

Attachment C

Clause 4.6 Variation – Height of Building



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Clause 4.6 Variation

Height of Building Development Standard
224-228 & 230-234 Young Street, Waterloo

Prepared for The Trust Company (Australia) Limited as Trustee for JV3 Waterloo Property
Trust

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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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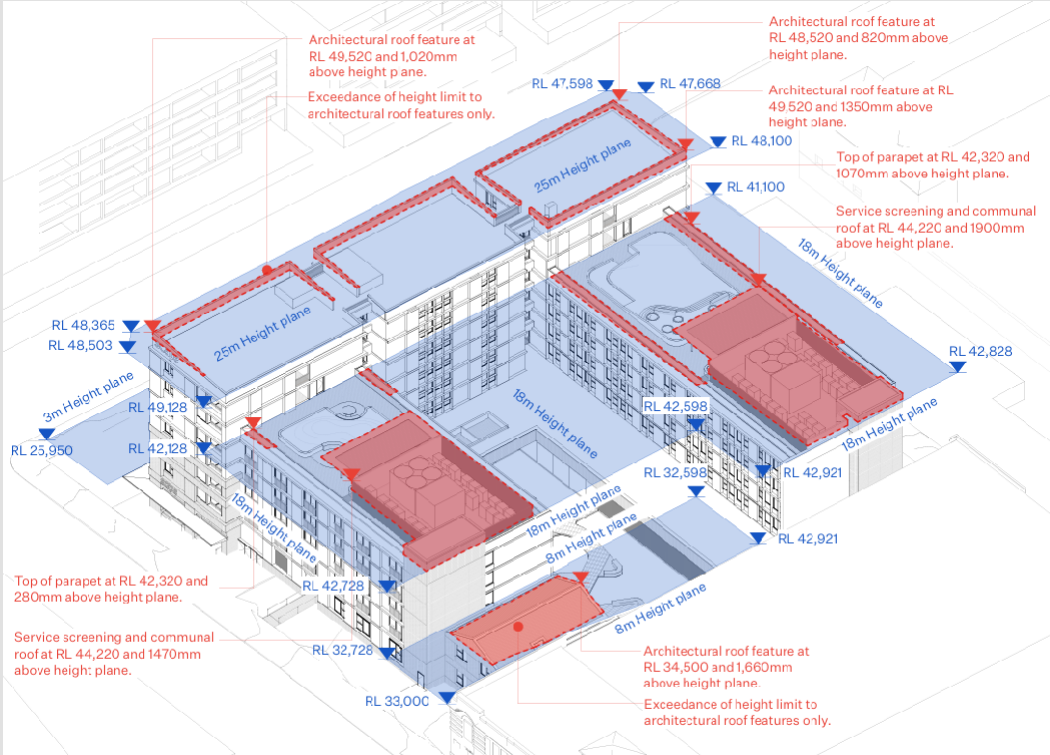
Executive Summary

Clause 4.6 of the *Sydney Local Environmental Plan 2012* (Sydney LEP 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.

Clauses 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.

This Clause 4.6 Variation Request addresses each of the requirements of clause 4.6 of the Sydney LEP 2012 and the requirements set out in the Department of Planning and Environment's *Guide to Varying Development Standards November 2023*. The table below provides a summary of the Clause 4.6 Variation Request.

Where is the development site?	224-228 and 230-234 Young Street, Waterloo
What is proposed development?	Trust Company (Australia) Limited as trustee for JV3 Waterloo Property Trust (the Applicant) is seeking to redevelop an existing light industrial site in Waterloo into a 2-7 storey co-living development comprising 283 co-living dwellings with associated communal spaces, ground floor retail space, and landscaping and public domain works.
What is the proposed variation?	The site is subject to a range of maximum height of building development standards under the Sydney LEP 2012, varying from 3m to 25m. The proposed development has a maximum building height of 26.35m, and the following variations to the height of building development standards are proposed: • McEvoy Street: Between 0.8m (3.2%) and 1.35m (5.4%) height variation to the 25m height limit • Morehead Street: Between 1.07m (5.9%) and 1.9m (10.56%) height variation to the 18m height limit • Young Street: Between 0.28m (1.56%) and 1.47m (8.17%) height variation to the 18m height limit • Young Street: A 1.66m (20.75%) height variation to the 8m height limit The above variations to the various height of building development standards that apply across the site are illustrated in the axonometric image prepared by ArchitectureAND.  The diagram illustrates the proposed development with various height planes and specific levels (RL) marked. Key features include: 25m Height plane: Architectural roof feature at RL 49,520 and 1,020mm above height plane. Exceedance of height limit to architectural roof features only. 18m Height plane: Architectural roof feature at RL 48,520 and 820mm above height plane. Architectural roof feature at RL 49,520 and 1350mm above height plane. Top of parapet at RL 42,320 and 1070mm above height plane. Service screening and communal roof at RL 44,220 and 1900mm above height plane. 8m Height plane: Architectural roof feature at RL 34,500 and 1,660mm above height plane. Exceedance of height limit to architectural roof features only. 3m Height plane: Top of parapet at RL 42,320 and 280mm above height plane. Service screening and communal roof at RL 44,220 and 1470mm above height plane. Other specific levels (RL) marked include: RL 48,365, RL 48,503, RL 49,128, RL 42,128, RL 25,950, RL 47,598, RL 47,668, RL 48,100, RL 41,100, RL 42,598, RL 42,921, RL 42,828, RL 32,598, RL 42,921, RL 42,728, RL 32,728, RL 33,000, and RL 42,921.

