

Attachment C

Clause 4.6 Variation Request – Height of Buildings
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URBIS

CLAUSE 4.6 VARIATION REQUEST

Clause 4.6 Variation Request |
Height of Building

Detailed DA | Blocks F&I and G&H
155 Mitchell Road, Erskineville

Prepared for
CORONATION PROPERTY CO.
30 September 2025

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Project Code	P%54074
Report Number	Final

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CONTENTS

Request To Vary A Development Standard	1
REQUEST TO VARY CLAUSE 4.3 Height of Building IN Sydney Local Environmental Plan 2012.....	1
SITE AND PROPOSED DEVELOPMENT	1
PLANNING INSTRUMENT, DEVELOPMENT STANDARD AND PROPOSED VARIATION	6
JUSTIFICATION FOR THE PROPOSED VARIATION.....	20

Disclaimer.....	36
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FIGURES

Figure 1 Location Plan.....	3
Figure 2 Photomontage of the F&I Proposal	5
Figure 3 Photomontage of the G&H Proposal	5
Figure 4 Land-use Zoning Diagram.....	6
Figure 5 Height of Building Diagram.....	7
Figure 6 Area of Non-compliance – F&I	14
Figure 7 Area of Non-compliance – F&I: if 10% design excellence bonus were to be applied to both height and FSR.....	14
Figure 8 Sectional Diagram (area of non-compliance area shaded yellow and max height plane in red) – F&I	15
Figure 9 Area of Non-compliance – G&H	16
Figure 10 Area of Non-compliance – G&H: if 10% design excellence bonus were to be applied to both height and FSR.....	17
Figure 11 Sectional Diagram (area of non-compliance area shaded yellow and max height plane in red) – G&H.....	18
Figure 12 Area of non-compliance – F&I and G&H (view from the north) – 130% scenario.....	19
Figure 13 Area of non-compliance – F&I and G&H (view from the north) – 143% scenario.....	19
Figure 14 Area of non-compliance	25
Figure 15 Render of Corner of MacDonald Street and Kooka Walk	26
Figure 16 Photomontage of Kooka Walk.....	28
Figure 17 3D massing - area of non-compliance circled	29
Figure 18 Photomontage along MacDonald Street – area of non-compliance circled	29
Figure 19 Overshadowing Analysis (9am-2pm)	32
Figure 20 View impact assessment from Sydney Park– amended concept envelope assessment	33

TABLES

Table 1 Site Description.....	1
Table 2 Areas of height exceedance	9
Table 3 Unreasonable or Unnecessary Response.....	20
Table 4 Assessment of Compliance with E1 Local Centre Land Use Zone Objectives (applicable to Block F and portion of Block G).....	33
Table 5 Assessment of Compliance with MU1 Mixed Use Land Use Zone Objectives (applicable to Blocks I, portion of Block G and Block H)	34

REQUEST TO VARY A DEVELOPMENT STANDARD

REQUEST TO VARY CLAUSE 4.3 HEIGHT OF BUILDING IN SYDNEY LOCAL ENVIRONMENTAL PLAN 2012

Address: 155 Mitchell Road, Erskineville

This application relates to the Detailed DA of Buildings F&I and G&H located within the southern portion of the Ashmore Precinct (the Precinct) and should be reviewed in conjunction with the Amended Concept DA.

Date: May 2025

SITE AND PROPOSED DEVELOPMENT

1. Site Description

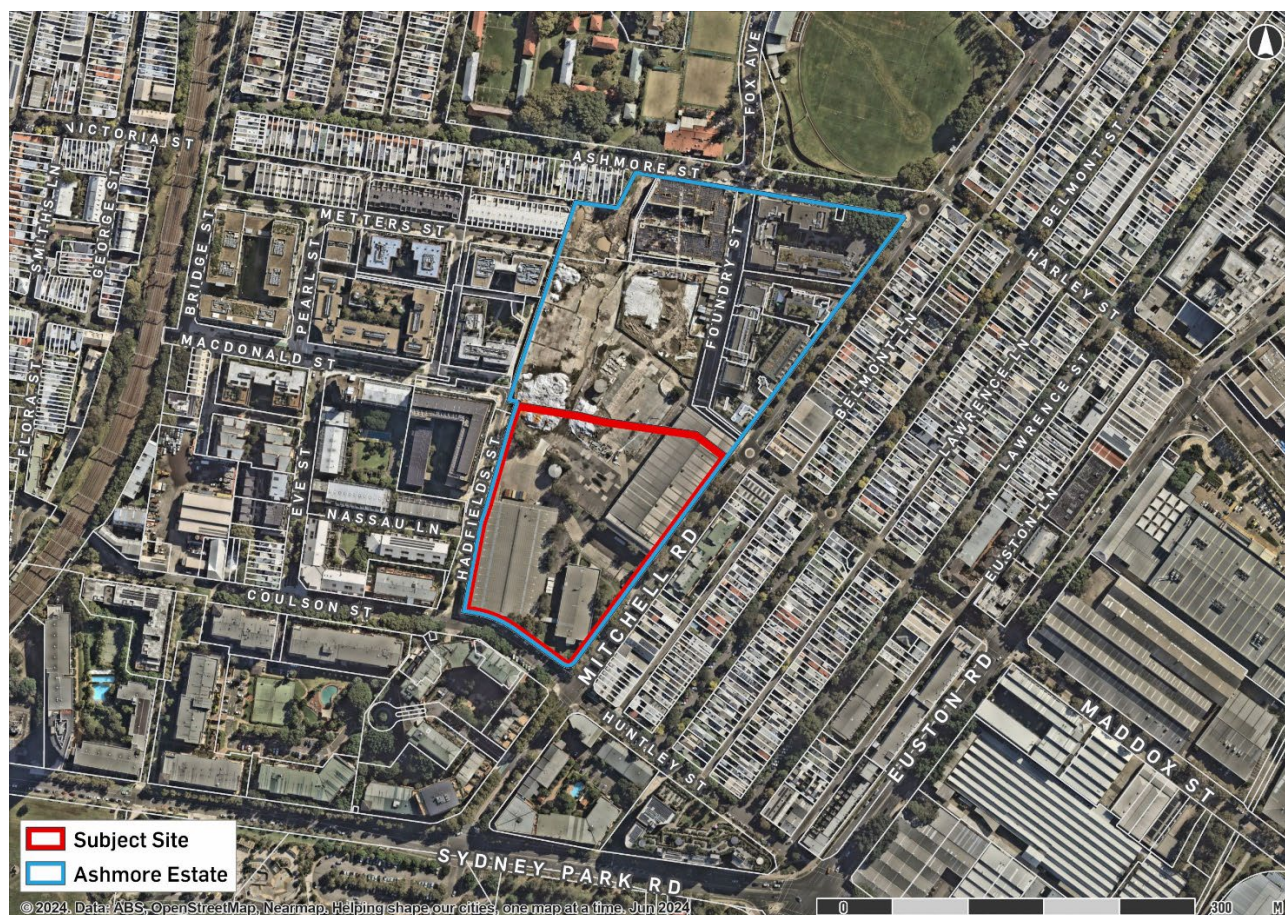
The key features of the site are summarised in the following table.

Table 1 Site Description

Site Characteristic	Description
Street Address	155 Mitchell Road, Erskineville
Location	This application relates to the southern portion of the Precinct, which comprise Blocks F&I and G&H. Block F&I are located to the east of the site fronting Mitchell Road and Blocks G&H are located to the west of the site fronting Hadfield Street.
Legal Description (Title Particulars)	Lot 20 DP1290687
Site Ownership	Coronation Property Co.
Title Encumbrances (Easements etc.)	(A) Easement for water supply purposes 6 wide limited in stratum. (B) Easement for water supply purposes 8 wide. (C) Restriction on the use of land. (D) Planning agreement pursuant to section 7.6 Environmental Planning and Assessment Act 1979. (H) Easement for support variable width. (T1) Easement for turning area variable width.
Existing development	The site currently comprises vacant warehouse and office buildings and ancillary structures, which are currently being demolished under Complying Development.
Zoning	E1 Local Centre MU1 Mixed Use
Development Area	Blocks F&I area: 12,096m ² Blocks G&H area: 10,557m ² Approx. Total site area: 22,653m ²

Site Characteristic	Description
Heritage	The Ashmore Precinct contains a local heritage item 603 “electrical substation”, which is located within the northern portion of the Precinct. C22 “Erskineville Estate” heritage conservation area is located further north of the Precinct. The site does not contain any heritage item and is not located within the heritage conservation area. Blocks F&I is located on the opposite side of the C2 “Cooper Estate” heritage conservation area.
Adjacent land uses North	A mixture of mixed-use and residential flat building development as part of the Ashmore Estate (Blocks B and C) as well as the future McPherson Park.
Adjacent land uses East	Townhouse developments further west adjacent Mitchell Road with heights ranging from one storey to four storeys.
Adjacent land uses South	The Sydney Park Village high density residential flat building development with 7-storey street wall height.
Adjacent land uses West	Mixture of medium and high density residential flat building developments, including: OneA Erskineville (6 storey street wall height) 6-26 Nassau Lane (townhouses) 16 Eve Street, Erskineville (5 storey street wall height) 1 Coulson Street, Erskineville (5 storey street wall height)
Public Transport	Two bus stops are immediately adjacent the site along Mitchell Road, which provides regular bus services to Central Station, Redfern Station and St Peters Station. Erskineville station is located approximately 600m northwest from the Precinct.

Figure 1 Location Plan



Source: Urbis, 2024

2. Proposed Development

The DA seeks approval of a mixed use development, comprising:

F&I

- Seeks approval of residential (in the form of build to rent development) and retail uses. Detailed fitout of the retail area will be subject to separate approval.
- Staged construction of a mixed-use development at Block F comprising:
 - 5,124sqm supermarket and retail at the ground level
 - 415 apartments
- Staged construction of a residential flat building at Block I consisting of 162 apartments.
- A consolidated basement below F&I, comprising two levels of car parking providing 379 car parking spaces, 32 motorcycle parking spaces, 712 bicycle parking spaces, storage, and waste management facilities.
- Provision of communal open space and indoor facilities including:
 - Block F
 - Central Courtyard at level 02 of Building F providing a bespoke water garden, a boardwalk pathway, bio-gardens and an all weather 'green room'.
 - Indoor amenities at level 7 of Building F3 comprising communal dining rooms, gathering spaces, meeting rooms, gym, yoga, sauna and spa facilities.

- Communal open space at level 8 of Building F3 comprising a swimming pool, lounges and cabanas, gathering spaces, BBQ dining areas and a pickleball court.
- Four separate rooftop communal open space areas on Buildings F1 and F2 including sheltered areas for working, BBQ facilities, and outdoor dining.

– Block I

- Two separate rooftop communal open space areas comprising sheltered areas for working, BBQ facilities, and outdoor dining.
- - Landscaping throughout the site including embellishment of the ground levels, private terraces, and rooftop communal areas (Levels 2, 8 and 12 for Block F; Level 10 for Block I).
- A new publicly accessible park located to the northwest of Block I – Kooka Parklet.
- Construction on Alpha Street.
- Construction of new intersection at Mitchell Road and Alpha Street.
- Public art provision.

G&H

- Seeks approval of residential (in the form of build to rent and affordable housing development).
- Staged construction of two residential flat buildings, consisting of a total of 505 apartments, including 171 affordable housing units (this includes 15 dual key apartments, if dual key apartments are converted, it would result in 156 affordable housing units).
- The affordable housing units are being consolidated entirely into Block H.
- A consolidated basement below G&H, comprising two levels of car parking providing 262 car parking spaces, 30 motorcycle parking spaces, storage, and waste management facilities.
- Provision of communal open space and indoor facilities including:

– Block H:

- Ground floor outdoor courtyard with seating and shade structure
- Rooftop communal area with dining area with shade structure, seating, community garden, outdoor bar, working desks.

