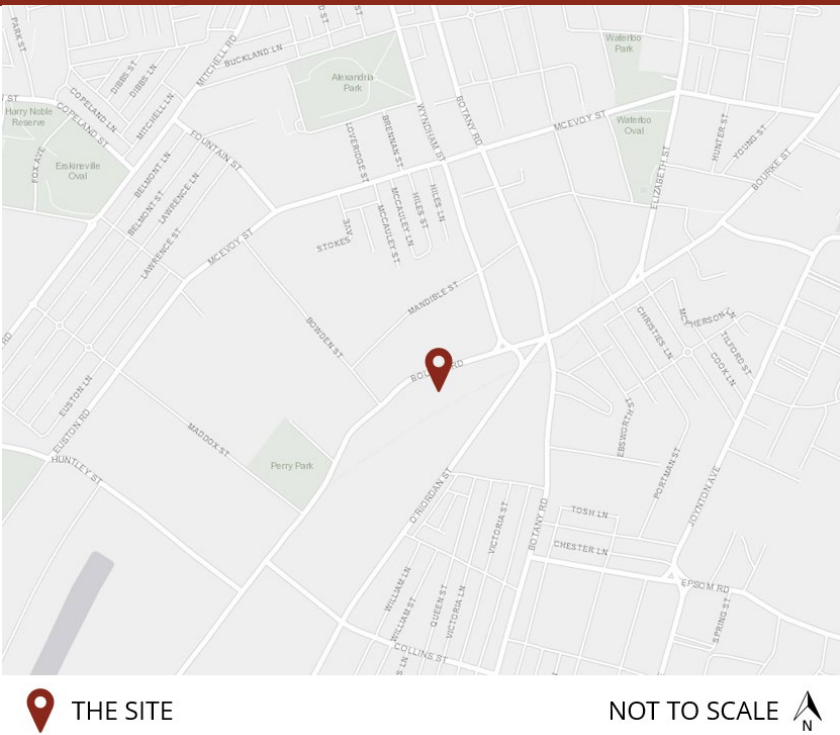


Figure 1 Location Plan



THE SITE

NOT TO SCALE

Figure 2 Aerial Photo

2.0 The Proposed Development

The proposed development involves a new mixed-use development, comprising non-residential uses at the ground level and affordable housing above, as well as the retention of the existing Mecca Coffee Café.

Specifically, the proposed works include:

- Early works and site preparation, including excavation and demolition of existing structures at 20-24 Bourke Road.
- Retention of the existing building and use of the Mecca Coffee Café at 26 Bourke Road, with minor alterations to the rear carparking area.
- Construction of a new 15-storey mixed use development with a maximum building height of 51.4m and total gross floor area of 12,019m², comprising:
 - 199m² of non-residential floor space at the ground level, including a commercial premise and community facility.
 - 11,820m² residential floor space, comprising a total of 161 dwellings, including 4 terrace apartments, from Level 1 and above which will be used for the purpose of 100% social and affordable housing.
- Ground floor parking and loading bay, comprising 14 residential and 2 service vehicle car parking spaces and 182 bicycle spaces.
- Vehicular access provided via Bourke Road.
- Associated landscaping and public domain works, including footpath and laneway widening and embellishments.
- Consolidation of the existing lots and subdivision to facilitate dedication of land to Council and future ownership.
- Extension and augmentation of physical infrastructure and utilities as required.
- Remediation of land.

Architectural Drawings and a Design Report prepared by Bates Smart illustrating the proposed development are included within the DA. An artist's impression of the proposed development is shown at **Figure 6** below.



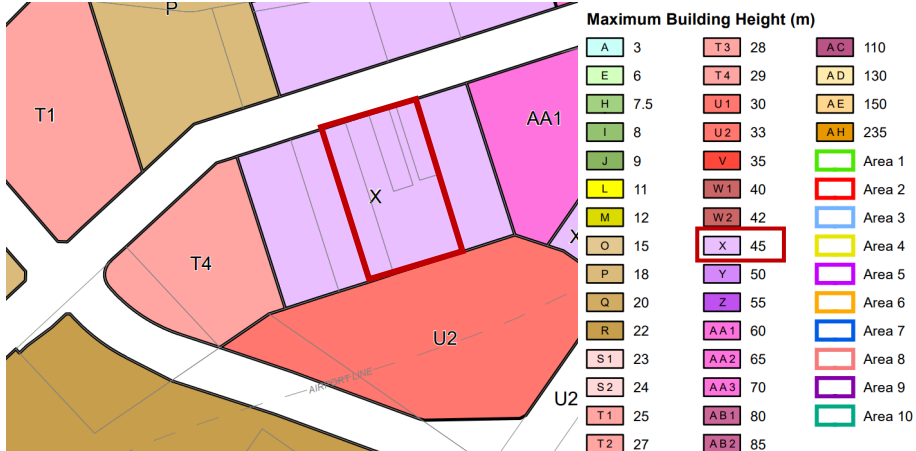
Figure 3 Artist's Impression of the proposed development