Background to the proposed variation

The proposed development was exhibited between 07 October 2025 and 05 November 2025 with building heights that complied with the various maximum development standards utilising architectural roof features (permitted under clause 5.6 of the Sydney LEP 2012). Following exhibition and as part of the preliminary assessment of the development application, the City of Sydney Design Advisory Panel (DAP) reviewed the application.

Following this review, it was recommended that the proposed massing along McEvoy Street be reconsidered and redistributed towards the Morehead and Young Street 'wings' of the building. Further, the proposed architectural roof features and façade expression was revised to celebrate the industrial heritage of the Danks Street South Precinct, ensuring the proposed development could achieve the design excellence objectives for the project. As such, this Clause 4.6 Variation Request has been prepared to demonstrate that, in part, there are sufficient environmental planning grounds to justify the contravention to the height of building development standards.

Why is compliance with the building height development standard is unreasonable and unnecessary in the circumstances of the case?

Notwithstanding the proposed variation to the height of building development standard, the proposal achieves the objectives of the development standard as outlined in clause 4.3(1) of the Sydney LEP 2012 standard as:

- The proposal delivers a height and massing arrangement that preserves the amenity of nearby properties, maintains the quality of the public domain, and responds to the evolving character of the Danks Street South Precinct. The proposed height is therefore appropriate to the condition of the site and its context.
- The proposal achieves an appropriate transition in scale by stepping down from a compliant 7-storey height along McEvoy Street, to a compliant 2-storey height adjacent to the heritage property located at 222 Young Street. The proposed height transition does not detract from adjacent local or State heritage items and maintains a sensitive design including a pitched roof adjacent to 222 Young Street which reflects the historic character of buildings in the locality.
- The achievement of view sharing principles is not thwarted by the proposed variation, and the proposed built form across the site does not impact any significant views outside of Central Sydney.
- An appropriate height transition is still achieved between the Green Square Town Centre to adjoining areas such as Waterloo.

What are the sufficient environmental planning grounds to justify contravention of the development standard?

The environmental planning grounds to justify contravention of the height standard are:

- The height variation is a result of extensive consultation with Council and the DAP to achieve design excellence and responds to the site's urban context.
- The proposed height variation enables both an articulated roof form that responds to the local character of the area and supports the active use of rooftop spaces along Morehead Road and Young Road. The active rooftops will provide additional communal amenities for residents of the development, including year-round solar access to communal outdoor areas, and additional site landscaping.
- The height protrusion will not result in any adverse environmental impacts, particularly in terms of visual impact and overshadowing.
- The proposed development is compliant with the floor space controls and therefore, is consistent with the built form and overall bulk and scale envisaged for the site. Further, by permitting a minor exceedance in the height of building development standard, the residential yield is not reduced and the development can continue to provide 283 co-living housing units on the site which positively contributes to a diverse housing supply within the Waterloo locality aligned with local and State strategic planning objectives.

In light of the above that the consent authority can be satisfied that there are sufficient grounds to support the proposed variation.

1.0 Project Background

Development Application (DA/2025/944)

On 1 October 2025, a Development Application (DA/2025/944) was lodged on behalf of The Trust Company (Australia) Limited as Trustee for JV3 Waterloo Property Trust to seek development consent for the redevelopment of a light industrial site to deliver a co-living development with ground floor retail. Specifically, the development application proposed the following works:

- Early works and site preparation, including the demolition of existing structures on the site.
- Construction of a new maximum 7 storey co-living development with a maximum building height of 26.39m and a total gross floor area of 7,647.7m², comprising:
 - a total of 283 co-living rooms from the ground floor and above
 - 128.1m² ground floor retail tenancy
- At-grade parking and loading bay, comprising 3 car parking spaces and 198 bicycle parking spaces.
- Vehicular access provided via Morehead Street and bicycle access from Young Street.
- Associated landscaping and public domain works, including footpath embellishments and dedication of footpath widening to the City of Sydney.
- Extension and augmentation of physical infrastructure and utilities as required.
- Remediation of land.
- Installation of signage.

The proposed development was guided by the planning framework outlined in the Sydney LEP 2012 and Section 5.9 of the Sydney Development Control Plan 2012 (Sydney DCP 2012). A Concept DA Exemption Request was sought, despite the proposal exceeding the maximum height control, as the exhibited design included architectural roof elements that were justified under clause 5.6 of the Sydney LEP 2012. This provision ultimately allowed the proposal to remain within the height limit.