– Block G:

- Indoor communal facilities on the ground floor, including co-working space, cinema, private dining room, lounge, gym, wellness and retreat room, music room and library.
- Ground floor outdoor courtyard with seating, shade structure, water features and dining and working spaces.
- Rooftop communal area at Building G5 with an outdoor swimming pool, hot and cold plunge pools, sauna, sun lounges and cabanas and seating.
- Rooftop communal area at Building G3 and G4 with seating, multipurpose court with shade structure, exercise equipment, dog grooming station and community garden.
- Landscaping throughout the site including embellishment of the ground levels, private terraces, and rooftop communal areas (Levels 7 & 8 for Block G; Level 8 for Block H).
- Construction of Nassau Lane and Road widening along Nassau Lane.
- Public art provision.

Figure 2 Photomontage of the F&I Proposal



Source: Bates Smart

Figure 3 Photomontage of the G&H Proposal



Source: BVN

PLANNING INSTRUMENT, DEVELOPMENT STANDARD AND PROPOSED VARIATION

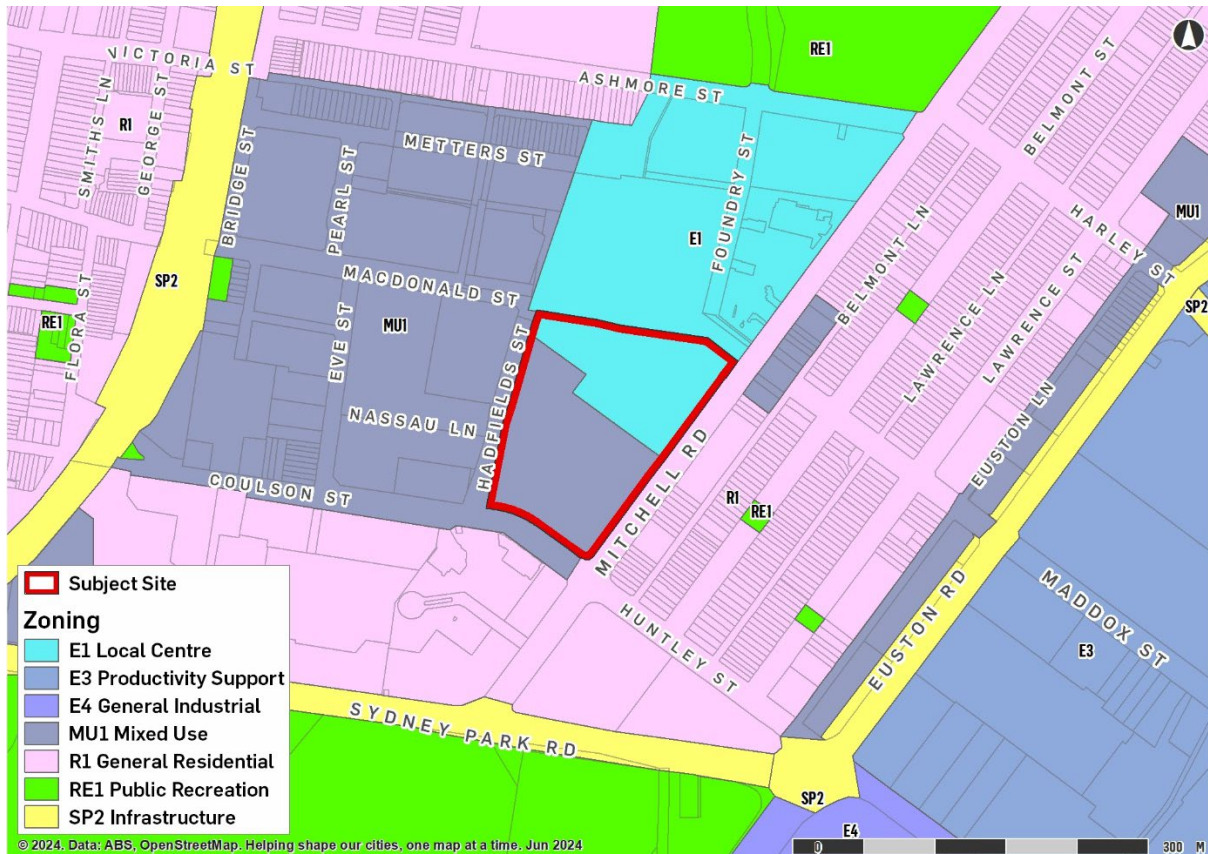
3. What is the planning instrument you are seeking to vary?

The application seeks to vary the *State Environmental Planning Policy (Housing) 2021 (Housing SEPP)* and *Sydney Local Environmental Plan 2012 (SLEP 2012)*.

4. What is the site's zoning?

E1 Local Centre and MU1 Mixed Use.

Figure 4 Land-use Zoning Diagram



Source: Urbis, 2024

5. What is the development standard to be varied?

The standard proposed to be varied is the maximum height of the building standard under Part 2, Division 1, Clause 16(3) and the non-discretionary development standard under Clause 74(2)(a) of the Housing SEPP.

Part 2, Division 1, Clause 16(3) of the Housing SEPP states:

16 Affordable housing requirements for additional floor space ratio

(1) The maximum floor space ratio for development that includes residential development to which this division applies is the maximum permissible floor space ratio for the land plus an additional floor space ratio of up to 30%, based on the minimum affordable housing component calculated in accordance with subsection (2).

(2) The minimum affordable housing component, which must be at least 10%, is calculated as follows—

$$\text{affordable housing component} = \frac{\text{additional floor space ratio}}{\text{(as a percentage)}} \div 2$$

(3) If the development includes residential flat buildings or shop top housing, the maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional building height that is the same percentage as the additional floor space ratio permitted under subsection (1).

(4) This section does not apply to development on land for which there is no maximum permissible floor space ratio.

Additionally, Chapter 3. Part 4, Clause 74 of the Housing SEPP states:

74 Non-discretionary development standards—the Act, s 4.15

(2) The following are non-discretionary development standards in relation to the carrying out of the development to which this Part applies—

(a) the building height of all proposed buildings is not more than the maximum building height permitted under Chapter 5, Chapter 6 or another environmental planning instrument for a building on the land,

The permissible building height for the land is set out in 4.3 Height of building under SLEP 2012. Varied height development standards apply to the site, ranging between 18m, 25m and 27m for buildings, and 3m within the public domain areas.

Figure 5 Height of Building Diagram



Source: Urbis, 2024

The maximum permissible height has been established through the incentives provided by the 'infill affordable housing' provisions under the Housing SEPP. The proposal seeks to provide maximum of 15% affordable housing, therefore will utilise the full 30% uplift in height available under the Housing SEPP.

The height of buildings development standard is not excluded from the operation of Clause 4.6 of the SLEP.

The objective of the In-fill affordable housing provisions of the Housing SEPP is as follows:

15A Objective of division

The objective of this division is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.

The objectives of the development standard in the LEP are as follows:

1) The objectives of this clause are as follows—

- (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 the street network and public spaces.*

6. Type of development standard?

Numerical

7. What is the numeric value of the development standard in the environmental planning instrument?

As outlined above, the site is subject to several numeric development standards relating to the height of the building under the SLEP and the Housing SEPP. This results in a maximum permissible building height of the following, which applies to various locations of the site:

- 18m x 130% = 23.4m
- 25m x 130% = 32.5m
- 27m x 130% = 35.1m

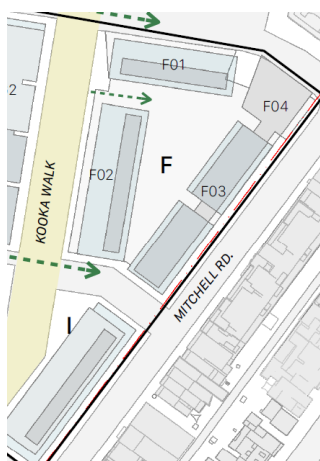
The height incentive has not been applied to the public domain areas and the maximum height in these areas will remain as 3m.

8. What is the difference between the existing and proposed numeric values? What is the percentage variation (between the proposal and the environmental planning instrument)?

Portion of Buildings F3 (only in the 25/32.5m height zone), G1, G5 and H3 can comply with the maximum building height control. The proposal exceeds the maximum height of building controls in other locations, which are described below:

Table 2 Areas of height exceedance

Building location	LEP height	Maximum permissible height	Proposed Height – maximum	Height exceedance	% of Variation
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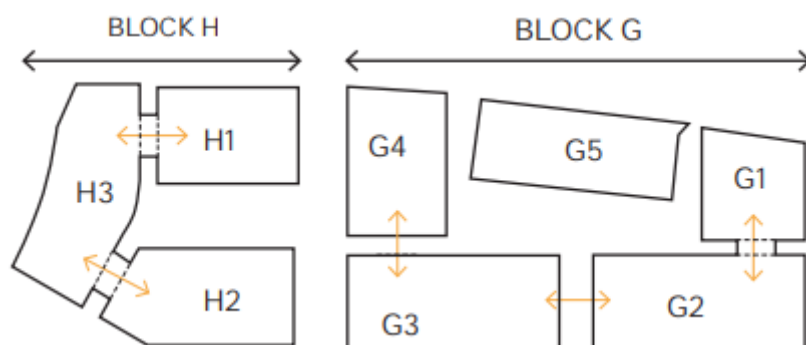
Building F

F1	Part 25m and part 27m	Part 32.5m and part 35.1m	Top of the parapet to residential building: 39.0m Plant enclosure: 41.5m Lift overrun: 43.5m	<u>In the 32.5m height zone:</u> 6.5m – 11.0m <u>In the 35.1m height zone:</u> 3.9m – 8.4m	<u>In the 32.5m height zone:</u> 20% - 33.9%. <u>In the 35.1m height zone:</u> 11.1% -23.9%
F2	Part 25m and part 27m	Part 32.5m and part 35.1m	Top of the parapet to residential building: 38.25m Plant enclosure: 41.4m Lift overrun: 43.7m	<u>In the 32.5m height zone:</u> 5.75m – 11.2m <u>In the 35.1m height zone:</u> 3.15m – 8.6m	<u>In the 32.5m height zone:</u> 17.7%-34% <u>In the 35.1m height zone:</u> 9% - 24.5%.
F3	Part 18 and part 25m	Part 23.4m and part 32.5m	Top of the parapet to residential building: 26.5m Plant enclosure: 29.5m Lift overrun: 32.0m	<u>In the 23.4m height zone:</u> 3.1m – 8.6m <u>In the 32.5m height zone:</u> Complies	<u>In the 23.4m height zone:</u> 13.3% - 36.8% <u>In the 32.5m height zone:</u> Complies

Building location	LEP height	Maximum permissible height	Proposed Height – maximum	Height exceedance	% of Variation
F4	18m	23.4m	Top of the parapet to residential building: 23.4m – complies Plant enclosure: 29.5m Lift overrun: 32.0m	6.1m – 8.6m Note: the top of parapet height complies with the max height.	26% - 36.8%

Building I

I1	25m	32.5m	Top of the parapet to residential building: 33.5m Plant enclosure: 36.0m Lift overrun: 38.0m	1.0m - 5.5m	3% - 16.9%
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Building G