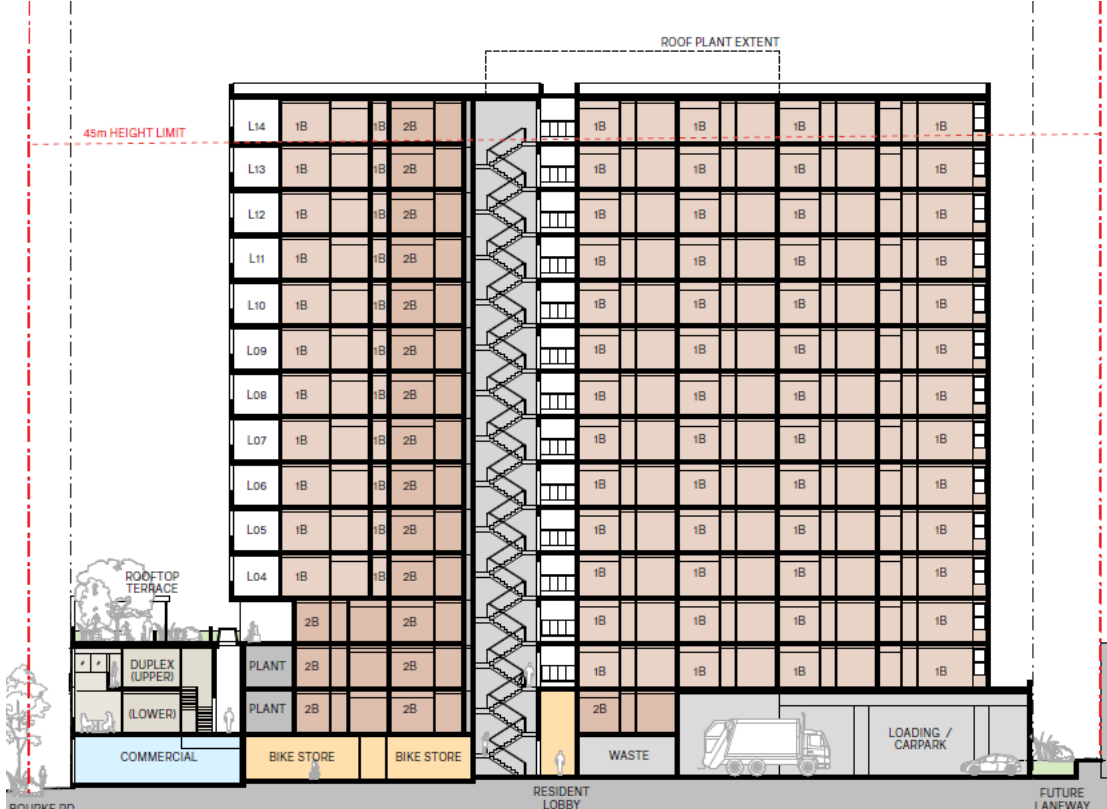
Source: Bates Smart

3.0 The Proposed Variation

This section outlines the relevant environmental planning instrument (EPI), the development standard to be varied and proposed variation.

Table 1 Planning instrument, development standard and proposed variation

Matter	Comment
Environmental planning instrument (EPI) sought to be varied	Sydney Local Environmental Plan 2012 (Sydney LEP 2012)
The site's zoning	E3 Productivity Support The objectives of this land use zone are: - To provide a range of facilities and services, light industries, warehouses and offices. - To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres. - To maintain the economic viability of local and commercial centres by limiting certain retail and commercial activity. - To provide for land uses that meet the needs of the community, businesses and industries but that are not suited to locations in other employment zones. - To provide opportunities for new and emerging light industries. - To enable other land uses that provide facilities and services to meet the day to day needs of workers, to sell goods of a large size, weight or quantity or to sell goods manufactured on-site. - To encourage employment opportunities. - To promote land uses with active street frontages. - To promote for land uses that support the viability of adjoining industrial land uses.
Development standard sought to be varied	Clause 4.3 Height of Buildings The objectives of this clause are: (a) to ensure the height of development is appropriate to the condition of the site and its context, (b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas, (c) to promote the sharing of views outside Central Sydney, (d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas, (e) in respect of Green Square— (i) to ensure the amenity of the public domain by restricting taller buildings to only part of a site, and (ii) to ensure the built form contributes to the physical definition of a street network and public spaces. The maximum building height for the site is 45m (refer to Figure 7).  Figure 4 Height of Building Map – Sheet HOB_011 (site outlined in red) Source: Sydney LEP 2012 Height of Building Maps