Figure 1 Exhibited design of the proposed development

Source: ArchitectureAND

Consultation with City of Sydney

On 9 December 2025, the Applicant and the project team met with the City of Sydney and the Design Advisory Panel (DAP). The DAP was not yet supportive of the design of the proposed scheme (as lodged) and were of the opinion that the proposed development did not yet exhibit design excellence. The DAP and Council provided formal feedback on 19 December 2025, issuing a Request for Information (RFI) on 19 December 2025. To improve the development's ability to achieve design excellence, Council recommended a variety of design changes, including the following:

The large number of south facing rooms is a concern from both a solar and noise perspective. It is recommended to address massing and modulation concerns with removal of at least 4 central south facing rooms and 1 northern facing room and replace with increased per floor area of communal space in the centre of the plan. Introduce genuine building breaks of minimum 3m with roofed bridge outdoor connections to the corridors.

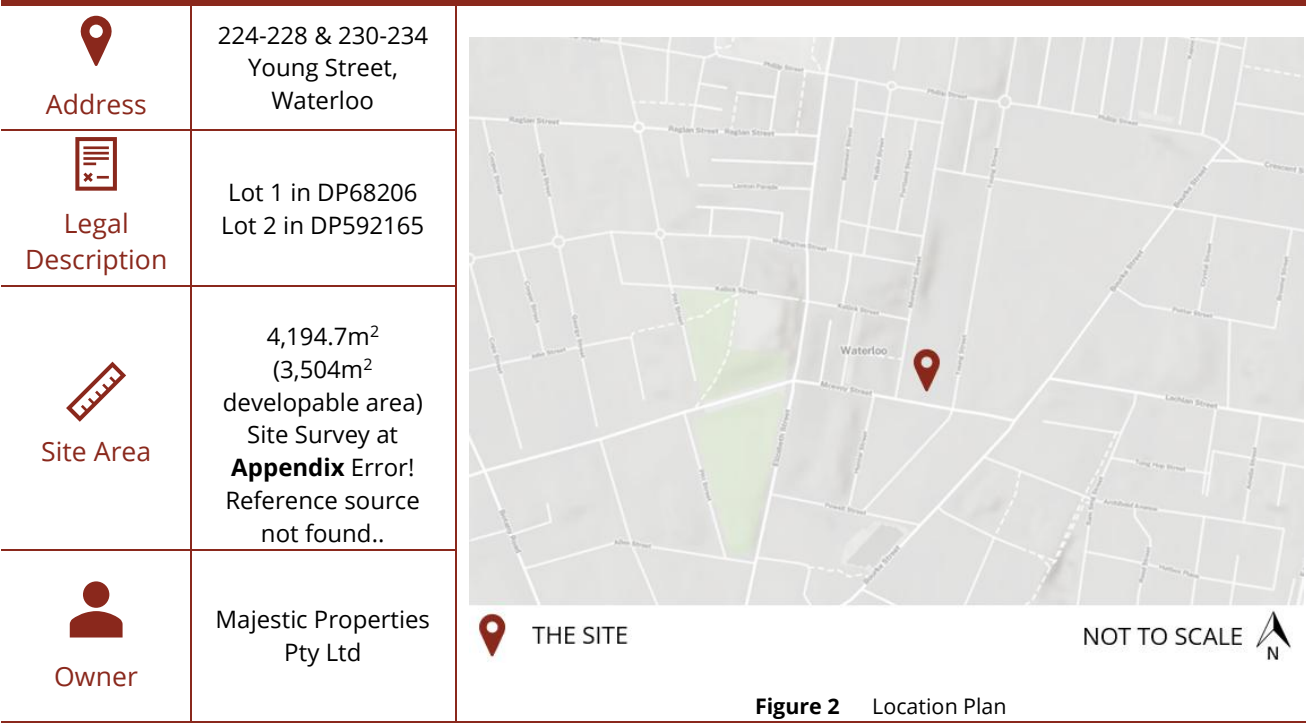
To offset the reduction of the central McEvoy rooms, the City would consider an additional storey facing Morehead Street and Young Street. Please note that any additional height increase will need to be supported by a Clause 4.6 variation request. A variation to the maximum permissible floor space ratio would not be supported in tandem with this change.

- City of Sydney Request for Information (DA/2025/944)

In light of Council's comments, the proposed development has since been amended to reduce massing on the McEvoy Street frontage and relocate floor space to an additional storey fronting Morehead Street and Young Street. While the relocated floor space largely complies with the Sydney LEP 2012 maximum height of building development standard along these frontages, the inclusion of accessible rooftop spaces and plant areas at Level 5 will cause the proposed development as amended to exceed the 18m height of building control.