G1	27m	35.1m	Top of the parapet to residential building = 26.93m Plant room = 29.73m	Complaint	N/A
G2	27m	35.1m	Top of the parapet to residential building = 37.28m Plant room = 39.60m Lift overrun = 41.98m	2.18m - 6.88m	6.2% - 19.6%
G3	25m	32.5m	Top of the parapet to residential building = 36.98m Plant room = 39.30m Lift overrun = 38.08m	4.48m - 6.80m	13.8% -20.9%

Building location	LEP height	Maximum permissible height	Proposed Height – maximum	Height exceedance	% of Variation
G4	25m	32.5m	Top of the parapet to residential building = 33.73m Plant room = 36.18m Lift overrun = 38.38m	1.23m - 5.88m	3.8% - 18.1%
G5	25m	32.5m	Top of the parapet to residential building = 21.71m Plant room = 22.28m Lift overrun = 28.16m	Complaint	N/A
Building H					
H1	25m	32.5m	Top of the parapet to residential building = 32.27m – complies Plant room = 34.59m Lift overrun = 36.97m	2.09m - 4.47m Note: the top of parapet height complies with the max height.	6.4% - 13.8%
H2	25m	32.5m	Top of the parapet to residential building = 32.27m – complies Plant room = 34.59m Lift overrun = 36.97m	2.09m- 4.47m Note: the top of parapet height complies with the max height.	6.4% - 13.8%
H3	25m	32.5m	Top of the parapet to residential building = 25.12m Plant room = 24.37m	Complaint	N/A

The area of non-compliance relates to portions of the most top floor level across certain buildings within the site. The more significant height departure relates to rooftop plant, balustrades and lift overrun areas, which does not contain gross floor area (**GFA**) and are essential building structures that is required to provide amenities for the buildings. **GFA within buildings F4, H1 and H2 are below the maximum height limit.** The areas of the building that contains GFA which are protruding beyond the height limit relates to the following buildings and has a variation of:

- Building F1: 6.5m (in the 25m/32.5m zone) and 3.9m (in the 27m/35.1m zone)
- Building F2: 5.75m (in the 25m/32.5m zone) and 3.15m (in the 27m/35.1m zone)
- Building F3: 3.1m (in the 18m/23.4m zone)
- Building I1: 1m
- Building G2: 2.18m
- Building G3: 4.48m

- Building G4: 1.23m

For Buildings F1 and F2 as part of design refinement, the buildings have been shifted within Block F and this is to improve solar access amenity for the eastern elevation of Building F2 and solar access to the communal open space at the elevated courtyard. As a result of this, a portion of these buildings are now located within the 25 / 32.5m metre height control which results in a greater numerical non-compliance within the 25 / 32.5m metre height plane area.

The area of non-compliance is the result of:

- **Flood planning requirements** – the proposed development has been designed to comply with Council's interim floodplain management policy, requiring buildings to be raised to meet the probable maximum flood and 1%+AEP flood levels. This has resulted in buildings being raised, in certain locations, of up to 2 metres. Compliance with flood planning controls necessitated an increase in building height. This requirement has been resolved as part of the detailed DA submission but had not been anticipated when the LEP control and concept envelope were first established. As a result, the concept envelope was amended to ensure compliance with flood requirements.
- **Floor to floor height requirements** – Establishing floor to floor heights to satisfy the Design Building and Practitioners Act 2020 (**DBP Act**). Various changes have occurred since the approval of the concept envelope in 2016 (such as higher construction and building standards) that have necessitated new construction requirements while ensuring the minimum floor to ceiling heights of the ADG are met. A combination of floor to floor levels plus the flood planning level compliance results in minor portions of GFA sitting above the height plane.
- **Redistribution of massing** – to maintain a high standard of building amenity and to mitigate the external impacts of the development, the massing of Blocks F, I, G and H have been carefully redistributed. This includes lowered building heights in some locations, particularly Block G and H (Buildings H3, G5, G1), and the transfer of this GFA to elsewhere within the development. The massing strategy has been part of ongoing consultation with City of Sydney to develop an uplift scheme under the infill affordable housing provisions in the Housing SEPP and ensures a standalone affordable housing building is provided in Block H.
- **Provision of affordable housing** – the proposed development provides 15% of the total GFA for affordable housing in perpetuity. In achieving this, the bonus 30% has been carefully distributed across the site as part of the broader massing strategy however, results in some GFA that sits above the height plane (notwithstanding the exceedances generated by the flood planning levels and floor to floor requirements). Any reductions to height, which the maximum affordable housing GFA relies upon (due to the sliding scale nature of the Housing SEPP), would result in less GFA being provided for affordable housing and impact the viability of providing affordable housing in perpetuity.
- **Access to rooftop amenities** – at the request of Council's urban design team, each building provides several areas for access to rooftop amenities. These areas require lift access, balustrading and shade structures that sit above the height plane, however, do not result in GFA and will not be visually dominant. These rooftop amenity structures are semi-permeable (that is, not fully enclosed or designed to be solid elements) and therefore their visual presence on the rooftops will be recessed and minimized when viewed from street level. This approach is widely consistent with the City's Policy and Housekeeping Amendments 2023 Planning Proposal (which is a draft EPI).
- **Allowance for plant and lift overrun** – the areas of the greatest height exceedances are attributed to plant and lift overrun zones to accommodate services. Despite these elements amplifying the agree of variation from the height of building control, these do not comprise GFA, do not comprise whole levels (that is, they are interspersed on the rooftops) and have been strategically recessed within the rooftops of individual buildings to minimise and conceal any visual impact of these structures. As the proposal complies with the maximum gross floor area across the Precinct, the proposed variation does not represent an overdevelopment of the site, and is the result of achieving the design excellence FSR bonus of 10%.

As the proposal complies with the maximum gross floor area across the Precinct, the proposed variation does not represent an overdevelopment of the site and is the result of achieving the design excellence FSR bonus of 10%.

The proposed height is based on a massing that was nominated and reviewed by City of Sydney Council through consultation with the proponent. This acknowledged the site's capacity to provide affordable housing

under the Housing SEPP in a manner that redistributed height across the precinct and to support a standalone affordable housing building (Block H).

Sydney LEP Amendment:

The City of Sydney has prepared a suite of proposed changes to the planning controls applying to Central Sydney and the wider LGA under the current Sydney LEP. One of the changes relate to the City of Sydney's Competitive Design Policy, including offering incentives of both 10% height and 10% floor space (whereas currently only one incentive can be elected, and in the context of this application, FSR was the elected bonus). In early December 2023 Council approved these amendments and seek a Gateway Determination from the Department of Planning, Housing and Infrastructure subject to recommended changes. Public exhibition of the design excellence change has commenced.

Accordingly, given only FSR is the elected design excellence bonus with no corresponding height design excellence bonus, there is a discrepancy between the maximum height achievable on the site and the maximum allowable FSR on the site.

We acknowledge that the amendment will not apply to this application, however for the purpose of assessing the height non-compliance, we have also included the scenario where the draft design excellence height bonus is applied. Under this scenario, the extent of height exceedance is reduced to mostly non-GFA areas, e.g. plant and lift overrun. Please refer to **Figure 7** and **Figure 11**.

Housing priority

The NSW government's objectives for providing additional housing in well located areas close to infrastructure and transport, with amenities and work opportunities would be thwarted if strict compliance with the height development standard was required.

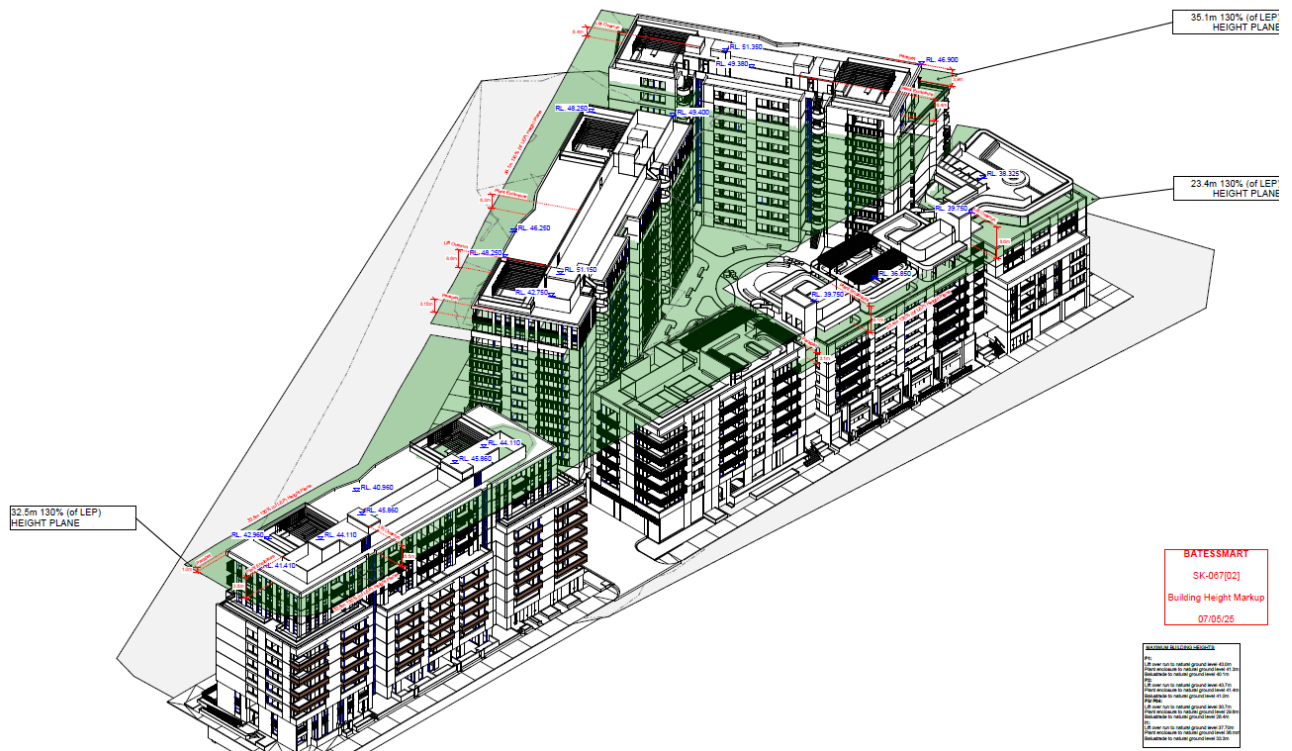
The practice note for in-fill affordable housing clearly states that the "*consent authorities should be flexible in the design response of the development having regard to the Government's policy intent to deliver more affordable housing.*"

If compliance with the height standard was adopted, this would result in deleting the additional height that contains GFA. However, this will require the deletion of an entire storey within Buildings F1, F2, F3, I1, G2, G3 and G4, which would result in a significant loss of dwellings and affordable dwellings on this key inner city site. Accordingly, this would be inconsistent with the State priority. Also to note that the affordable housing provisions of the Housing SEPP work on a sliding scale so any loss of GFA will result in a loss of GFA allocated to affordable housing and the ability for the affordable housing to be delivered in perpetuity.

