

CLAUSE 4.6 REPORT REQUEST TO VARY A DEVELOPMENT STANDARD UNDER THE LAKE MACQUARIE LEP 2014

SENIORS HOUSING AND RESIDENTIAL DEVELOPMENT

LOT 223 DP 551260
27 TIRAL STREET, CHARLESTOWN AND
ADJOINING CROWN DRAINAGE RESERVE
IDENTIFIED AS LOT 1 IN DP 1284898

THE UNITING CHURCH IN AUSTRALIA
PROPERTY TRUST (NSW)

Uniting

AUGUST 2023



HUNTER OFFICE
7/335 Hillsborough Road,
Warners Bay NSW 2282
(02) 4978 5100

CENTRAL COAST OFFICE
5 Pioneer Avenue,
Tuggerah NSW 2259
(02) 4305 4300

SYDNEY OFFICE
Level 35, One International Towers
100 Barangaroo Avenue,
Sydney NSW 2000
(02) 8046 7412

www.adwjohnson.com.au

Document Control Sheet

Issue No.	Amendment	Date	Prepared By	Reviewed By
A	Draft	12/08/2021	LDW/AS	CM/MR
B	Adequacy Review	30/08/2022	AS	CM
C	Final	3/11/2022	AS	CM
D	Amended Final	24/08/2023	AS	AS

Limitations Statement

This report has been prepared in accordance with and for the purposes outlined in the scope of services agreed between ADW Johnson Pty Ltd and the Client. It has been prepared based on the information supplied by the Client, as well as investigation undertaken by ADW Johnson and the sub-consultants engaged by the Client for the project.

Unless otherwise specified in this report, information and advice received from external parties during the course of this project was not independently verified. However, any such information was, in our opinion, deemed to be current and relevant prior to its use. Whilst all reasonable skill, diligence and care have been taken to provide accurate information and appropriate recommendations, it is not warranted or guaranteed and no responsibility or liability for any information, opinion or commentary contained herein or for any consequences of its use will be accepted by ADW Johnson or by any person involved in the preparation of this assessment and report.

This document is solely for the use of the authorised recipient. It is not to be used or copied (either in whole or in part) for any other purpose other than that for which it has been prepared. ADW Johnson accepts no responsibility to any third party who may use or rely on this document or the information contained herein.

The Client should be aware that this report does not guarantee the approval of any application by any Council, Government agency or any other regulatory authority.

Executive Summary

This Clause 4.6 Variation Report has been prepared by ADW Johnson on behalf of The Uniting Church in Australia Property Trust (NSW) to accompany a Development Application lodged with the NSW Department of Planning and Environment for a seniors housing and residential development located at 27 Tiral Street, Charlestown and the adjoining Crown Drainage Reserve identified as Lot 1 in DP 1284898.

The proposed development exceeds the height standards imposed by Clause 4.3 of the Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014).

The exceedances to the height standard are a result of the architectural design shifting building mass and floor area away from the southern and eastern boundaries of the site and placing it at height in the northern and central portions the site. The placement of building mass within the site as proposed provides improved urban design outcomes (including streetscape and overshadowing) and results in development which is compatible with the urban centre character of the locality. The proposed height exceedances ensure that floor space lost as a result of achieving better design outcomes is maintained within the site, noting that dwelling density is identified as a desirable outcome for the site.

In accordance with the principles set out in *Wehbe v Pittwater Council [2007] NSW LEC 827*, strict compliance with the building height development standards set out in Clause 4.3 of the LMLEP 2014 is considered unreasonable and unnecessary in this case as the proposed development, inclusive of the height variations proposed, satisfies the objectives of the development standard.

This report demonstrates that the proposed development will, despite exceeding the building height standard, be in the public interest given that it will continue to be consistent with the objectives of the height of buildings standard (LMLEP 2014 Clause 4.3); and the objectives of the land zoning which applies to the site.