Subsequently, the redesign of the built form and the introduction of an additional storey, in addition to incorporating architectural elements to mirror the industrial heritage of the locale, has resulted in an exceedance of the various maximum height of building development standards prescribed to the site under the Sydney LEP 2012. Refer to **Figure 3** for an artist impression of the amended design.

2.0 The Development Site



Locational Context

The site is located within the Danks Street South Precinct in the Sydney LGA and is approximately 4km south of the Sydney CBD. The site fronts Morehead Street, McEvoy Street and Young Street, and is within walking distance to local amenities and infrastructure including Waterloo Oval. The site is surrounded by various land uses such as residential, public recreation and mixed use activities, and is serviced by key transport infrastructure including local bus services and the Waterloo Metro Station which is located approximately 1km to the north west of the site. Green Square Train Station is also located approximately 1km south west of the site.



3.0 The Proposed Development

The proposed development involves the construction of a maximum 7 storey co-living development comprising 283 co-living dwellings, ground level retail uses and public domain works. Specifically, the proposed works include:

- Early works and site preparation, including the demolition of existing structures on the site.
- Construction of a new maximum 7 storey co-living development with a maximum building height of 26.35m and a total gross floor area of 7,708.56m², comprising:
 - a total of 283 co-living rooms from the ground floor and above
 - 124.3m² ground floor retail tenancy
- At-grade parking and loading bay, comprising 3 car parking spaces and 188 bicycle parking spaces.
- Vehicular access provided via Morehead Street and bicycle access from Young Street.
- Associated landscaping and public domain works, including footpath embellishments and dedication of footpath widening to the City of Sydney.
- Extension and augmentation of physical infrastructure and utilities as required.
- Remediation of land.
- Installation of signage.



Figure 4 Artist impression of the amended proposed development

Source: ArchitectureAND

4.0 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	<i>Sydney Local Environmental Plan 2012 (Sydney LEP 2012)</i>
The site's zoning	MU1 Mixed Use. The objectives of this land use zone are: (a) <i>To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.</i> (b) <i>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.</i> (c) <i>To minimise conflict between land uses within this zone and land uses within adjoining zones.</i> (d) <i>To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.</i> (e) <i>To ensure land uses support the viability of nearby centres.</i> (f) <i>To integrate suitable business, office, residential, retail and other land uses in accessible locations that maximise public transport patronage and encourage walking and cycling.</i> The site also includes a strip of land along the McEvoy Street site frontage that is zoned as SP2 Classified Road and is identified as land reserved for acquisition under the Sydney LEP 2012. The proposed development does not include any built form on this SP2 zoned land, and this land does not form a part of the 'developable site area'.
Development standard sought to be varied	Clause 4.3 Height of Buildings. The objectives of this clause are: (a) <i>To ensure the height of development is appropriate to the condition of the site and its context,</i> (b) <i>To ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas,</i> (c) <i>To promote the sharing of views outside Central Sydney,</i> (d) <i>To ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas,</i> (e) <i>In respect of Green Square—</i> (i) <i>to ensure the amenity of the public domain by restricting taller buildings to only part of a site, and</i> (ii) <i>to ensure the built form contributes to the physical definition of the street network and public spaces.</i> The maximum building height across the site is 3m, 8m, 18m and 25m (refer to Figure 5). Minor variations are proposed to the 8m, 18m, and 25m height controls.  Figure 5 Height of buildings map

5.0 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.

5.1 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 Buildings development standard, notwithstanding the non-compliances.

Objective 4.3(1)(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 Waterloo, where the surrounding built form comprises a range of existing light industrial and commercial uses and emerging medium to high rise mixed-use developments. As illustrated in **Figure 7** below, the indicative built form of the Danks Street South Precinct ranges from 1 storey to 18 storeys, excluding the design excellence and competitive design process.

Immediately adjacent sites along Young Street are currently subject to height controls varying between 8m and 65m, including the currently-under construction 'Danks St District, Waterloo'. The proposed building, with a total height of 26.35m, is considered to be contextually appropriate, having regard to the evolving built form character of the area and the scale of existing and approved development in the surrounding locality. The McEvoy Street frontage integrates architectural roof elements that honour the historical industrial environment, while the increased height along Morehead and Young Streets enables improved residential communal open space and amenity. The exceedance in height control will result in critical benefits for the LGA by maintaining dwelling yield from the submitted development application scheme and contributing to the supply of much-needed diverse housing.

The variation has been carefully considered and is justified through a high-quality response that reflects extensive site analysis, detailed modelling and consultation with Council and the DAP. The resulting built form responds appropriately to the site's conditions and maintains appropriate scale, articulation and amenity outcomes for future residents and the surrounding neighbourhood.

As such, the proposed height is considered appropriate in the context of the existing height controls and the evolving future character of the area and is consistent with clause 4.3(1)(a) of the Sydney LEP 2012.