Matter	Comment
Planning Context	Pursuant to Clause 4.3 of the Sydney LEP 2012, the maximum permissible building height on the site is 45m. Council is currently pursuing the Sydney Housekeeping amendments, which propose a range of updates to both the Sydney LEP 2012 and the Sydney Development Control Plan 2012 (Sydney DCP 2012). One of the proposed changes of relevance to this project is the proposed amendment to clause 6.21D, which would allow the 10% design excellence bonus to be applied to both building height and floor space, rather than being limited to one or the other. The Sydney Housekeeping Amendments were endorsed by the Central Sydney Planning Committee (CSPC) and Council in July 2025, however, are yet to be formally adopted and gazetted into the LEP and DCP, which is anticipated to be in Q4 2025. While not yet in force, the proposed development has been designed accordingly in anticipation of this amendment and therefore, seeks to utilise the 10% floor space and height bonus, which would allow a maximum building height of 49.5m.
The proposed Variation	The proposed development has a maximum building height of 51.4m, measured to the top of the lift overrun and localised plant enclosure, which represents: • A 6.4m (14.2%) variation to the current 45m height limit, or • A 1.9m (3.8%) variation to the future height limit of 49.5m (if the 10% bonus is applied). As illustrated in Figure 5 below, the variation is limited to one additional storey above the current height limit, or solely due to the lift overrun and localised plant if assessed under the future controls.  Figure 5 Proposed Variation Source: Bates Smart

4.0 Justification for Contravention of the Development Standard

Clause 4.6(3) of the Sydney LEP 2012 provides that:

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

These key considerations are considered in their respective sections below.

4.1 Clause 4.6(3)(a): Compliance with the development standard is unreasonable or unnecessary

This Clause 4.6 Variation Request establishes that compliance with the development standard is unreasonable or unnecessary in the circumstances of the proposed development because the objectives of the standard are achieved and accordingly justifies the variation to the height control pursuant to the 'First Method' outlined in Wehbe.

The discussion under the following subheadings demonstrates how the proposed height variation achieves the objectives of the Height of Building development standard notwithstanding the non-compliance.

Objective 4.3(a) to ensure the height of development is appropriate to the condition of the site and its context

The proposed development, including the variation to the height of building development standard, results in a building form that is appropriate for the site and its broader urban context.

The site is located within a highly urbanised and evolving precinct, being Green Square, where the surrounding built form comprises a mix of existing light industrial uses and emerging mid-rise residential and commercial development. As illustrated in **Figure 6** below, the permissible building heights within the surrounding area range from 29 to 60 metres, excluding the 10% design excellence bonus.

Immediately adjacent sites along Bourke Road are currently subject to a 45m height control (or 49.5m with the 10% design excellence bonus). The proposed building, with a height of 51.4m to the top of the lift overrun, will remain contextually appropriate and consistent with the desired future character of the area. The portion of the development that exceeds the height control is modest in scale, primarily limited to the lift overrun and localised plant and one additional storey, which will largely be imperceptible from the street level and the broader public domain.

The minor variation has been carefully considered and is justified through a high-quality design response that reflects extensive site analysis, detailed modelling and extensive consultation with Council and the Design Advisory Panel. The resulting built form responds sensitively to the site's conditions and maintains appropriate scale, articulation and amenity outcomes for both residents as well as the neighbouring development.

Accordingly, the proposed height is considered appropriate in the context of both current controls and the anticipated future character of the area, and it satisfies the objective of Clause 4.3(a) of the Sydney LEP 2012.



Figure 6 Permissible Building Heights of surrounding development

Source: Bates Smart

Objective 4.3(b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas

The site is not a heritage item, nor is it located within a heritage conservation area or special character area. Its immediate context is characterised by light industrial land uses and buildings of similar built form and architectural expression to that proposed. The minor increase in height, largely in accordance with the 10% height bonus soon to be implemented, will not result in any adverse impact on local character or heritage items. As such, the proposal is consistent with this objective.