9. Visual representation of the proposed variation

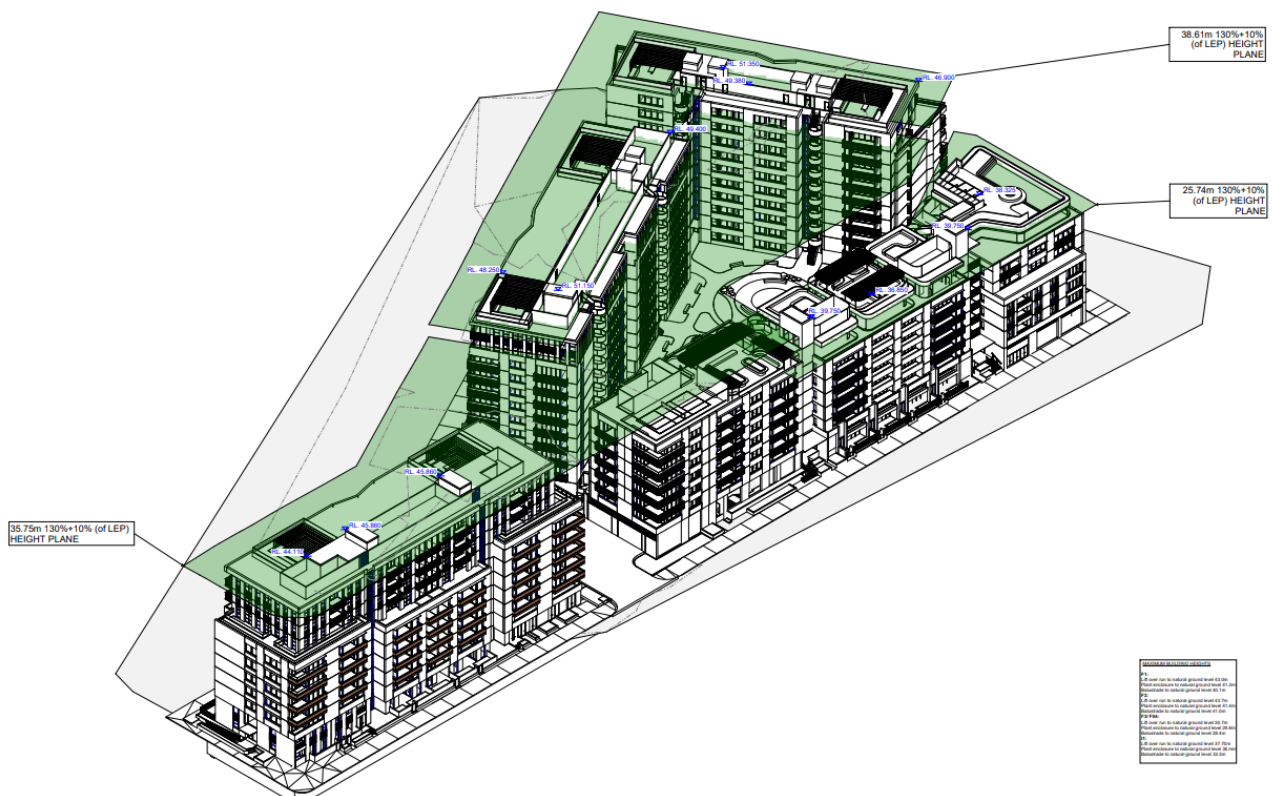
The figures below provide a representation of the proposed height of building variation.

Figure 6 Area of Non-compliance – F&I



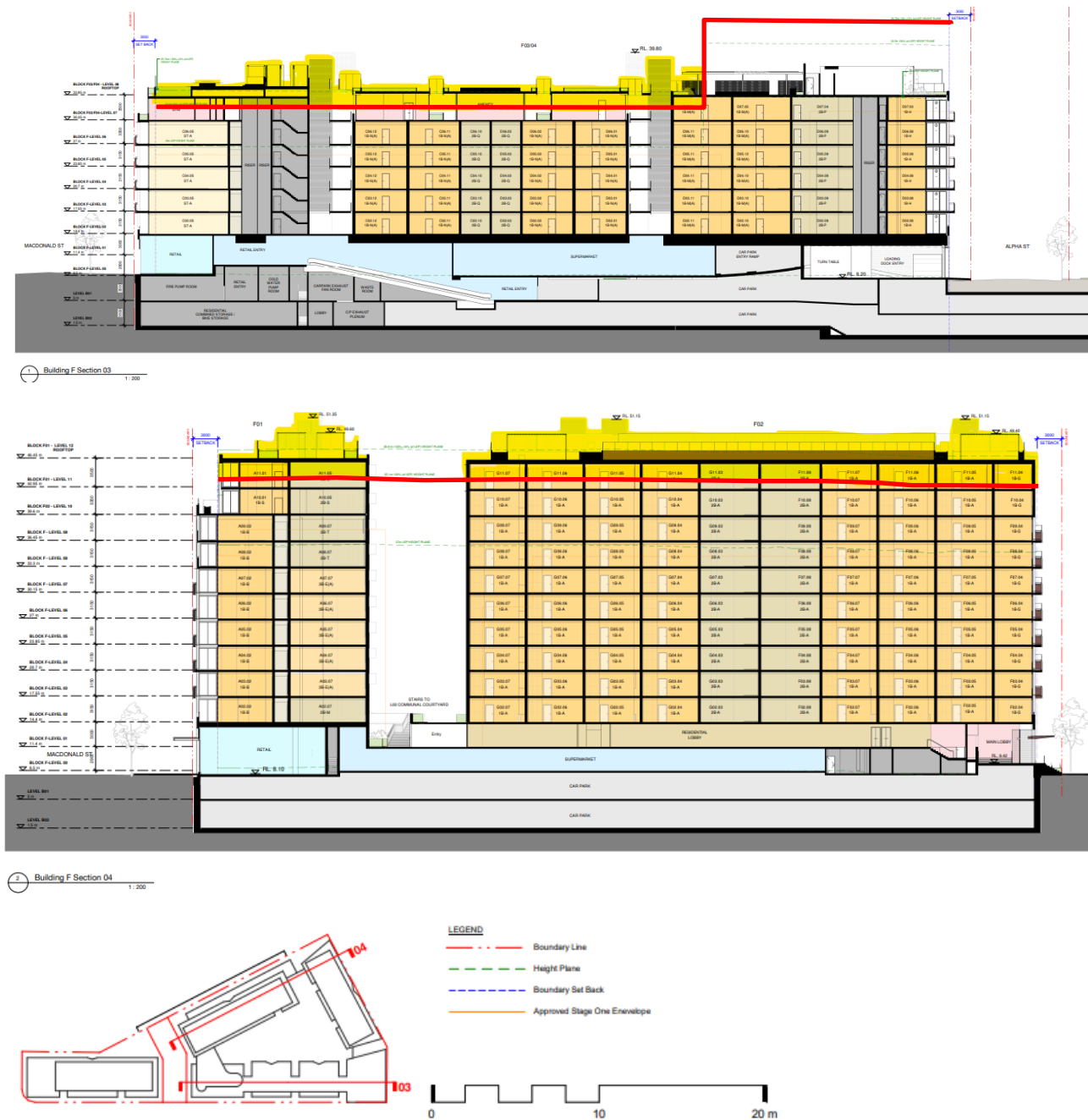
Source: Bates Smart

Figure 7 Area of Non-compliance – F&I: if 10% design excellence bonus were to be applied to both height and FSR



Source: Bates Smart

Figure 8 Sectional Diagram (area of non-compliance area shaded yellow and max height plane in red) – F&I



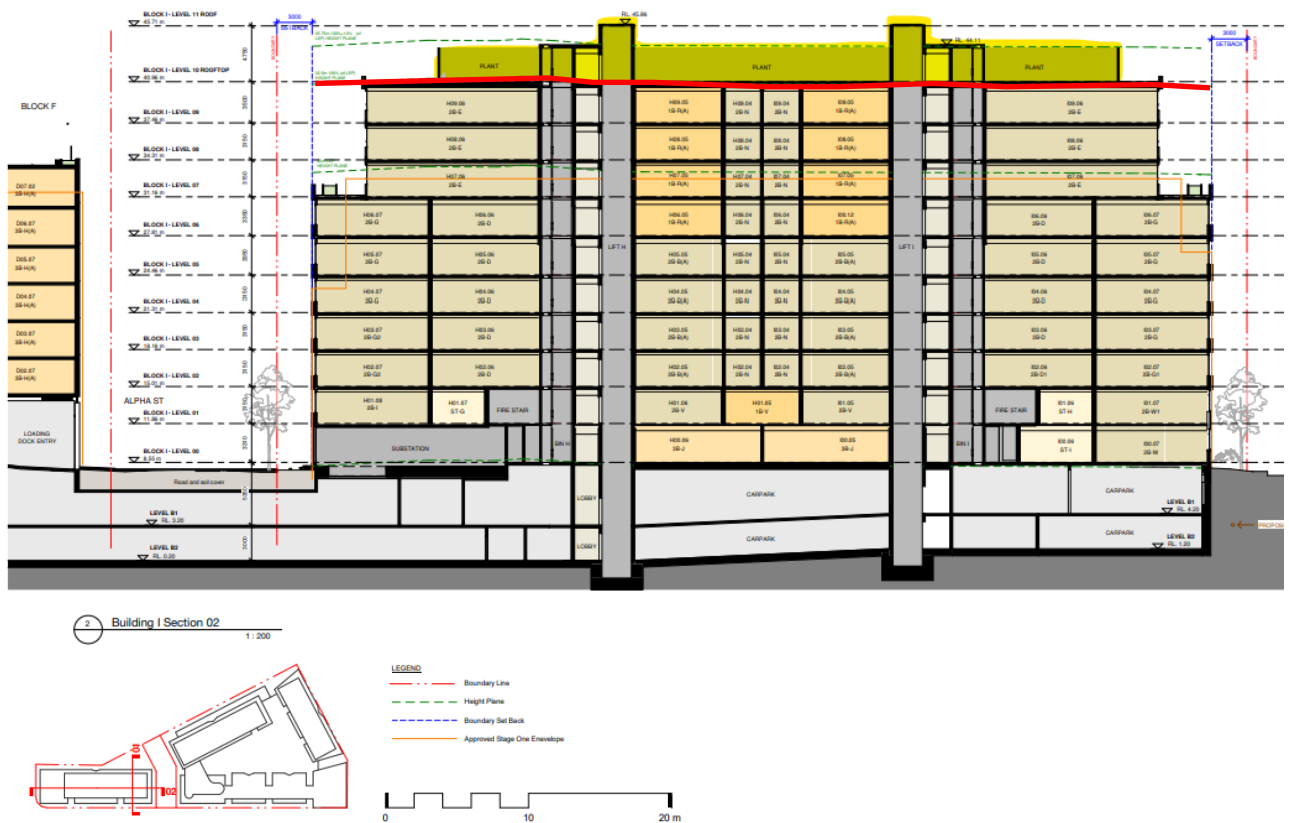
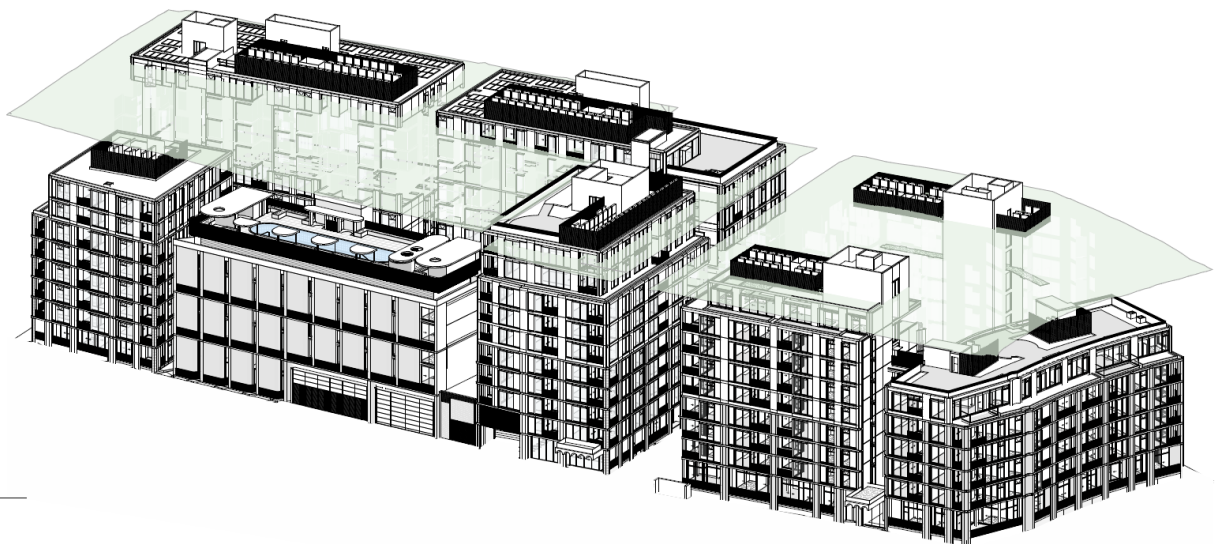
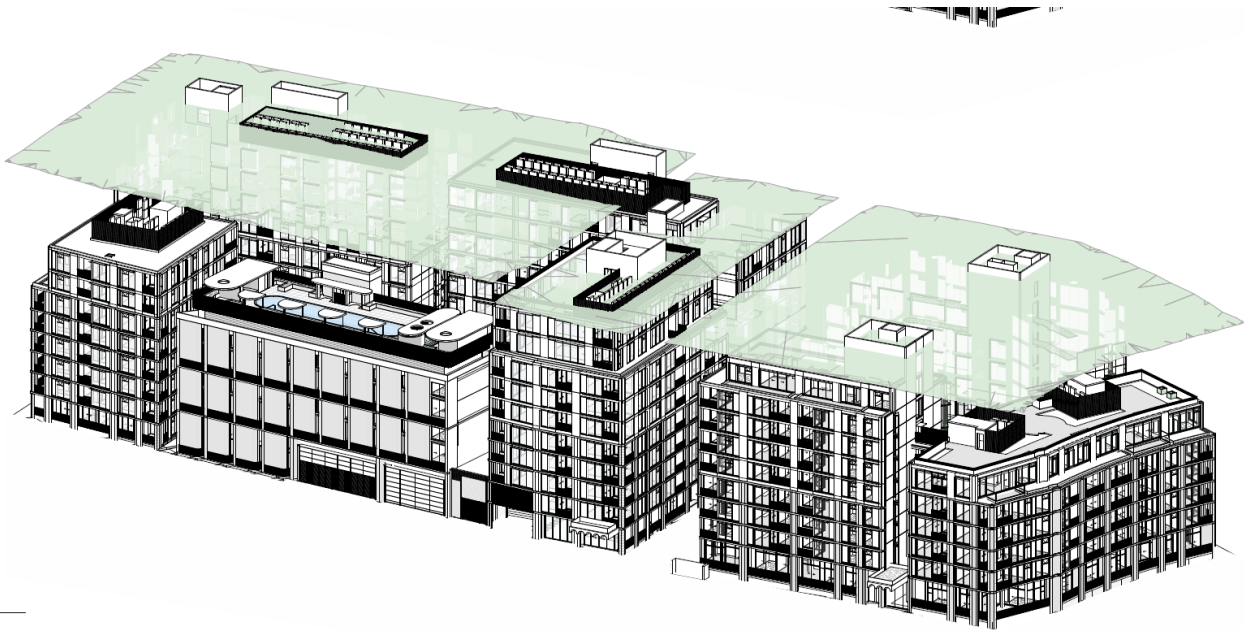