Figure 7 Indicative built form of surrounding sites

Source: Sydney DCP

Objective 4.3(1)(b) To ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas

While the site itself is not identified as a local heritage item or within a heritage conservation area, the site is located directly adjacent to three local heritage items including:

- Commercial building part of 'Federation Business centre' (222 Young Street) including interior, 198-222 Young Street, Waterloo
- Electrical substation including interior, 241 Young Street, Waterloo
- Former Sydney Water pumping station and valve house including interiors and associated underground pipework, 903-921 Bourke Street, Waterloo

The site is also within proximity to a State heritage item identified under the *NSW Heritage Act 1977* and is identified as:

- Waterloo Water Pumping Station (WP0008), Bourke Street, Waterloo

Notwithstanding the proposed numerical exceedance of the maximum building height, the increased height has been intentionally designed to achieve the urban design principle of integrating natural and industrial contexts, including heritage items that reflect Waterloo's industrial heritage. The exceedance in height allows for the integration of architectural features such as masonry forms, raking roofs and bookend chimney elements that mimic key heritage sites, including 222 Young Street, which was previously occupied by the former Wormald Factory.

Although the site exceeds the existing height control by 1.56% to 20.75%, the built form does not materially impact surrounding heritage buildings and does not detract from their value. The proposed development steps down from 7 storeys to 5 storeys to 2 storeys, ensuring that the lowest component of the development is positioned adjacent to the local heritage item and creating a sensitive interface. Further, the proposed development has been setback further to

promote the prominence of 222 Young Street, ensuring that the heritage building remains a focal point within the public domain and is not visually overwhelmed.

The proposed development expresses a thoughtful design response to prioritise the preservation of the historical significance and heritage of Waterloo and the Danks Street South Precinct, while simultaneously introducing a contemporary and cohesive urban form that aligns with the evolving character of the area.

Objective 4.3(1)(c) To promote the sharing of views outside Central Sydney

The site is located within the Danks Street South Precinct, which is situated outside of Central Sydney. The area is undergoing a transition from light industrial uses to medium and high density residential and commercial development in line with the broader vision for Waterloo.

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 additional building height is necessary to ensure an urban design response that achieves design excellence and improves amenity across the site by introducing usable rooftop amenity.

Notwithstanding, the additional height will not result in the obstruction of any significant view corridors, and it is not anticipated to obstruct or materially impact private views across the site. In light of this, the site is located within an established and evolving urban context where views are shaped by the existing built form pattern and anticipated future redevelopment outcomes within the Precinct.

Importantly, the built form comprises a stepped height transition, which reduces the perceived scale and massing of the development and ensures the proposal does not result in a dominant, monolithic built form. The site's natural slope further assists in mitigating the perceived bulk and scale of the built form, thereby minimising potential visual impacts and supporting the equitable sharing of views.

As such, the proposed development is consistent with the objective as the minor height exceedance, together with the proposed development, will not result in any unacceptable view impacts.

Objective 4.3(1)(d) To ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas

As discussed previously, the site is located within the Danks Street South Precinct, which is located within proximity to the Green Square Town Centre and surrounded by adjoining areas that connect to Central Sydney. This Precinct is located north-west of the Green Square Town Centre and will transform over time into an active, vibrant precinct that supports residential living and incorporates a variety of land uses including commercial activity.

The proposed development has been designed to deliver a building height that is relatively consistent with Section 5.9 of the Sydney DCP 2012, in addition to surrounding existing, approved and future developments. The proposed design of the built form steps down in height to create a sympathetic transition relative to adjoining and future development. Further, the proposed height variation will contribute to the emerging built form character envisaged for the Danks Street South Precinct and support an appropriate transition in height and scale away from the Town Centre and Central Sydney. The height exceedance, primarily as a result of architectural elements to respond to Waterloo's character and the introduction of an additional storey on Morehead and Young Streets, will not result in any adverse visual impacts and is unlikely to be perceptible at street level.

Accordingly, the proposed development will provide an appropriate height transition and aligns with this objective.

Objective 4.3(1)(e)(i) In respect of Green Square – to ensure the amenity of the public domain by restricting taller buildings to only part of a site

The proposed development is not located within Green Square, and therefore, this objective does not apply.

Objective 4.3(1)(e)(ii) In respect of Green Square – to ensure the built form contributes to the physical definition of the street network and public spaces

The proposed development is not located within Green Square, and therefore, this objective does not apply.

Furthermore, the proposed development (inclusive of the proposed height exceedance) is consistent with the objectives of the MU1 Mixed Use land use zone, as presented in **Table 2**.