Table of Contents

1.0	INTRODUCTION	1
2.0	SITE.....	4
2.1	SITE DETAILS.....	4
3.0	EXCEPTIONS TO DEVELOPMENT STANDARDS	6
4.0	THE DEVELOPMENT STANDARD & VARIATION SOUGHT	9
4.1	THE DEVELOPMENT STANDARD	9
4.2	CONTRAVENTION OF THE DEVELOPMENT STANDARD	10
4.3	OBJECTIVES OF THE DEVELOPMENT STANDARD.....	12
5.0	PLANNING CONTEXT	13
5.1	STRATEGIC PLANNING.....	13
5.1.1	<i>Housing 2041: NSW Housing Strategy</i>	<i>13</i>
5.1.2	<i>Ageing Well in NSW: Seniors Strategy 2021-2031</i>	<i>13</i>
5.1.3	<i>Hunter Regional Plan 2036.....</i>	<i>14</i>
5.1.4	<i>Draft Hunter Regional Plan 2041</i>	<i>14</i>
5.1.5	<i>Greater Newcastle Metropolitan Plan 2036.....</i>	<i>15</i>
5.1.6	<i>Let's Thrive – Lake Macquarie City Housing Strategy 2021.....</i>	<i>15</i>
5.1.7	<i>Shaping the Future – Local Strategic Planning Statement.....</i>	<i>15</i>
5.1.8	<i>Supporting Over 55s in the City – Ageing Population Plan 2018-2022</i>	<i>16</i>
5.1.9	<i>Imagine Lake Mac.....</i>	<i>17</i>
5.1.10	<i>Lake Mac 2032 – Community Strategic Plan</i>	<i>17</i>
6.0	BUILDING DESIGN AND URBAN FORM	18
7.0	JUSTIFICATION OF VARIATION	24
7.1	ZONING & ZONE OBJECTIVES.....	24
7.2	CONSISTENCY WITH THE OBJECTIVES OF THE DEVELOPMENT STANDARD.....	26
7.3	JUSTIFICATION ON ENVIRONMENTAL PLANNING GROUNDS	27
8.0	CONCURRENCE	31
9.0	CONCLUSION.....	32

APPENDIX A

ADDITIONAL BUILDING HEIGHT AND SOLAR PLANS

LIST OF FIGURES

- Figure 1: 3D Perspective of the Proposed Development.
- Figure 2: Aerial photograph showing the site and adjoining development.
- Figure 3: Extract from LMLEP 2014 Maximum Building Height Map.
- Figure 4: LMDCP 2014 Block Controls.
- Figure 5: Proposed Building Height.
- Figure 6: Extract from the LSPS – North East Growth Area.
- Figure 7: Building Height Controls.
- Figure 8: Solar Diagram 11am.
- Figure 9: Solar Diagram 2pm.
- Figure 10: Solar Diagram 3pm.
- Figure 11: Zoning map extract from LMLEP 2014.

LIST OF TABLES

Table 1: Proposed Height Exceedances

Table 2: LMCC, UDRP and SDRP Consultation

Table 3: Consistency with R3 Zone Objectives

Table 4: Improved Environmental Outcomes

1.0 Introduction

The Uniting Church in Australia Property Trust (NSW) (Uniting) is the applicant for the proposed seniors housing and residential development located at 27 Tiral Street, Charlestown and the adjoining Crown Drainage Reserve identified as Lot 1 in DP 1284898 (the site).

The proposed development includes the construction and operation of the following four (4) buildings:

- Building A – Residential Aged Care (RAC) Facility Building;
- Building B – Seniors Independent Living Unit (ILU) Building;
- Building C – Seniors ILU Building; and
- Building D – Residential Flat Building (RFB) (not intended to be limited to seniors living).

The proposed development incorporates the following:

- Site preparation works, including whole of site contamination remediation works, select vegetation removal and earthworks;
- Building A (RAC) Building contains five (5) storeys (inclusive of upper and lower ground levels) and incorporates the following:
 - RAC bedrooms, and associated communal living, dining and kitchen areas;
 - Independent Living Units (ILUs);
 - Associated car parking areas;
 - Communal landscaped areas;
 - Ancillary uses including:
 - Chapel;
 - Pastoral office;
 - Multipurpose room;
 - Café;
 - Hair salon;
 - Administration office for Uniting's care and support services;
 - Reception area;
 - Meeting and consult rooms;
 - Office space and staff room facilities for operational staff;
 - Training room;
 - Back of house areas including kitchen, linen room, waste storage room, storage rooms and other service areas; and
 - Dementia garden.
 - Building plant and services.
- Building B (ILU Building) – 13 storey (inclusive of two (2) storey podium) building incorporating ILUs, car parking, ancillary uses, landscaped podium and building plant and services;
- Building C (ILU Building) – 14 storey (inclusive of two (2) storey podium) building incorporating ILUs, car parking, landscaped podium and building plant and services;
- Building D (RFB) – contains 14 storeys plus a basement level and incorporates residential units, associated car parking areas, landscaped podium and associated building plant and services. Building D is not intended to be limited to seniors living;
- Integrated through site links and communal outdoor areas;
- Signage;
- One (1) into three (3) lot torrens title subdivision; and
- Ancillary and associated works.

The proposed development will provide an important contribution to the delivery of additional and diverse housing opportunities within a strategically identified growth centre.

A detailed description of the proposed development is provided within the Environmental Impact Statement (EIS) which this report accompanies.

Figure 1 below provides 3D perspective of the proposed development.



Figure 1: 3D Perspective of the Proposed Development.