Figure 9 Area of Non-compliance – G&H



Source: BVN

Figure 10 Area of Non-compliance – G&H: if 10% design excellence bonus were to be applied to both height and FSR

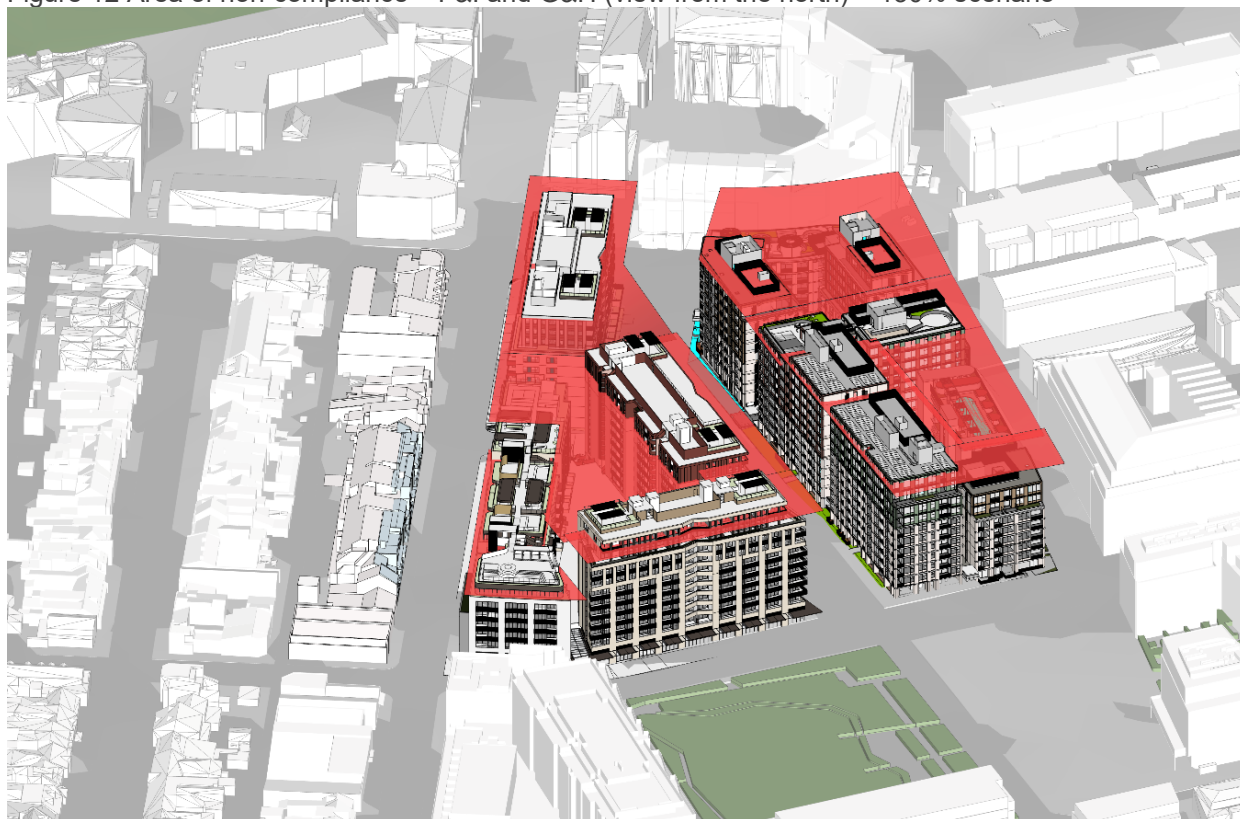


Source: BVN

The architectural drawings illustrate the proposed development at 1000 West 1st Street. The main elevation shows a multi-story building with a yellow roof and a red line indicating the 20-foot height limit. The building is divided into three sections: Building H1, Building G1, and Building G2. The site plan shows the building's footprint and its relationship to the surrounding streets: Colson Street, Nassau Lane, and Macdonald Street. The section views (A-A, B-B, and C-C) provide a detailed look at the building's internal structure, including the roof, floors, and walls. The drawings also include a legend for the height limit and a scale bar.

18 DISCLAIMER

Figure 12 Area of non-compliance – F&I and G&H (view from the north) – 130% scenario



Source: FJC

Figure 13 Area of non-compliance – F&I and G&H (view from the north) – 143% scenario



Source: FJC

JUSTIFICATION FOR THE PROPOSED VARIATION

10. How is compliance with the development standard unreasonable or unnecessary in the circumstances of the particular case?

Table 3 Unreasonable or Unnecessary Response

Key Questions	Response
a) Are the objectives of the development standard achieved notwithstanding the non-compliance?	For completeness, this section addresses both the objective of the infill affordable housing provisions of the Housing SEPP and the objectives of the height of buildings development standard within the SLEP. <i>The objective of Part 2, Division 1 of the Housing SEPP</i> <i>15A The objective of this division is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.</i> The proposal allocates 15% of its total GFA to affordable housing to be operated by an CHP in perpetuity, in a location close to services, retail and public transport responding to an identified need for affordable housing. A covenant will be registered on the title to the relevant stratum lot reflecting this requirement. All of the affordable housing will be located within its own stratum, which is proposed to be in building H. The operation of affordable housing in perpetuity is also going above and beyond the requirement under the Housing SEPP, which only requires 15 years. The affordable housing component has been carefully designed to ensure high levels of amenity and a variety of housing typologies that will meet the expected needs and profile of the affordable housing tenants. Accordingly, the proposal delivers significant public benefits, including: ▪ Long-term affordable housing supply. ▪ High-quality amenity for affordable housing tenants. ▪ Urban renewal aligned with broader strategic planning goals. ▪ The proposed height variation does not increase the intensity of the uses on the site. When assessed on a whole-site basis, the proposal also complies with the maximum permissible GFA applicable to the site. If the proposal was to required to meet the maximum permissible height, it will result in the loss of affordable housing and residential dwellings, which will not be consistent with the objective of the Housing SEPP. Assessment against the Sydney LEP objectives is discussed below. Sydney LEP Objectives: <i>The objectives of the clause are to:</i> <i>(a) to ensure the height of development is appropriate to the condition of the site and its context,</i> The site is located within the Ashmore precinct. The character of the Precinct continues to undergo significant change Notwithstanding the non-compliance, the proposal results in an intensity of development that is both consistent and compatible with the desired future character of the area and provides a transition of scale with surrounding existing development. F&I: <u>Communal Roof Terraces</u> The primary areas of the height non-compliance at Blocks F&I relate to the communal amenity areas on the rooftops. These communal open space areas are additional to the communal courtyard at Level 2 and provide surplus of outdoor residential amenities located on all buildings within the F and I precinct. The rooftop communal spaces provide residents with additional recreational areas, promoting social interaction and a sense of community, that are easily accessible to each of the buildings. The design of the rooftop space minimises visual impact and does not significantly alter the perceived height of the building from street level. The landscaped