Table 2 The proposed development's alignment with the objectives of the MU1 Mixed Use zone

Objective	Alignment
<i>To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.</i>	The proposed development includes a ground floor retail tenancy that will contribute to local economic activity by supporting business operations and creating employment opportunities. In addition, both the construction and ongoing operation of the development are expected to generate further employment within the local area.
<i>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.</i>	The proposed development will transform the existing site into a vibrant residential and community hub within the Danks Street South Precinct. The proposed development will integrate a ground floor retail space to activate the McEvoy Street frontage, while public domain and streetscape enhancements will further improve the pedestrian experience on the Morehead Street and Young Street frontages. Ultimately, the proposed development will result in an improved outcome for the site, creating a vibrant and active space.
<i>To minimise conflict between land uses within this zone and land uses within adjoining zones.</i>	While the site is predominantly surrounded by MU1 Mixed Use zoning, the McEvoy Street frontage is zoned as SP2 Infrastructure and is identified as land reserved for acquisition under the Sydney LEP 2012. The proposed development has been carefully designed to minimize potential conflicts between land uses within the MU1 Mixed Use zone and the adjoining SP2 Infrastructure zone. The development incorporates appropriate setbacks and introduces landscaping to ensure a sensitive interface with the future acquisition of the land. As addressed in the SEE and as amended by the Response to RFI letter, the proposed development includes subdivision and a VPA to address this transition.
<i>To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.</i>	As discussed previously, the proposed development will deliver a ground floor retail tenancy to activate the site and contribute to the vibrancy of the surrounding streetscape, while also supporting local economic activity through the provision of employment and business opportunities. This will further contribute to the evolution of Waterloo and the Danks Street South Precinct.
<i>To ensure land uses support the viability of nearby centres.</i>	The proposed development supports the viability of nearby and emerging centres by providing a mix of uses that benefit the local community and economy. The inclusion of co-living dwellings for students and young professionals boosts support for local services, public transport, infrastructure, and commercial hubs. Its proximity to these centres will stimulate the local economy and increase demand for services. Additionally, ground-level retail and communal spaces will activate the streetscape, fostering engagement with the surrounding area and reinforcing the long-term viability of these centres.
<i>To integrate suitable business, office, residential, retail and other land uses in accessible locations that maximise public transport patronage and encourage walking and cycling</i>	The proposed development integrates residential and retail land uses in a highly accessible location, activating the ground plane and encouraging pedestrian activity. Its proximity to heavy rail and metro services enhances connectivity, encouraging residents to reduce reliance on private vehicle ownership. Additionally, the provision of bicycle parking spaces promotes cycling as a sustainable mode of transport, further supporting active travel. By combining retail, cycling amenities, and transport connections, the development contributes to a positive outcome and supports the objectives of the MU1 Mixed Use zone.

5.2 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:

- The height variation is a result of extensive consultation with Council and the DAP to achieve design excellence and responds to the site's urban context.
- The proposed height variation enables both an articulated roof form that responds to the local character of the area and supports the active use of rooftop spaces along Morehead Road and Young Road. The active rooftops will provide additional communal amenities for residents of the development, including year-round solar access to communal outdoor areas, and additional site landscaping.
- The height protrusion will not result in any adverse environmental impacts, particularly in terms of visual impact and overshadowing.
- The proposed development is compliant with the floor space controls and therefore, is consistent with the built form and overall bulk and scale envisaged for the site. Further, by permitting a minor exceedance in the height of building development standard, the residential yield is not reduced and the development can continue to provide 283 co-living housing units on the site which positively contributes to a diverse housing supply within the Waterloo locality aligned with local and State strategic planning objectives.

5.2.1 Improved Design Excellence Outcome

The proposed development has been designed to achieve a high-quality outcome that demonstrates design excellence, reflecting both the evolving urban character of the Danks Street South Precinct and Waterloo's industrial heritage. In response to engagement with Council and the DAP, the development has been enhanced with an additional storey and incorporates architectural elements that ensure a seamless integration with the surrounding environment while celebrating the history of the precinct.

The McEvoy Street frontage exceeds the height control to incorporate specific architectural elements to reflect the site's historical uses, including a raking roof, paying homage to the industrial precedence of Waterloo. It serves as a prominent and distinctive feature of the building, allowing the building to create a connection to the surrounding urban context. Further, the introduction of an additional storey on the Morehead and Young Street frontages increases amenity for residents across the site by providing access to rooftop communal open space. This design approach enhances the overall liveability of the development, offering residents a high-quality outdoor area for recreation and social interaction, while simultaneously exceeding the standards of the *State Environmental Planning Policy (Housing) 2021* (Housing SEPP). By incorporating these rooftop spaces, the development not only maximises the site's potential, but also fosters a sense of community.

The height increase along these frontages also supports design excellence by creating a stepped overall building height that sensitively responds to the adjacent heritage building at 222 Young Street, ensuring the new development respects the scale and character of the surrounding buildings while still achieving a contemporary architectural form. The stepped height allows for a seamless transition between the development and the adjoining heritage building, preserving Waterloo's architectural fabric. Additionally, the design achieves design excellence and celebrates the history of the site by incorporating masonry bookends that reflect the legacy of the Wormald Factory, which previously resided in the Precinct.

The design excellence process has also involved careful consideration of key urban design principles, such as the articulation of massing, integration of natural and industrial contexts, and layers of landscape. Strategies to mitigate visual bulk, enhance the pedestrian experience and public domain, and optimise amenity have been incorporated into the design, reflecting a commitment to delivering a high standard of urban design.

