

Attachment D

Clause 4.6 Variation Request – Floor To Ceiling Heights

CLAUSE 4.6 VARIATION REQUEST – FLOOR TO CEILING HEIGHT

*Buildings F&I and G&H
(D/2025/405)*

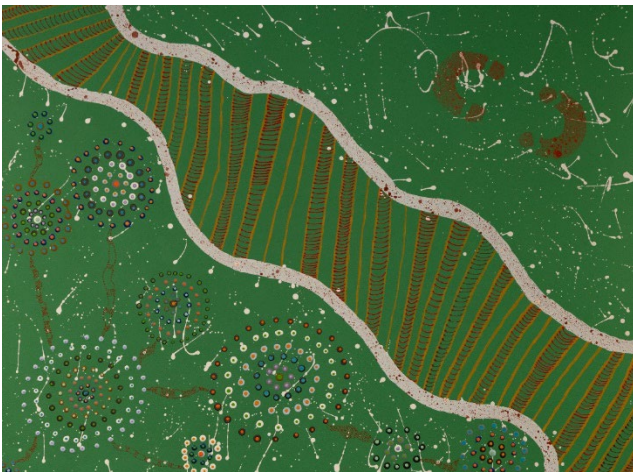
Urbis staff responsible for this report were:

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Project Code	P%54074
Report Number	Final

Acknowledgment of Country

Urbis acknowledges the Traditional Custodians of the lands we operate on. We recognise that First Nations sovereignty was never ceded and respect First Nations peoples continuing connection to these lands, waterways and ecosystems for over 60,000 years. We pay our respects to First Nations Elders, past and present.

Urbis is committed to incorporating our respect for First Nations cultures, peoples and storytelling in our work across the Country. We are proud to have partnered with Darug Nation artist, **Hayley Pigram**, and to profile her artwork – **Sacred River Dreaming**.



The river is the symbol of the Dreaming and the journey of life. The circles and lines represent people meeting and connections across time and space. When we are working in different places, we can still be connected and work towards the same goal.

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Request to vary clause 148 (2c) of State Environmental Planning Policy (Housing) 2021

Address: Buildings F&I and G&H at 155 Mitchell Road, Erskineville

Date: 15 September 2025

Site and proposed development

Site Description

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

Table 1 Site Description

Feature	Description
Street Address	155 Mitchell Road, Erskineville
Legal Description	Lot 20 DP1290687
Development area	Blocks F&I area: 12,096m ² Blocks G&H area: 10,557m ² Total site area: 22,653m ²
Easements and Restrictions	(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 is currently vacant.
Local Context	The development is located within the southern portion (the site) of the Ashmore Precinct as part of the Sydney Local Government Area (LGA).
Adjacent Development 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 Development East	Townhouse developments further west adjacent Mitchell Road with heights ranging from one storey to four storeys.
Adjacent Development South	The Sydney Park Village high density residential flat building development with 7-storey street wall height.
Adjacent Development West	Mixture of medium and high density residential flat building developments, including: OneA Erskineville (6 storey street wall height)

Feature	Description
	▪ 6-26 Nassau Lane (townhouses) ▪ 16 Eve Street, Erskineville (5 storey street wall height) ▪ 1 Coulson Street, Erskineville (5 storey street wall height)
Access Network	Existing vehicle access to the site is the via the driveway along Mitchell Road. Existing site access is also from Mitchell Road. 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.

Proposed Development

A summary of the key features and details of the proposed development (including land use and works) is provided below:

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 fit out of the retail area will be subject to separate approval.
- Staged construction of a mixed-use development at Block F comprising:
 - 5,125sqm 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, motorcycle parking spaces, storage, and waste management facilities.
- Provision of communal open space and indoor facilities including:
 - Block F
 - Central Courtyard at level 2 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 be 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, 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, outdoor swimming pool and sun lounges
 - Rooftop communal area at Building G5 with pool, seating, sauna, hot and cold plunge pools, steam room and change room. .
 - 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.

Planning instrument, development standard and proposed variation

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

State Environmental Planning Policy (Housing) 2021 (Housing SEPP).

2. What is the site's zoning?

The site has as spilt zoning, where the northern portion is zoned E1 Local Centre and southern portion is zoned MU1 Mixed Use zones.

Block F and portion of Block G is located within the E1 zone. Blocks I, G and H are located within the MU1 zone.

3. What is the development standard to be varied?

This clause 4.6 is seeking to vary the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide (ADG) as required under clause 148 (2C) of the Housing SEPP.

4. Type of development standard?

Numeric development standard

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

The recommended minimum ceiling heights specified in Part 4C of the ADG is as follows:

- Habitable rooms: 2.7m
- Non-habitable: 2.4m
- For 2 storey apartments: 2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area
- Attic spaces: 1.8m at edge of room with a 30-degree minimum ceiling slope
- If located in mixed used areas: 3.3m for ground and first floor to promote future flexibility of use

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

The areas of the buildings that do not comply with the minimum ceiling height requirement for apartments located within mixed used areas is identified in the table below.