Key Questions	Response
	rooftops rather improve the visual appeal of the building, making it more environmentally friendly. <u>Rooftop plant, lift overrun and balustrade</u> The other areas of non-compliance relate to rooftop plant, balustrade and lift overrun. These noncompliant elements are not in a location, or of a scale, that would result in the development being incompatible with the condition of the site and its context, as these are very common building structures that can be seen in the existing development surrounding the site. The plant rooms and lift overrun are all vital to the building's operations. The lifts provide equitable access to each floor and rooftop communal open space of the respective buildings. The balustrading is required to provide safety to the rooftop communal areas. Further to this, the mechanical plant equipment is needed to service the building and meet BCA requirements. <u>Areas of non-compliance that comprise GFA:</u> The height exceedance includes a very small amount of floorspace in buildings F1, F2 and F3. Accommodating the maximum allowable floorspace within the heights envisioned by the planning controls was difficult to achieve as – ▪ The site is flood affected and the PMF level is 1.5m – 2m above street level. ▪ Changes to the NCC have required greater floor to floor heights ▪ Ability to accommodate the 10% design excellence floorspace without also raising the height. More importantly, for Buildings F1 and F2 as part of design refinement, the buildings have been shifted within Block F and this is to improve solar access amenity for the eastern elevation of Building F2 and solar access to the communal open space at the elevated courtyard. As a result of this, a portion of these buildings are now located within the 25 / 32.5m metre height control which results in a greater numerical non-compliance within the 25 / 32.5m metre height plane area. G&H: <u>Rooftop plant, lift overrun and balustrade</u> One of the elements of areas of non-compliance relates to rooftop plant, balustrade and lift overrun. These noncompliant elements are not in a location, or of a scale, that would result in the development being incompatible with the condition of the site and its context, as these are very common building structures that can be seen in the existing development surrounding the site. The plant rooms and lift overrun are all vital to the building's operations. The lifts provide equitable access to each floor and rooftop communal open space of the respective buildings. The balustrading is required to provide safety to the rooftop communal areas. Further to this, the mechanical plant equipment is needed to service the building and meet BCA requirements. In terms of the elements of breach: ▪ The plant and lift overruns are consolidated and located centrally within ▪ The site, away from key site interfaces with the public domain. ▪ The plant equipment is enclosed behind screening, which will inherently obscure and shroud it from the public domain ▪ While minor elements such as balustrades are above the height plane, given their profile, will not cause any visual impacts. As such, these areas of non-compliance do not materially change the built form outcome on the site, or its relationship with any adjoining existing (or future) sites. <u>Areas of non-compliance that comprise GFA:</u>

Key Questions	Response
	The areas of non-compliance that comprise GFA relates to the top most levels of Buildings G4 fronting Hadfield Street, Buildings G2 and G3 fronting Kooka Walk and Building G2 fronting MacDonald Street. Despite the height non-compliance, the proposal generally maintains the urban design principle of providing a transition in scale by arranging taller built forms towards Kooka Walk and McPherson Park, which is one of the objective under the DCP. <u>Kooka Walk:</u> The width of the Kooka Walk is more than 20m, its generous width is able to absorb the area of non-compliance into its context. The width of Kooka Walk is also able to provide visual buffer so that the area of non-compliance will not create a sense of enclosure for future pedestrians. Despite the height non-compliance, the proposed built form is able to provide a transition of scale along Kooka Walk, from the north to the south of the site. This is achieved by having 11 storey to 10 storey built form within Block G (north to south) and a 9 storey built form within Block H. <u>Hadfield Street:</u> the areas of non-compliance relating to Buildings G4 are further setback at the street frontage. Transition of scale is still achieved despite the non-compliance, as Building G4 is a 10 storeys building, stepping down to a nine storey building. The variation of scale creates visual interest along this long frontage and reinforces the proposal's relationship to existing context along Hadfield Street. <u>MacDonald Street:</u> the area of non-compliance relating to Building G2 is further setback at the street frontage. The upper level setback is able to provide visual relief and also a transition in scale from Building G1 to the built form proposed at Block F. While a portions of the most upper levels of Blocks G2, G3 and G4 are over the height plane, these protrusions are associated with a compliant overall site FSR. Therefore, the intensity of the use of the site remains compliant notwithstanding the height non-compliance. Lastly, the height non-compliance is a result of careful design consideration by distribution of additional Housing SEPP height and design excellence FSR bonuses across the group of multiple buildings, which has endorsed by the City of Sydney Council prior to lodgement. Accordingly, the area of non-compliance will not prevent the buildings to be compatible with the height, bulk and scale of the future character of the locality and positively contribute to the streetscape and public space. Context character is further assessed in the section below.
<i>(b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas,</i>	F&I: The Copper Estate Heritage Conservation Area is located to the east of Block F and I, across Mitchell Road. While the proposed development reasonably large, the building (particularly on the Mitchell Street frontage) has been designed with appropriate setbacks, building cuts and variation in the architectural expression. The proposed development is separated by the thoroughfare of Mitchell Road, which is lined both sides with mature trees. The proposed development will not impact on the ability for the terraced row housing along the eastern section of the HCA to contribute to the streetscape of Mitchell Road and the conservation area. A Heritage Impact Statement (HIS) has been prepared by GBA Heritage to support the proposed development. The HIS determines the proposed development will not have an adverse impact on the HCA and is acceptable from a heritage perspective. G&H: The closest conservation area is approx. 45m from the site – and will be separated by future buildings. The development is therefore unlikely to impact on conservation areas further to the west of the site given the distance and presence of other buildings between the site and conservation area. The area of non-compliance will therefore not impact the transition in density to these heritage items

Key Questions	Response
<i>(c) to promote the sharing of views outside Central Sydney,</i>	There are no identified significant views within the Ashmore Estate, in this instance the building separation are applied to ensure views are shared between buildings. Potential distant view towards the CBD skyline maybe available from the upper level units from Sydney Park Village. The area of non-compliance is unlikely to impact on private view from these developments, because: ▪ The area of non-compliance will maintain view to sky. ▪ The area of non-compliance will be absorbed within the urban context of the surrounding environment, therefore will not look out of placed. The areas of non-compliance will impact on the distant CBD skyline view from the top of the hill at Sydney Park. The areas of non-compliance are likely to obstruct distant view towards the east. This impact is considered to be acceptable because: ▪ The primary view corridor towards the Sydney CBD (including centre point tower) is unobstructed. ▪ The area of non-compliance will only obstruct portion of the eastern view corridor which do not comprise iconic buildings or harbour view. ▪ The area of non-compliance will maintain view to sky. ▪ The area of non-compliance will be absorbed within the urban context of the surrounding environment, therefore will not look out of placed. ▪ This is discussed further in the section below.
<i>(d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas,</i>	The subject site is not within close proximity to Central Sydney nor Green Square Town Centre. Accordingly, this objective is not applicable to the proposed variation.
<i>(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 the street network and public spaces.</i>	The subject site is not within close proximity to Green Square. Accordingly, this objective is not applicable to the proposed variation.
b) Are the underlying objectives or purpose of the development standard not relevant to the development? (Give details if applicable)	N/A
c) Would the underlying objective or purpose be defeated or thwarted if compliance was required? (Give details if applicable)	N/A
(d) Has the development standard been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard?	N/A
e) Is the zoning of the land unreasonable or inappropriate so that the development standard is also unreasonable or unnecessary?	N/A

11. Are there sufficient environmental planning grounds to justify contravening the development standard?

Yes.

There are sufficient environmental planning grounds to justify contravening the development standard as follows.

Delivery Onsite Affordable Housing

The height variation enables the proposal to realise the full design excellence and affordable housing FSR incentives. These provisions are specifically intended to encourage the delivery of high-quality built form outcomes and to increase the supply of housing and affordable housing. Strict compliance with the height controls would reduce the development's capacity to achieve the additional floor space enabled by these provisions. In turn, this would result in fewer residential units, including a reduction in the amount of affordable housing that can be delivered on the site.

The proposed height variation, enables the proposal to fully realise these planning incentives, thereby delivering a greater number of dwellings, including affordable housing, within a highly accessible location. This outcome advances local housing targets and makes a direct contribution towards addressing the State's broader housing supply and affordability objectives.

Draft LEP Amendments

As noted above, the City of Sydney is progressing housekeeping amendments to Sydney LEP that are directly relevant to the proposed height variation and if these were applied the area of non-compliance will be reduced to rooftop plant and lift overrun areas only. Under the draft amendments, areas relating to green roofs and rooftop communal spaces will also be exempt from the height calculation and therefore would not result in non-compliance with the building height development standard, and the area of non-compliance will be further reduced to very minimal locations of the building. These draft amendments are well advanced, having been publicly exhibited and endorsed by Council in June 2025 following Gateway determination by DPHI, and are now at the finalisation stage. Two key amendments are of particular relevance:

1. Design Excellence Provisions

The draft amendment seeks to apply the 10% design excellence bonus to both height and FSR. At present, only one incentive may be elected - and in the case of this application, the FSR bonus has been selected. Accordingly, given only FSR is the elected design excellence bonus with no corresponding height design excellence bonus, there is a discrepancy between the maximum height achievable on the site and the maximum allowable FSR on the site. If this amendment were to apply, the height noncompliance would be substantially reduced as shown in Figure 14 below, and the area of non-compliance would only relate to rooftop plant, communal open space elements and lift overruns.

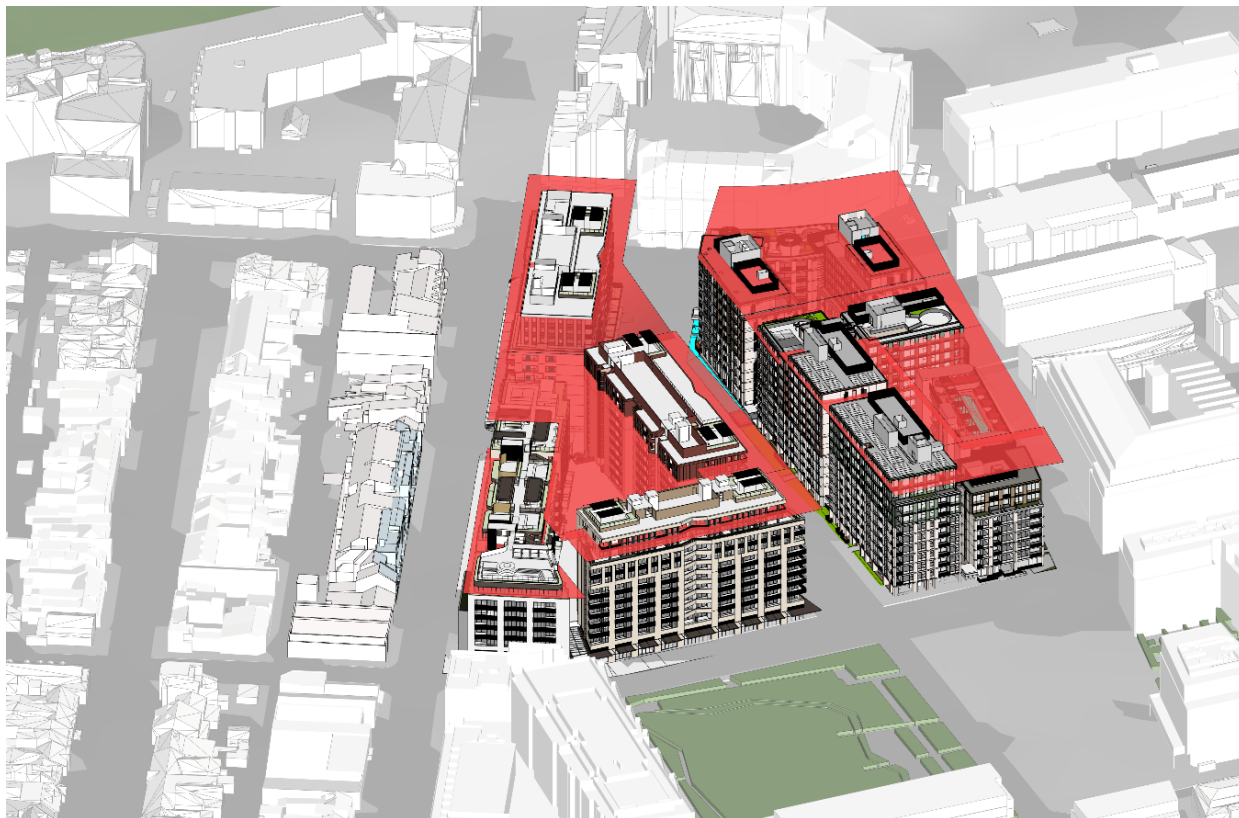
2. Exclusion of Green Roofs and Rooftop Structures from Height

The draft amendment seeks to introduce a new clause to the LEP to exclude rooftop gardens, communal open space, and associated ancillary structures (including access and amenities) from the calculation of building height, provided certain design and amenity criteria are satisfied. This change recognises the social and amenity benefits of green roofs and rooftop communal spaces, while ensuring impacts on surrounding properties (e.g. overshadowing, built form compatibility) are minimised. If this amendment were to apply, the area of noncompliance would be substantially reduced, and the area of non-compliance would only relate to rooftop plant areas that are not associated with rooftop communal spaces.