Objective 4.3(c) to promote the sharing of views outside Central Sydney

The site is located within the North Alexandria within both the Southern Enterprise Area and Green Square, which is situated outside of Central Sydney. The area is undergoing a transition from light industrial uses to mid-rise commercial and residential development in line with the broader vision for Green Square.

The proposed development is consistent with the evolving character and built form of the precinct. Although the proposal seeks a variation to the maximum building height standard, the exceedance equates to one additional storey on the basis of the current controls, or a minor lift overrun and localised plant if assessed against the future permissible height with a 10% bonus. In either case, the additional height is minor and will not result in the obstruction of any significant view corridors, and it is not anticipated to obstruct any private views across the site.

Accordingly, the proposed development satisfies Objective 4.3(c) by ensuring equitable view sharing is maintained within a changing urban context, and no adverse impacts arise as a result of the proposed variation.

Objective 4.3(d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas

As detailed above and within the Sydney DCP 2012, the site is located within the North Alexandria precinct, which is within both the Green Square Urban Renewal Area and the Southern Enterprise Area as illustrated in **Figure 7** below. This area is located on the western edge of the Green Square centre and will evolve over time from an area characterised by light

industrial uses to a thriving employment neighbourhood incorporating a range of uses, including high density commercial and affordable housing, where suitable.

The proposed development has been designed to deliver a building height that is relatively consistent with the surrounding existing, approved and future developments. It will reinforce the desired future character of the area and contribute to a transition in height and built form moving away from the town centre. The minor height exceedance, primarily due to one additional storey (based on current controls) or due to the lift overrun and localised plant (based on the 10% design excellence bonus) will not result in any adverse visual impacts and is unlikely to be perceptible at street level.