The proposal exceeds the height standards imposed by Clause 4.3 of the *Lake Macquarie Local Environmental Plan 2014* (LMLEP 2014).

Clause 4.3 of the LMLEP 2014 prescribes maximum building heights of 43m in the central northern section of the site, 30m in the central southern portion of the site and 16.5m adjacent to the eastern and western site boundaries (refer **Figure 3**).

The subject site is located within the Charlestown Town Centre, which is an identified strategic growth centre. The building heights identified for the site in the LMLEP 2014 reflect the block plan controls set out for the site in Section 10 of the *Lake Macquarie Development Control Plan 2014* (LMDCP 2014). The block plans show taller 12 storey-built form in the central northern portion of the site which steps down to eight (8) storey-built form in the central southern portion of the site. The block plans show four (4) storey-built form adjacent to the eastern and western boundaries (refer **Figure 4**).

Following a detailed analysis of site opportunities and constraints, the project architect has identified an opportunity to improve urban design and architectural outcomes by shifting building bulk and floor space away from the southern and eastern boundaries of the site and placing it at height towards the central and northern portions of the site.

The proposed development, inclusive of the height variation proposed, provides a high-quality urban form which is compatible with the urban centre locality in which the site is positioned and minimises the potential for any offsite impacts. The proposed height variations ensure that floor space removed from the south and east of the site to provide improved urban design outcomes is maintained within the site, noting that increased dwelling density is identified as desirable for the subject site and Charlestown Town Centre.

Clause 4.6 of LMLEP 2014 provides for an appropriate degree of flexibility in applying certain development standards such as building height.

This report sets out the Applicant's written request under Clause 4.6 of LMLEP 2014 to vary the development standard identified under Clause 4.3 – Height of Buildings to achieve the proposed development outcome.

This report demonstrates how the proposed development will, despite exceeding the building height standard, be in the public interest given that it will continue to be consistent with the objectives of the Height of Buildings standard (Clause 4.3); and the objectives of the land zoning which apply to the site.

2.0 Site

2.1 SITE DETAILS

The subject site comprises Lot 223 DP 551260, with a physical address of 27 Tiral Street, Charlestown and the crown drainage reserve which intersects 27 Tiral Street (identified as Lot 1 within DP 1284898). The site has an area of approximately 2.11 ha. The site is trapezoidal in shape and has three (3) street frontages as follows:

- Northern frontage to James Street of approximately 260m;
- Southern frontage to Tiral Street of approximately 206m; and
- Western frontage to Dudley Road of 105.6m.

The subject site generally falls to the east at slopes of approximately 5-7 degrees in the western area of the site. In the eastern area of the site, land slopes down to the north at 3-5 degrees.

The subject site is currently vacant and unused. Built form associated with the former use of the site as a TAFE college have been largely removed from the site. Some remnants of the former TAFE college remain, including a bowling green, one (1) hole golf course, tennis court, garden beds, asphaltic sealed roads and building slabs and footings. Scattered vegetation is located throughout the site, particularly adjacent to the site's boundaries.

The subject site is located within the Charlestown Town Centre. The Charlestown Town Centre is widely identified in local and regional strategic planning policies as a strategic centre and focus area for significant future growth. The identified future character of Charlestown is a busy and vibrant metropolitan city centre with a range of commercial and public services, government services, employment opportunities and housing. Relevant strategic policies focus on delivering denser and taller built form associated with the centre's higher end retail and commercial functions and high-quality residential apartments within the town centre.

Notwithstanding the future town centre character identified for the subject site, the site is located within an area characterised by predominately existing low density residential development. Existing development adjoining the site includes:

- North – The site is adjoined to the north by James Street, with low density dwellings and multi-dwelling housing being the predominant built form on the northern side of the street. Land on the northern side of James Street is located within the Charlestown Town Centre area and is identified for future residential and mixed-use development across taller built forms. Existing, under construction and approved residential flat building developments consistent with the identified future character occur to the north-west of the site, between Smith Street and the Pacific Highway. Land to the north is zoned R3 Medium Density Residential and B3 Commercial Core. Permissible building heights on the northern side of James Street are 36.5m, 30m and 20m as shown in **Figure 3** below.
- East – The site is adjoined directly to the east by a 2m wide strip of Council-owned land which currently serves as an informal pedestrian thoroughfare. Low density standalone dwellings occur to the east of the Council-owned land. Land to the east which fronts James Street is zoned R3 Medium Density Residential. Adjoining land to the east which fronts Tiral Street is zoned R2 Low Density Residential. A planning proposal is active on residential land to the east to rezone the R2 zoned land to the east to R3 Medium Density Residential (refer PP-2021-2586). PP-2021-2586 also seeks to increase the maximum building height on land to the east to 13m to facilitate an increase in residential density. It is considered that the height and zoning controls outlined in the planning proposal represent the desired future character of residential land to the east.