While it is acknowledged that these amendments do not formally apply to this DA, it is directly relevant to the assessment of the proposal's height non-compliance. If the draft height amendments were to be applied, the extent of exceedance would be materially reduced and limited primarily to non-GFA elements such as plant. These minor exceedances are typical in high-density development and do not undermine the intent of the height standard.

Accordingly, the current non-compliance arises from a timing issue in relation to LEP amendments that are already endorsed by Council and supported by DPHI. The proposal aligns with the direction of the City's intentions and delivers the type of outcomes - design excellence, affordable housing, rooftop greening - that current and future planning policies are intended to facilitate.

Figure 14 Area of non-compliance if design excellence bonus were to be applied to both height and FSR



Picture 1 Area of non-compliance – F&I and G&H (view from the north) – 130% scenario

Source: FJC



Picture 2 Area of non-compliance – F&I and G&H (view from the north) – 143% scenario

Source: FJC

Massing and Built Form

F&I:

The areas of non-compliance that comprise GFA relates to the top most levels of F1, F2 and F3. Accommodating the height the maximum allowable floorspace within the heights envisioned by the planning controls was difficult to achieve as –

- The site is flood affected and the PMF level is 1.5m – 2m above street level.
- Changes to the NCC have required greater floor to floor heights
- Ability to accommodate the 10% design excellence floorspace without also raising the height.

Kooka Walk

The development achieves a transition in height from the corner of MacDonald Street and Kooka Walk as illustrated in **Figure 14** below. The width of the Kooka Walk is more than 20m, its generous width is able to absorb the area of non-compliance into its context. The width of Kooka Walk is also able to provide visual buffer so that the area of non-compliance will not create a sense of enclosure for future pedestrians. A two storey street wall height is proposed at the Building F frontage with Kooka Walk the townhouses within are positioned at the same height as the retail space and are setback 3 metres from the boundary, presenting a 2 storey human scale brick plinth to the street. The lower street wall height reduces the visual dominance of the building to the street, and the height non-compliance is not noticeable at a human scale.

Additionally, the areas of non-compliance are further setback at the street frontage (Refer to Figure 15). The additional setback is able to reduce visual dominance of the area of non-compliance and reduce the perceivable bulk and scale of the built form.

For Buildings F1 and F2 as part of design refinement, the buildings have been shifted within Block F and this is to improve solar access amenity for the eastern elevation of Building F2 and solar access to the communal open space at the elevated courtyard. As a result of this, a portion of these buildings are now located within the 25 / 32.5m metre height control which results in a greater numerical non-compliance within the 25 / 32.5m metre height plane area.

Figure 15 Render of Corner of MacDonald Street and Kooka Walk



Source: Bates Smart

Mitchell Road

The areas of non-compliance along Mitchell Road primarily relate to the internal residential amenities area at level 7 and the rooftop communal open space at level 08. The communal open space is setback from Mitchell Road and screened by landscaping. The communal amenities are not visible from the street and enhances the residential amenities spaces throughout the development. The Mitchell Road frontage at Buildings F3 achieves a transition in heights to reduce the perceived bulk and scale of the building.

MacDonald Street

A small portion of GFA is located within the height breach along MacDonald Street. Despite the height non-compliance, the proposal generally maintains the urban design principle of providing a transition in scale by arranging taller built forms towards both Kooka Walk and MacDonald Street, which is consistent with one of the built form objectives under the DCP.

Overall, the proposal achieves an appropriate contextual fit and the areas of non-compliance have been appropriately designed to maintain the character and amenity of the Ashmore Estate and surrounds.

G&H:

The areas of non-compliance that comprise GFA relates to the top most levels of Buildings G4 fronting Hadfield Street, Buildings G2 and G3 fronting Kooka Walk, Building G2 fronting MacDonald Street. Despite the height non-compliance, the proposal generally maintains the urban design principle of providing a transition in scale by arranging taller built forms towards Kooka Walk and McPherson Park, which is consistent with one of the built form objective under the DCP.

Kooka Walk- Buildings G2 and G3

The width of the Kooka Walk is more than 20m, its generous width is able to absorb the area of non-compliance into its context. The width of Kooka Walk is also able to provide visual buffer so that the area of non-compliance will not create a sense of enclosure for future pedestrians.

Despite the height non-compliance, the proposed built form is able to provide a transition of scale along Kooka Walk, from the north to the south of the site. This is achieved by having 11 storey to 10 storey built form within Block G (north to south) and a 9 storey built form within Block H.

In addition, the buildings have been architecturally designed with deep vertical slots subtly breaks down the larger building masses along Kooka Walk to minimise visual bulk.

Figure 16 Photomontage of Kooka Walk

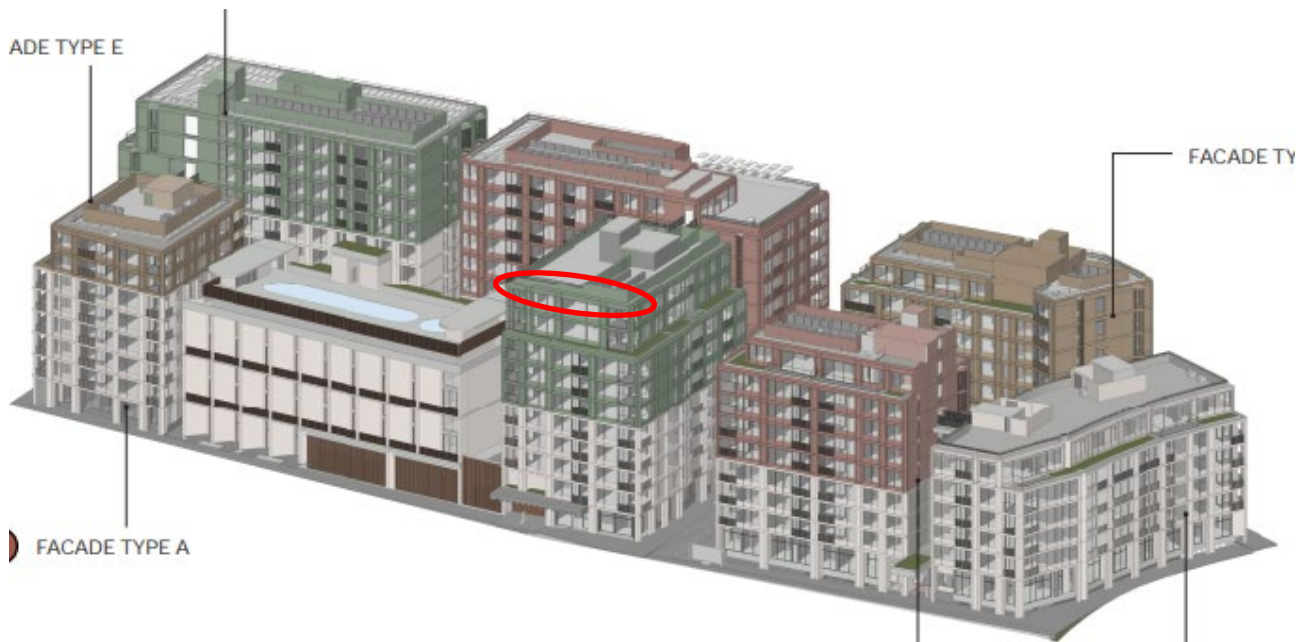


Hadfield Street - Buildings G4

The areas of non-compliance relating to Buildings G4 is further setback at the street frontage (Refer to **Figure 16**). The additional setback is able to reduce visual dominance of the area of non-compliance and reduce the perceivable bulk and scale of the built form.

Transition of scale is still achieved despite the non-compliance, as Building G4 is a 10 storeys building, stepping down to a nine storey building and terminating with a six storey built form at the southern end of Hadfield Street. The variation of scale creates visual interest along this long frontage and reinforces the proposal's relationship to existing context along Hadfield Street.

Figure 17 3D massing - area of non-compliance circled



MacDonald Street - Building G2

The area of non-compliance relating to Building G2 is further setback at the street frontage (refer to Figure 17). The upper level setback is able to provide visual relief and also a transition in scale from Building G1 to the proposed buildings within Block F.

Figure 18 Photomontage along MacDonald Street – area of non-compliance circled



While a portions these buildings are over the height plane, these protrusions are associated with a compliant overall site FSR. Therefore, the intensity of the use of the site remains compliant notwithstanding the height non-compliance.

Lastly, the height non-compliance is a result of careful design consideration by distribution of additional Housing SEPP height and design excellence FSR bonuses across the group of multiple buildings, which has endorsed by the City of Sydney Council prior to lodgement.

Overall, the proposal achieves an appropriate contextual fit and the areas of non-compliance have been appropriately designed to maintain the character and amenity of the Ashmore Estate and surrounds.

Redistribution of Massing across the site to Improve Amenity

The revised building envelopes and the resultant height variations are the product of an iterative design process that has balanced achieving development yield with mitigating impacts on surrounding properties and the public domain. While the envelopes remain generally consistent with the form nominated by Council, a series of refinements have been introduced to reduce overshadowing, improve amenity, and align with the detailed DA design outcomes. Key refinements include:

- **Reduction in Building Heights (Block H):** Heights have been reduced to improve solar access to adjacent dwellings on Coulson Street. Block H also consolidates the affordable housing component within a single block.
- **Redistribution of Massing:** Massing has been redistributed from Block H to the targeted locations within Block G that can accommodate additional uplift without resulting in adverse overshadowing or solar impacts on Hadfield Street and Coulson Street and balancing the overall built form across the site.
- **Improved Solar Access:** At Block F, massing fronting Kooka Walk has been shifted eastward, increasing the separation to Block G. This improves solar access to both residential units and the public domain.

These refinements demonstrate that the proposed redistribution of building mass delivers an improved planning and design outcome compared to strict compliance with the allowable height control. Despite the height variation, the proposal still seeks to achieve solar access, maintain urban design objectives, enhanced residential amenity and alignment with Council's nominated envelopes. In this context, strict compliance with the height controls would undermine the extensive design evolution of the building envelope and the intended outcomes.

Amenity

F&I:

The proposed lift overruns, balustrade and plant enclosures will not result in any visual privacy impacts, as they are building structures, which do not comprise any habitable space.

The primary areas of the height non-compliance at Blocks F&I relate to the communal amenity areas on the rooftops. There are no sensitive visual adjacencies at these interfaces. The rooftop terraces are setback from the edge of the buildings and are screened with landscaping to ensure there is no direct overlooking or privacy issues.

Further and in regard to the portions of Building F that exceed the height limit, the proposed development complies with the relevant setback (visual privacy) controls in the ADG, either by numeric compliance with the design criteria or compliance with the objectives contained in the design guidance (i.e., inclusion of angled windows, privacy screening). This means the development is able to provide adequate separation both within the site and to adjoining sites, allowing for visual privacy to be maintained in accordance with contemporary apartment planning expectations.