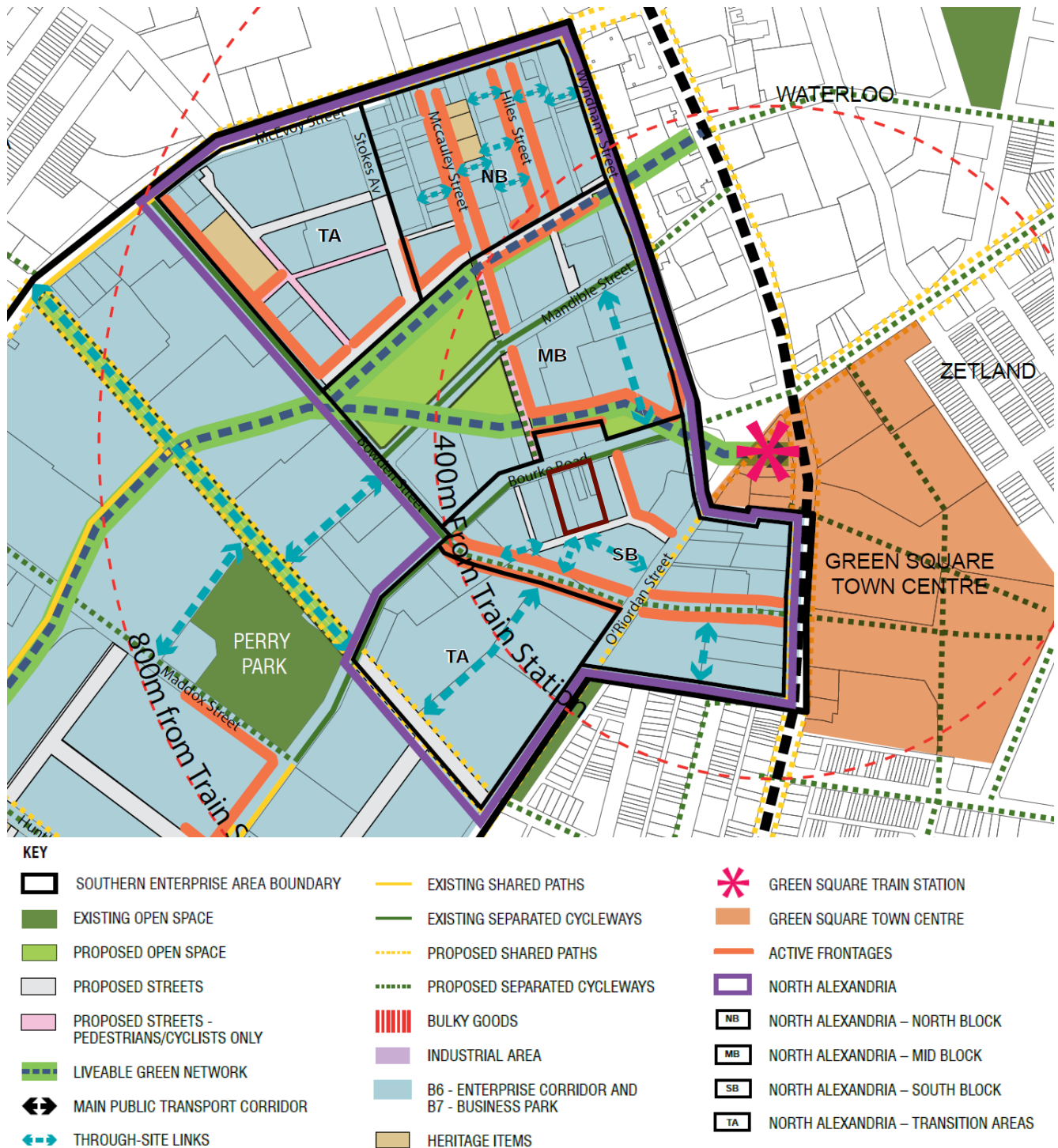


Figure 7 Southern Enterprise Area map

Source: Sydney Development Control Plan 2012

Objective 4.3(e) in respect of Green Square—

(i) to ensure the amenity of the public domain by restricting taller buildings to only part of a site, and

The proposed built form has been carefully designed to positively contribute to the public domain, with consideration given to building articulation and expression, architectural quality and streetscape integration. The development responds sensitively to the evolving urban character of the area, which is transitioning from a light industrial precinct to a vibrant mixed-use employment neighbourhood as detailed above.

This is demonstrated through the incorporation of key architectural features as illustrated in **Figure 8** below, including the sawtooth roof form along podium fronting Bourke Road. This element references the existing Mecca Building on the site, reinforcing a cohesive urban character and celebrating the industrial heritage of the precinct. In addition, the street wall is articulated into four distinct bays, creating a rhythm in width and built from with adjoining buildings and therefore contributing to a consistent and human scaled streetscape. The quality of the built form and design, together with the proposed upgrades to the public domain will improve the visual and functional amenity of area, creating a more welcoming and engaging pedestrian environment for residents and visitors of the site.

Furthermore, it is emphasised that the proposed height variation, whether considered as one additional storey under current controls or as a minor lift overrun and localised plant under future provisions, have been carefully located and designed to avoid any impact on the public domain. These elements are modest in scale and will not be noticed from the street level, ensuring the amenity of the public domain is protected.

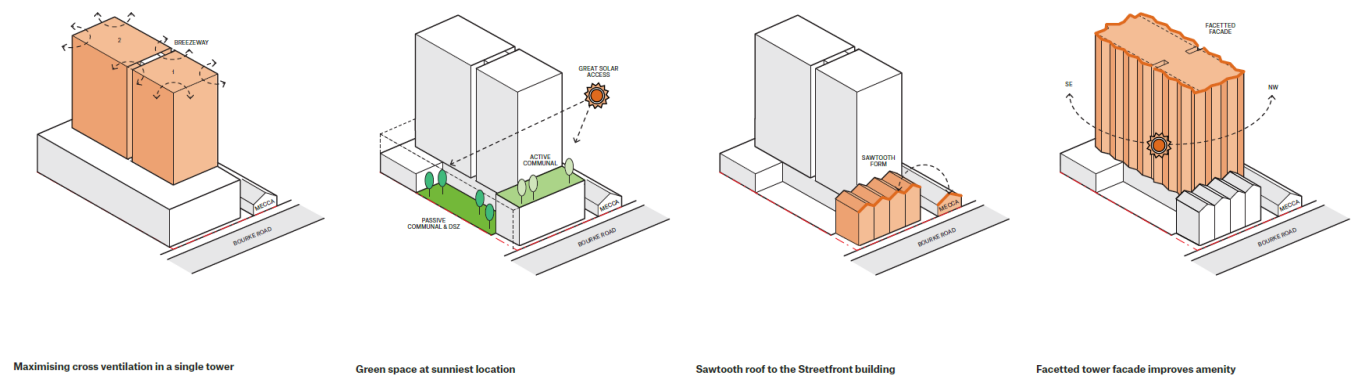


Figure 8 Built Form and Massing Strategy

Source: Bates Smart

(ii) to ensure the built form contributes to the physical definition of the street network and public spaces

As detailed above and within the Design Report prepared by Bates Smart, the proposed development has been designed to reinforce and enhance the urban character of the area by clearly defining the street edge and contributing to a cohesive and legible public domain.