This collaborative approach has ensured that the proposal meets the objectives of design excellence, resulting in a development that is not only visually appealing but also contextually sensitive. The proposal has received detailed review by the City of Sydney Planning Team and Design Advisory Panel, resulting in further design refinement and supporting the achievement of design excellence.

5.2.2 Delivery of Housing Diversity and FSR

The proposed development delivers a total of 283 co-living dwellings for the purposes of housing students and young professionals. This represents a significant contribution to the support of diverse housing within the Sydney LGA and directly responds to the growing housing crisis and increasing rental stress. The proposed variation enables improved residential amenity for these dwellings by the provision of accessible rooftop communal open space.

The proposed height variation is necessary to achieve this objective, as it allows the proposed development to maximise the site and allow for a greater number of dwellings, while maintaining high standards of design and communal residential amenity. Ultimately, the proposed development will enhance the supply of diverse housing within well-located

areas that are supported by existing and evolving infrastructure, and responds to broader strategic housing priorities, including:

- The NSW Government's Housing 2041 Strategy, which priorities the acceleration of diverse housing supply;
- Several other State and local strategic initiatives to increase housing supply and diversity, particularly to assist young people to break into the housing market, including Our Greater Sydney 2056: Eastern City District Plan and Housing for All: City of Sydney Local Housing Strategy.

The breach of the height standard aligns with the objectives of the zone, as addressed in **Table 2**, and the desired character of the area. While the proposed development includes a variation to the maximum height of buildings development standards, the proposal maintains compliance with the permitted floor space ratio (FSR) control of 2.2:1, as prescribed by the Sydney LEP 2012 and the Housing SEPP.

Compliance with the FSR control demonstrates that the overall bulk, scale and density of the development remains consistent with the current planning framework of the site. 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 an improved design excellence outcome and increases usable rooftop amenity that enhances the liveability of the development. It also maintains the residential yield with the submitted development application, a significant public benefit for the site and broader LGA.

Therefore, the proposal achieves an appropriate balance between built form, open space and amenity and reflects the scale and density envisaged for the Danks Street South Precinct. The proposed height variation remains within the broader planning framework, given its compliance with the FSR standard, and continues to deliver an appropriate outcome that has been confirmed to have the potential to exhibit design excellence.

5.2.3 Environmental Impacts

The proposed building height variation will not result in any significant adverse environmental impacts, including overshadowing or visual impacts. The additional building height across the development is modest in scale and is primarily intended to enhance residential amenity and to incorporate architectural elements that contribute to design excellence and a sensitive response to adjacent heritage buildings. The increased height maintains the stepped built form and transition in height from McEvoy Street to 222 Young Street, ensuring that the development integrates seamlessly with its surroundings and does not detract from the character of the area.

While some overshadowing will occur as a result of the proposed variation to the height control, this is consistent with the increasing density across the urban precinct. As demonstrated in the overshadowing analysis undertaken by ArchitectureAND (**Figure 8**), the fast-moving shadow does not impact any significant public open space, with most overshadowing occurring on McEvoy Street, and importantly, adjacent residential maintain a minimum of 2 hours solar access to over 70% of apartments as required by the ADG design criteria.

It is also important to note that the proposed height variation will not create any obtrusive or adverse visual impacts to the surrounding area. The proposal will not obstruct any significant view corridors and will not result in any negative effects on the streetscape or public spaces. The additional height has been carefully designed to ensure that it integrates harmoniously with the surrounding built environment, preserving the visual amenity of the area while enhancing the overall development's contribution to the urban fabric.

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.