G&H:

The proposed lift overruns, balustrade and plant enclosures will not result in any visual privacy impacts, as they are building structures, which do not comprise any habitable space.

The communal open space located on buildings G3 and G4 comprise trafficable areas that is over the height limit. There are no sensitive visual adjacencies at these interfaces. Notwithstanding, these areas are setback

from the roof edge and are surrounded by gardens at the perimeter. The setbacks and plantings will ensure there is no direct overlooking.

Further and in regard to the portions of Buildings G2, G3 and G4 that exceed the height limit, the proposed development complies with the relevant setback (visual privacy) controls in the ADG, either by numeric compliance with the design criteria or compliance with the objectives contained in the design guidance (i.e., inclusion of angled windows, privacy screening). This means the development is able to provide adequate separation both within the site and to adjoining sites, allowing for visual privacy to be maintained in accordance with contemporary apartment planning expectations.

Overshadowing

Detailed shadow studies have been prepared by FJC to assess the overshadowing impacts of the areas of non-compliance above the maximum permitted height on 21 June (refer **Figure 18**). The analysis considers the potential impacts on nearby residential development, particularly 300–322 Mitchell Road to the west and Sydney Park Village to the north.

At 300–322 Mitchell Road, there are 39 apartments located opposite Building F and I. Of these, 34 apartments fully comply with the Apartment Design Guide (**ADG**) requirement for a minimum of two hours of direct solar access to living areas between 9am and 3pm on 21 June. The area of non-compliance does not impact on these apartments' ability to continue to achieve solar compliance. Four apartments fall short of this requirement, as outlined below:

- **Apartment 1:** Receives 1 hour of solar access, representing a shortfall of one hour.
- **Apartment 3:** Receives 1 hour and 30 minutes of solar access, representing a shortfall of 30 minutes.
- **Apartment 11:** Receives around 10 mins of sun under the approved Concept DA envelope because this apartment is overshadowed by its own building elements. The solar non-compliance is not caused by the area of height non-compliance.
- **Apartment 20:** Receives 15 minutes of direct solar access. It is noted that this apartment was already affected under the approved Concept DA envelope, where it achieved only one hour of solar access due to the recessed windows.

Based on the views from the sun and shadow analysis submitted, the additional overshadow impacts are a combination of both compliant built form and non-compliant building elements such as plant, lift overrun and communal open space. The communal open space elements on the rooftop would be excluded from the building height calculation if the Draft LEP amendments were applied, therefore the shadow impact arising from these elements are considered to be acceptable.

Apartment 10 receives 1 hour and 50 minutes of solar access, falling only 10 minutes short of the required 2 hours. This represents a negligible shortfall. Nevertheless, this apartment is already overshadowed under the approved Concept DA envelope, therefore the 10min shortfall is not a result of the height non-compliance.

When considered in context, these impacts are minor. The area of non-compliance will only impact solar compliance to 5% of the apartments within 300–322 Mitchell Road, which is considered as minimal impact. On this basis, the proposal's shadow impacts are considered acceptable and not significant in the broader planning context.

The shadow analysis also identifies some impacts on Building 9 within the Sydney Park Village. The ground level of this building accommodates retail tenancies and basement access points, while residential apartments are located on the upper levels.

The greatest impact occurs in the morning period, when shadow extends across parts of the ground and upper levels. However, from approximately 11am onwards, the extent of overshadowing is limited to the ground plane only and does not affect residential apartments above. Between 11am and 3pm, upper-level apartments continue to receive direct sunlight, ensuring compliance with the Apartment Design Guide. In the afternoon, additional shadow falls across the ground level of Building 9. As these areas comprise retail and access points rather than residential units, the area of non-compliance will not impact on solar amenity of residential units within Building 9 of the Sydney Park Village.

In regard to the public domain, the development is located to the south of MacPherson Park, therefore the area of non-compliance will not have an impact on MacPherson Park. When compared to the complaint envelope, the area of non-compliance will not have any impact (aside from at 9am) on the public square.

within the Sydney Park Village development in the southwest corner of Coulson Street and Mitchell Road. The public square is able to receive minimum of three hours of direct sunlight between 10am and 3pm on 21 June. The impacts to the Sydney Park Village development itself are minimal between 9am – 12pm. It is important to note that any additional shadow caused by the area of non-compliance is the result of achieving significant housing uplift in a well located precinct, with the inclusion of affordable housing.

Figure 19 Overshadowing Analysis (9am-2pm)



Source: FJC

Views

There are no identified significant views within the Ashmore Estate, in this instance the building separation are applied to ensure views are shared between buildings.

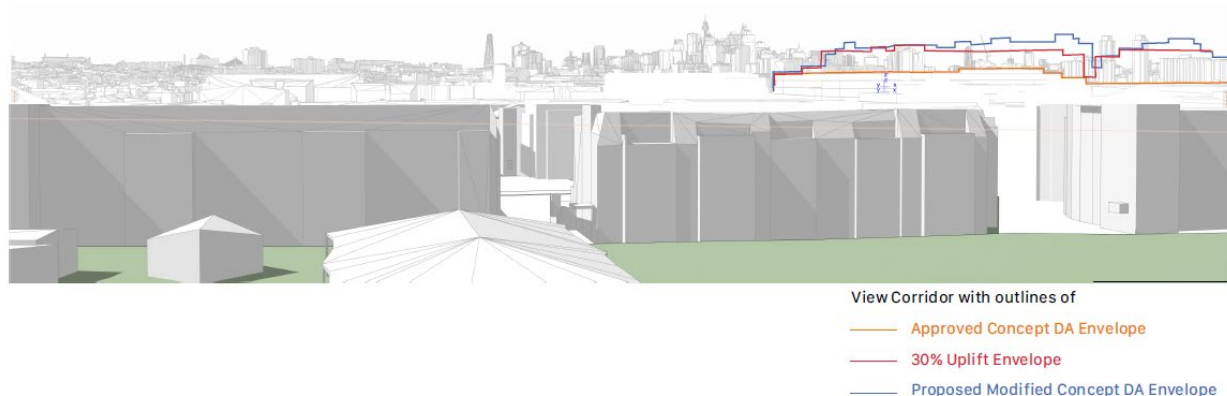
The areas of non-compliance will impact on the distant sky view from the top of the hill at Sydney Park. The areas of non-compliance are likely to obstruct distant view towards the east. This impact is considered to be acceptable because:

- The distant CBD skyline view towards the east is obstructed by the compliant uplift envelope, not by the area of non-compliance.

- The area of non-compliance will not obstruct the primary view corridor towards the Sydney CBD (including centre point tower). This ensures that the most significant visual amenity is preserved for visitors.
- The area of non-compliance will only obstruct portion of the eastern view corridor, and it obstructs sky view, instead of views to iconic buildings or harbour view. This means that the obstruction does not significantly detract from the overall visual experience or cultural value of the skyline. The primary visual and cultural assets of the city remain visible and accessible.
- The area of non-compliance will maintain view to sky.
- Due to the spatial separation of these buildings, the area of non-compliance will be absorbed within the urban context of the surrounding environment, therefore will not look out of placed.

Accordingly, there is no material impact in terms of views from a complying 130% scheme and the area of non-compliance.

Figure 20 View impact assessment from Sydney Park– amended concept envelope assessment



12. Is there any other relevant information relating to justifying a variation of the development standard?

Public Interest

For development that contravenes a development standard, the consent authority must be satisfied the proposal will be in the public interest. This is achieved via consistency with the objectives of the development standard and the objectives of E1 and MU1 zones, which has been demonstrated below.

Table 4 Assessment of Compliance with E1 Local Centre Land Use Zone Objectives (**applicable to Block F and portion of Block G**)

Objective	Assessment
To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.	The additional height associated within Block F allows for the inclusion of more diverse and flexible spaces that can accommodate a variety of retail uses on the ground floor. The majority of the area of non-compliance relates to rooftop plant and lift overrun, which is to provide access to communal amenities and to facilitate building services. Therefore, the area of non-compliance will enhance the overall functionality of the development for the residents.
To encourage investment in local commercial development that	The height non-compliance will not have a direct impact on investment in local commercial development.

Objective	Assessment
generates employment opportunities and economic growth.	
To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.	The area of height non-compliance allows for the development to achieve the full design excellence and affordable housing FSR incentives, which in turn will allow for the provision of additional residential units to be included in the development. This will help to achieve housing targets in the local centre and directly contributes to addressing the State's housing crisis. The proposal allocates 15% of its total GFA to affordable housing to be operated by an CHP in perpetuity. A covenant will be registered on the title to the relevant stratum lot reflecting this requirement. All of the affordable housing will be located within its own stratum, which is proposed to be in building H. The operation of affordable housing in perpetuity is also going above and beyond the requirement under the Housing SEPP, which only requires 15 years. If the proposal was required to meet the maximum permissible height, it will result in the loss of affordable housing and residential dwellings, which will not be consistent with the objective of the Housing SEPP.
To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.	The additional height on the upper floors do not detract from the provision of ground floor retail uses within Block F, but rather complement it by providing the necessary infrastructure and support for these uses.
To maximise public transport patronage and encourage walking and cycling.	The area of height non-compliance allows for the development to achieve the full design excellence and affordable housing FSR incentives, which in turn will allow for the provision of additional residential units to be included in the development. In turn, this allows the overall development to promote higher public transport usage by providing more destinations and origins within a compact area. The plant and lift overrun structures, while exceeding maximum height limits, do not negatively impact the pedestrian experience at street level and support the building's overall functionality.

Table 5 Assessment of Compliance with MU1 Mixed Use Land Use Zone Objectives (applicable to Blocks I, portion of Block G and Block H)

Objective	Assessment
To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.	Not relevant for Blocks I, portion of Block G and Block H, as no retail or commercial uses are proposed.
To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse	The development includes features such landscaping on the ground floor and separate ground floor entries to enhance the pedestrian experience and contribute to activation. The area of non-compliance does not detract from the street-level experience but rather supports

Objective	Assessment
and functional streets and public spaces.	the overall functionality of the building, ensuring that the ground floor remains vibrant and active.
To minimise conflict between land uses within this zone and land uses within adjoining zones.	The design carefully considers the interface with adjoining zones, ensuring that the area of non-compliance does not result in adverse impact on overshadowing, privacy issues, or other conflicts with neighbouring properties. The placement of plant and lift overrun structures is setback and screened to minimize visual and operational impacts on adjacent land uses, maintaining harmony between different zones. The overall development also includes appropriate setbacks, screening, and noise mitigation measures to further reduce potential conflicts
To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.	Not relevant for Blocks I, portion of Block G and Block H, as no retail or commercial uses are proposed.
To ensure land uses support the viability of nearby centres.	The area of height non-compliance allows for the development to achieve the full design excellence and affordable housing FSR incentives, which in turn will allow for the provision of additional residential units to be included in the development. This will help to attract more residents in the area, which enhances the customer base and foot traffic for nearby centres, contributing to their viability.
To integrate suitable business, office, residential, retail and other land uses in accessible locations that maximise public transport patronage and encourage walking and cycling.	The area of height non-compliance allows for the development to achieve the full design excellence and affordable housing FSR incentives, which in turn will allow for the provision of additional residential units to be included in the development. In turn, this allows the overall development to promote higher public transport usage by providing more destinations and origins within a compact area. The plant and lift overrun structures, while exceeding maximum height limits, do not negatively impact the pedestrian experience at street level and support the building's overall functionality.

DISCLAIMER

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