The building establishes a strong three storey street wall along Bourke Road, with the podium articulated into four distinct bays with a sawtooth roof form that references the surrounding industrial character, including the existing Mecca building on the site. The tower above features an angled façade, which creates further articulation to reduce the perceived bulk and scale and enhance visual interest of the site. Together, these design strategies contribute directly to the physical definition of the street network and public spaces by creating a consistent and cohesive built form.

The development also responds to the public domain and road widening objectives of the Sydney DCP 2012 by incorporating a 2.4m setback along Bourke Road for footpath widening and a 3m setback from the southern boundary to facilitate the provision of a new road. Additionally, the proposal includes the staged delivery of a through site link, which will function initially as a vehicular access driveway and later transition into a pedestrianised laneway once the future road to the rear is completed. This element will further integrate the site into the emerging network of connections within Green Square.

At the ground plane, the inclusion of non-residential uses, including the retention of the Mecca café, the proposed community centre, and a new commercial tenancy, will ensure an active and engaging street interface, which will contribute positively to the surrounding public domain.

Overall, the proposal, irrespective of the proposed height variation, delivers a built form that meaningfully defines the street network and enhances the legibility, activation, and connectivity of the public domain and public spaces.

4.1.1 Assessment against the zoning objectives

The proposed development (inclusive of the proposed height exceedance) is consistent with the objectives of the E3 Productivity Support land use zone, as presented in **Table 2**.

Table 2 The proposed development's alignment with the objectives of the E3 Productivity Support zone

Objective	Alignment
<i>To provide a range of facilities and services, light industries, warehouses and offices.</i>	The proposed development comprises affordable housing in line with Clause 7.13A of the Sydney LEP 2012, which permits residential accommodation for the purposes of affordable housing within an identified Business Area on the Locality and Site Identification Map, which the site is located on. As detailed within the SEE, It will also retain the existing roastery and coffee on the site within the existing Mecca building, as well as provide a commercial premise and community facility at the ground level of the new building to support an activate and vibrant public domain.
<i>To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres.</i>	The proposed land uses on site including, shop top housing, commercial, community facility and retail are compatible with each other, as well as the surrounding land uses of the local centre. It is acknowledged that there are a range of new approved and proposed developments, including a number of affordable housing projects in line with Clause 7.13A.
<i>To maintain the economic viability of local and commercial centres by limiting the certain retail and commercial activity.</i>	The proposed development involves the retention of the existing Mecca use on the site, which currently attracts a number of visitors throughout the week and weekends. Therefore, the retention of the café and roastery, along with the provision of a commercial premise and community facility, the proposed development will contribute to maintaining the economic viability of the Green Square growth centre.
<i>To provide for land uses that meet the needs of the community, businesses and industries but that are not suited to locations in other employment zones.</i>	In light of the current housing crisis, the provision of affordable housing on the site directly meets the needs of the community as evidenced by the number of applicants on City West Housings waitlist within the Sydney LGA and is consistent with the Council's policy position to allow affordable housing within the zone. The proposed development, including the small commercial premise and the community facility are suited to this location and satisfy the provisions of Clause 7.13A, specifically in that the development is compatible with the existing and approved uses of land in the vicinity of the development.
<i>To provide opportunities for new and emerging light industries.</i>	The retention of the existing Mecca roastery, a warehouse and form of light industry, supports this objective. The proposal safeguards the use, while providing a flexibly designed commercial space at the ground level that can accommodate a range of uses, consistent with the evolving character of the area.
<i>To enable other land uses that provide facilities and services to meet the day to day needs of workers, to sell goods of a large size, weight or quantity or to sell goods manufactured on-site.</i>	The proposal supports this objective by retaining the Mecca coffee roastery, which manufactures goods on-site for retail sale, therefore, maintaining a land use that aligns with light industrial functions. In addition, the development also comprises a commercial tenancy and community facility that will meet the daily needs of workers and residents within the precinct and the surrounding area. These uses enhance the amenity of the area and contribute to a diverse and functional precinct.