Recommended Minimum ceiling height	Proposed ceiling height	Variation
Block F		
3.3m for ground and first floor	Townhouse style apartments: Ground floor: 2.7m Level 01: 2.4m (level 01 area does not exceed 50% of the entire apartment area)	Ground: - 0.6m / 18% variation Level 1: -0.9m / 27% variation

Recommended Minimum ceiling height	Proposed ceiling height	Variation
Habitable rooms of units within the upper levels : 2.7m	2.7m	N/A Complies
Block I		
3.3m for ground and first floor	2.7m	0.6 m / 18% variation
Habitable rooms of all units: 2.7m	2.7m	N/A Complies
Block G		
3.3m for ground and first floor	2.7m	0.6m / 18% variation
Habitable rooms of upper levels units: 2.7m	2.7m	N/A Complies
Block H		
3.3m for ground and first floor	2.7m	0.6 m / 18% variation
Habitable rooms of all units: 2.7m	2.7m	N/A Complies

Justification for the proposed variation

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

Key Questions	Response
a) Are the objectives of the development standard achieved notwithstanding the non-compliance?	The underlying object or purpose of the recommended minimum ceiling heights is to ensure apartments achieve sufficient natural ventilation and daylight access, increase the sense of space, provide for well-proportioned rooms, and contribute to the flexibility of use over the life of the building. Despite the non-compliance, the ground level / first level of all buildings still achieves the objective of Part 4C-1 of the ADG as detailed below. Despite the non-compliance with the recommended ceiling heights within the ground and first floor levels, the apartments achieve sufficient natural ventilation and daylight access. Specifically: ▪ The apartments within all buildings still achieve the standard ceiling height requirement for habitable rooms within a residential zone and will therefore not compromise the amenity of future residents in terms of natural ventilation and daylight access. ▪ Apartments include well-proportioned rooms that meet or exceeds the minimum room dimensions recommended by the ADG. ▪ Objective 4C-3 Floor to ceiling heights of ground and first floor levels promote flexibility of use. The following is noted: – The residential use of the site is permitted with consent and considered appropriate in the context of the site and surrounding land uses. – The approved Concept DA (D2015/966) and Section 5 of the Sydney DCP did not identify non-residential uses within Block G, therefore the apartments are not required to be designed to provide flexibility of use, which is consistent with the Concept DA and Sydney DCP. – The approved Concept DA (D2015/966) and Section 5 of the Sydney DCP identifies non-residential uses within the ground floor of Block F. This is achieved by proposing a supermarket in the centre of the floorplate and having smaller retail tenancies fronting MacDonald Street and the corner of MacDonald Street and Mitchell Road. Accordingly, the desired retail uses have already been provided within Block F. – MacDonald Street and portion of Mitchell Road is activated by retail uses orientated to the streets, which is consistent with the location of active edge prescribed under the DCP (as per Figure 5.119). Street activation can continue be achieved by having direct street access to the ground floor apartments from both Mitchell Road and Kooka Walk within

Key Questions	Response
	Block F. Therefore despite the ceiling height non-compliance the desired urban design outcome can still be achieved. – Given the proposed and already constructed non-residential land use across the Estate is consistent with Council's DCP and concept plan, flexibility for additional non-residential floor space is not warranted. – The site is in close proximity to commercial centres, such as Marrickville Metro and Alexandria/Green Square town centres, the provision of retail uses within the site is appropriate in the context of this site, and additional retail uses will not be appropriate for the site. – Given the strategic location of the site, there is opportunity to optimise housing, in order to address the housing crisis.
b) Are the underlying objectives or purpose of the development standard not relevant to the development? (Give details if applicable)	Not relied upon
c) Would the underlying objective or purpose be defeated or thwarted if compliance was required? (Give details if applicable)	Not relied upon
(d) Has the development standard been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard?	The following development within the Ashmore Precincts are located within the mixed use area. Approval has been granted despite that the minimum ceiling height in ground and first floor level was not achieved: ▪ Block E D/2023/842: approval was granted for having 2.7m ceiling height on the first floor. ▪ Block A D/2019/393: approval was granted for not having increased ceiling height on the ground and first floor. ▪ Blocks B&C D/2017/681: approval was granted for having 2.7m ceiling height on the first floor.
e) Is the zoning of the land unreasonable or inappropriate so that the development standard is also unreasonable or unnecessary?	Not relied upon

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

There are sufficient environmental planning grounds to justify the proposed variations to the development standard, including the following:

- Although the apartments within the mixed-use area do not achieve the increased 3.3 m floor-to-ceiling height, these apartments achieve the standard habitable room ceiling height for development that are located within residential zone. This ensures that the development achieves appropriate levels of natural ventilation, daylight access and overall residential amenity.
- Strict compliance with the 3.3 m provision would require an increase in building height, further exacerbating non-compliance with the maximum permissible building height standard. This would in turn result in additional bulk and scale, as well as greater amenity impacts (including overshadowing and view loss) to the surrounding area.
- The split-level apartments in Buildings F and G comply with the ADG ceiling height requirements applicable to two-storey apartments outside mixed-use zones.

In conclusion, there are sufficient environmental planning grounds to justify convening the development standard.

3. Is there any other relevant information relating to justifying a variation of the development standard? (If required)

There are no known additional matters that need to be considered within the assessment of the clause 4.6 request and prior to granting concurrence, should it be required.

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