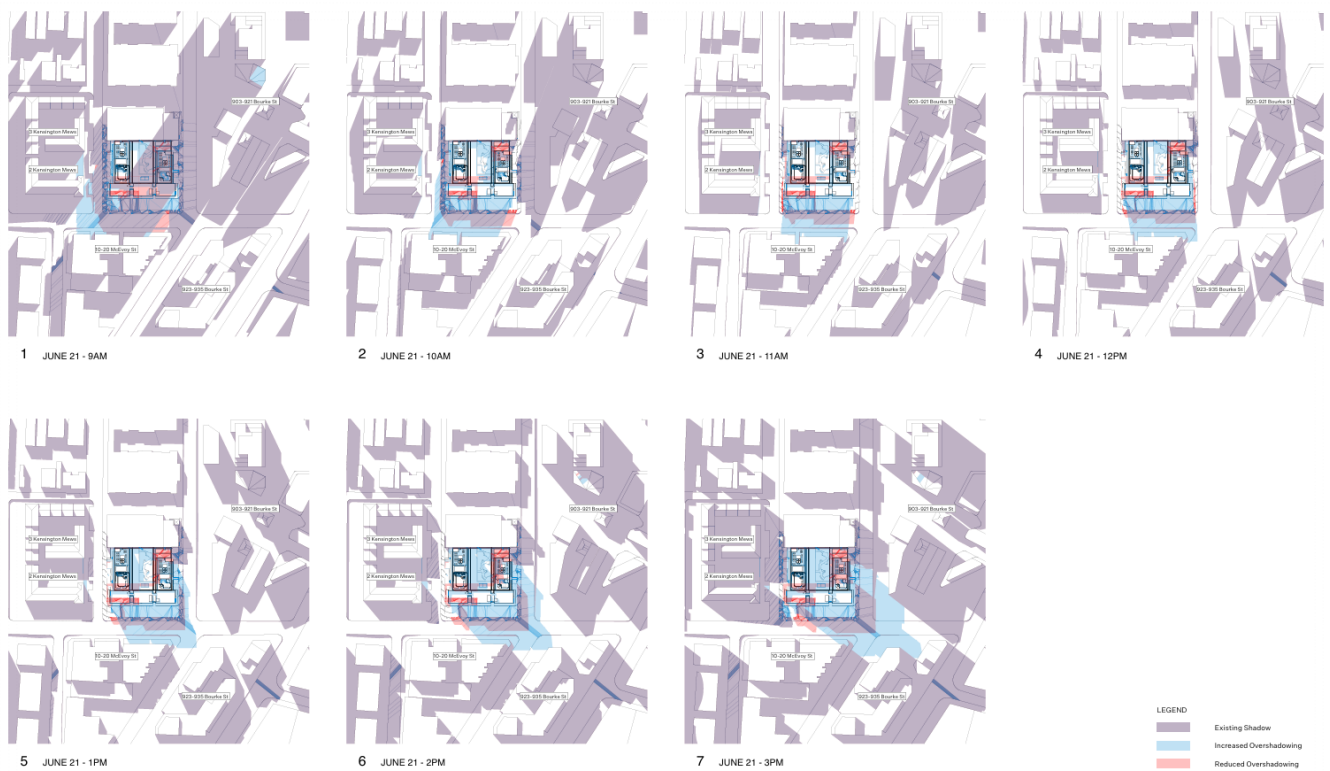


Figure 8 Overshadowing analysis

Source: ArchitectureAND

6.0 Conclusion

The site is subject to a range of maximum height of building development standards under the Sydney LEP 2012, varying from 3m to 25m. The proposed development has a maximum building height of 26.35m, and the following variations to the height of building development standards are proposed:

- McEvoy Street: Between 0.8m (3.2%) and 1.35m (5.4%) height variation to the 25m height limit
- Morehead Street: Between 1.07m (5.9%) and 1.9m (10.56%) height variation to the 18m height limit
- Young Street: Between 0.28m (1.56%) and 1.47m (8.17%) height variation to the 18m height limit
- Young Street: A 1.66m (20.75%) height variation to the 8m height limit

This Clause 4.6 Variation Request addresses each of the requirements of clause 4.6 of the Sydney LEP 2012 and the requirements set out in the Department of Planning and Environment's *Guide to Varying Development Standards November 2023*. Clause 4.6(3) of the Sydney LEP 2012 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.

Compliance with the development standard is unnecessary in the circumstances as the proposal achieves the objectives of the development standard as :

- The proposal delivers a height and massing arrangement that preserves the amenity of nearby properties, maintains the quality of the public domain, and responds to the evolving character of the Danks Street South Precinct. The proposed height is therefore appropriate to the condition of the site and its context.
- The proposal achieves an appropriate transition in scale by stepping down from a compliant 7-storey height along McEvoy Street, to a compliant 2-storey height adjacent to the heritage property located at 222 Young Street. The proposed height transition does not detract from adjacent local or State heritage items and maintains a sensitive design including a pitched roof adjacent to 222 Young Street which reflects the historic character of buildings in the locality.
- The achievement of view sharing principles is not thwarted by the proposed variation, and the proposed built form across the site does not impact any significant views outside of Central Sydney.
- An appropriate height transition is still achieved between the Green Square Town Centre to adjoining areas such as Waterloo.

Further, there are sufficient environmental planning grounds to justify contravention of the height standard including:

- The height variation is a result of extensive consultation with Council and the DAP to achieve design excellence and responds to the site's urban context.
- The proposed height variation enables both an articulated roof form that responds to the local character of the area and supports the active use of rooftop spaces along Morehead Road and Young Road. The active rooftops will provide additional communal amenities for residents of the development, including year-round solar access to communal outdoor areas, and additional site landscaping.
- The height protrusion will not result in any adverse environmental impacts, particularly in terms of visual impact and overshadowing.
- The proposed development is compliant with the floor space controls and therefore, is consistent with the built form and overall bulk and scale envisaged for the site. Further, by permitting a minor exceedance in the height of building development standard, the residential yield is not reduced and the development can continue to provide 283 co-living housing units on the site which positively contributes to a diverse housing supply within the Waterloo locality aligned with local and State strategic planning objectives.

In light of the above that the consent authority can be satisfied that there are sufficient grounds to support the proposed variation.