Objective	Alignment
<i>To encourage employment opportunities.</i>	The proposal retains and enhances existing employment generating uses (café and roastery), while introducing new commercial and community uses that will support additional employment. The affordable housing component also supports the local workforce by enabling residents to live close to employment hubs and contributing to the local economy through increased resident expenditure.
<i>To promote land uses with active street frontages.</i>	The proposed development incorporates commercial and community uses at the ground level with direct street access and frontage, ensuring an active and engaging interface with the public domain. The continued operation of the Mecca café will also reinforce activation and pedestrian engagement. It is noted that the proposal also comprises an internal shared driveway that separates the new building from the existing Mecca building. In future, this driveway will be transferred into a pedestrian laneway, once the future road at the rear of the site is delivered by Council. This laneway, as well as the proposed public domain improvements will contribute towards the activation and enhancement of the street scape.
<i>To provide for land uses that support the viability of adjoining industrial land uses.</i>	The development retains the industrial activity of the coffee roasting facility within the existing Mecca building and introduces compatible land uses, including affordable housing, commercial premises, and a community facility. This mix of uses supports the viability of the surrounding industrial and employment land by providing services and amenities for workers and residents, without displacing or conflicting with existing industrial operations.

4.2 Clause 4.6(3)(b): Sufficient environmental planning grounds to justify the contravention of the development standard

Clause 4.6(3)(b) of the LEP requires the contravention of the development standard to be justified by demonstrating that there are sufficient environmental planning grounds to justify the contravention. The focus is on the aspect of the development that contravenes the development standard, not the development as a whole.

Therefore, the environmental planning grounds advanced in the written request must justify the contravention of the development standard and not simply promote the benefits of carrying out the development as a whole (*Initial Action at [24]*). In *Four2Five*, the Court found that the environmental planning grounds advanced by the applicant in a Clause 4.6 Variation Request must be particular to the circumstances of the proposed development on that site at [60].

In this instance, the following reasons, as described in further detail below, are sufficient environmental planning grounds to justify this contravention.

4.2.1 Imminent Changes to the LEP and the Design Excellence Process

Council is currently pursuing the Sydney Housekeeping amendments, which propose a range of updates to both the Sydney LEP 2012 and the Sydney DCP 2012. One of the proposed changes of relevance to this project is the proposed amendment to clause 6.21D, which would allow the 10% design excellence bonus to be applied to both building height and floor space, rather than being limited to one or the other.

The Sydney Housekeeping Amendments were endorsed by the CSPC and Council in July 2025, however, are yet to be formally adopted and gazetted into the LEP and DCP, which is anticipated to be in Q4 2025. While not yet in force, the proposed development has been designed accordingly in anticipation of this amendment and therefore, seeks to utilise the 10% floor space and height bonus, which would allow a maximum building height of 49.5m.

As part of the process to achieve the 10% bonus for both height and floor space, the proposed development has undergone a rigorous design excellence process to ensure the delivery of a high-quality built form that is responsive to its site context, surrounding developments, and the relevant planning controls. This process, undertaken in close collaboration with Council and the Design Advisory Panel (DAP), involved extensive consultation, design testing, and

analysis to create a proposal that is not only contextually appropriate but also aligns with the evolving character of the precinct.

Over the duration of the project, the applicant and design team engaged in four meetings with the DAP, resulting in a detailed Design Statement from them confirming that they consider the project demonstrates the potential to achieve design excellence in accordance with Clause 6.21 of the Sydney LEP 2012. The panel expressed general support and positive feedback for the proposal, particularly noting that the built form and massing are well-suited to the site and its surrounding urban context.

The design excellence process has also involved careful consideration of key urban design principles, such as the articulation of the building mass, the provision of a high level of residential amenity, and the integration of communal spaces that respond to the local context. Strategies to mitigate visual bulk, enhance the pedestrian experience, and optimise solar access have been incorporated into the design, reflecting a commitment to delivering a high standard of urban design.

This collaborative and iterative process has ensured that the proposal meets the objectives of design excellence, resulting in a development that is not only visually appealing but also functional and contextually sensitive. The general support from both the DAP and Council underscores the project's alignment with the broader urban vision for the area and achievement of design excellence, irrespective of the proposed variation to the building height standard.

4.2.2 Delivery of housing diversity and supply

The proposed development delivers a total of 161 dwellings, all of which are for the purposes of affordable housing. This represents a significant contribution to the support of affordable housing within the Sydney LGA and directly responds to the growing housing shortage and crisis affecting Greater Sydney, and Australia more broadly. By providing well-located and affordable housing, the proposal fosters the creation of a diverse, equitable and inclusive community, ensuring access to housing for vulnerable individuals and households.

The proposed height variation is necessary to facilitate the viable delivery of this project. The additional height not only facilitates the construction of two extra storeys but, more importantly enables the delivery of 24 additional affordable dwellings, which would house approximately 34-68 residents, who would otherwise be excluded under the current height standard. Without this variation, the project's yield would be significantly reduced, undermining the intent of Clause 7.13A of the Sydney LEP 2012, which aims to enhance the supply of affordable housing within business areas, as well as broader strategic housing priorities, including:

- The National Housing Accord, which is a Federal Government commitment to deliver 1.2 million new homes across Australia over the next five years until July 2029 in collaboration with state and local governments;
- The NSW Government's Housing 2041 Strategy, which prioritises the acceleration of diverse and affordable housing supply; and
- Several other NSW Government initiatives to increase housing supply and affordability within strategically located areas that have great access to public transport, including the Transit Oriented Development (TOD) Program, the Housing Delivery Authority (HDA) pathway, and the Low to Mid Rise Housing Reforms.

Given the sites location within the Southern Enterprise Area of Green Square and its close proximity to public transport, employment, and key pieces of social and community infrastructure, it is entirely suitable for increased density and the delivery of affordable housing.

The minor breach of the height standard aligns with the objectives of the zone and the desired character of the area. Not only does it support the height transition within the precinct and anchors it as a key precinct, but it also delivers high quality affordable housing, which is a major public benefit that far outweighs any potential impacts from the height variation, which as demonstrated throughout the accompanying documents is clearly minimal.

Further to the above, it is important to recognise that the financial viability of affordable housing projects is already marginal. The requested height variation is crucial to maintaining the feasibility of the development. Without it, the project is at risk of becoming less viable, leaving the site underutilised and contributing no housing. Such an outcome would represent a missed opportunity to alleviate the ongoing housing crisis and the urgent need for affordable housing.

4.2.3 Environmental Impacts

The proposed building height variation will not result in any significant adverse environmental impacts, including overshadowing or visual impact. The additional storey and lift overrun above the current maximum height are modest in scale and will be largely imperceptible from the public domain.

While some overshadowing will occur as a result of the proposed development, this is consistent with the dense urban character of the precinct and is to be expected in a location undergoing strategic urban renewal. Importantly, as demonstrated in the overshadowing analysis prepared by Bates Smart, the development will not reduce solar access to any surrounding residential dwellings.

It is also important to note that under the proposed Sydney Housekeeping Amendments, anticipated to be gazetted in late 2025 while the proposal is under assessment, the 10% height bonus under Clause 6.21D will formally apply. Therefore, the height exceedance would be limited to solely the lift overrun and localised plant. Given that the lift core is centrally located and does not contribute to overall bulk or scale, it will not be visible from the street level and will not result in any additional overshadowing. Any minor shadow cast by the overrun and localised plant will fall onto the rooftop of the development itself or areas already in shadow from the main building mass.

Accordingly, the proposed variation will not result in a significant increase in overshadowing to adjacent residential properties or the public domain, nor will it result in any adverse visual impacts. The environmental impacts of the proposed exceedance are, therefore, negligible and have been mitigated through careful design and planning to ensure a high-quality urban design outcome.

4.2.4 Compliance with Floor Space Ratio control

While the proposed development includes a variation to the maximum height of buildings standard, it is important to emphasise that the proposal fully complies with the maximum floor space ratio (FSR) control of 3.85:1 as prescribed under the Sydney LEP 2012.

Compliance with the FSR control demonstrates that the overall bulk, scale and density of the development remains within the current planning framework of the site. The proposal, therefore, achieves an appropriate balance between built form, open space, and amenity, and reflects the scale and density envisaged for the precinct.

As such, the minor variation to the building height does not result in any unreasonable increase in bulk and scale and does not contribute to a development outcome that is inconsistent with the intended built form for the site. The additional height facilitates improved design outcome and enables the adoption of greater setbacks to mitigate visual privacy concerns. It also facilitates the increase in residential yield, which as detailed above, is a major public benefit for the site.

Therefore, the height variation can be supported on the basis that the development remains within the broader planning intent for the site, particularly given its compliance with the FSR standard, and that it continues to deliver a well-considered and appropriate built form and design outcome that has been confirmed to have the potential to exhibit design excellence.

It light of the above, it is clear that the design excellence process undertaken, compliance with the FSR control and the minimal environmental impact, together with the delivery of housing diversity and supply, particularly affordable housing provide sufficient environmental planning grounds to justify the contravention to the height of building development standard.