- South – The site fronts Tiral Street to the south. Low density standalone dwellings are the predominant built form on the southern side of Tiral street. Land on the southern side of Tiral Street is currently Zoned R2 Low Density Residential and has a maximum building height of 8.5m. PP-2021-2586 seeks to rezone land on the southern side of Tiral Street to R3 Medium Density Residential and increase the maximum permissible building height to 13m. The height and zoning controls outlined in the planning proposal represent the desired future character of residential land to the south.
- West – The site is adjoined to the west by Dudley Road. Further west is the NSW Health Charlestown Health Facility, comprising a dialysis centre, mental health services, and patient accommodation.

The aerial photograph below provides an indication of the current built form and pattern of development in the area.



Figure 2: Aerial photograph showing the site and adjoining development.

3.0 Exceptions to Development Standards

The applicant seeks consent for development that will exceed a development standard imposed by the LMLEP 2014 (as detailed in **Section 4 & 5** of this report).

Under Clause 4.6 of LMLEP 2014, development consent may be granted for development even though the development would contravene a development standard. Clause 4.6 of the LMLEP 2014 relevantly provides as follows:

4.6 Exceptions to development standards

(1) *The objectives of this clause are as follows—*

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

(3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—*

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

(4) *Development consent must not be granted for development that contravenes a development standard unless—*

(a) *the consent authority is satisfied that—*

- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

(b) *the concurrence of the Planning Secretary has been obtained.*

(5) *In deciding whether to grant concurrence, the Planning Secretary must consider—*

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the development standard, and*
- (c) *any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.*

The Land and Environment Court has considered the question of contravention of development standards in a number of cases, both in its former application under State Environmental Planning Policy No. 1 – Development Standards and also in the current format as it appears under Clause 4.6.

This submission has been prepared having regard to the latest authority on Clause 4.6, contained in the following NSW Land and Environment Court (Court) judgements:

- Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46;
- Wehbe v Pittwater Council [2007] NSWLEC 827;
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009 (Four2Five No 1);
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 (Four2Five No 2);
- Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 (Four2Five No 3);
- Moskovich v Waverely Council [2016] NSWLEC 1015;
- Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7; and
- Initial Action Pty Ltd V Woollahra Council [2018] NSW LEC 118.

Key elements from the above cases are outlined below.

In the decision of *Wehbe v Pittwater Council [2007] NSW lec 827*, Chief Justice Preston outlined the rationale for the development standard, and the ways by which a development standard might be considered unreasonable and/or unnecessary. In his decision Chief Justice Preston noted:

“The rationale is that development standards are not ends in themselves, but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (if it is achieved anyway) and unreasonable (no purpose would be served)”.

Wehbe v Pittwater Council [2007] NSW LEC 827 also established the ‘five-part test’ to determine whether compliance with a development standard is unreasonable or unnecessary based on the following:

- 1) *The objectives of the development standard are achieved notwithstanding non-compliance with the standard (unreasonable and unnecessary);*
- 2) *The underlying objective or purpose is not relevant to the development (unnecessary);*
- 3) *The underlying objective or purpose would be defeated or thwarted if compliance was required (unreasonable);*
- 4) *The development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consent that departs from the standard (unreasonable and unnecessary); and*
- 5) *The zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard was unreasonable or unnecessary.*

It is considered that in this case, strict compliance with the development standard imposed by Clause 4.3 of the LMLEP 2014 is unreasonable and unnecessary because the objectives of the development standard are achieved notwithstanding the proposed non-compliance with the standard.

Initial Action Pty Ltd V Woollahra Council [2018] NSWLEC 118 sets out the correct approach to assessing a written request under Clause 4.6.

Firstly, the consent authority must be satisfied that the request seeking to justify the contravention of the development standard has adequately addressed the following matters required to be demonstrated by clause 4.6(3):

- (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 standards.*

Secondly, the consent authority must be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out (clause 4.6(4)(a)(ii)). The consent authority must be directly satisfied about the matter in clause 4.6(4) (a) (ii) and not indirectly satisfied that the written request has adequately addressed the matter.*

The following report sets out the Applicant's written request under Clause 4.6 of the LMLEP 2014, taking the above principles into account.

4.0 The Development Standard & Variation Sought

4.1 THE DEVELOPMENT STANDARD

The proposed development will contravene the height standard imposed by Clause 4.3 of the LMLEP 2014 (the Development Standard).

Clause 4.3 of the LMLEP 2014 provides:

4.3 Height of Buildings

(1) The objectives of this clause are as follows—

- (a) to ensure the height of buildings are appropriate for their location,
- (b) to permit building heights that encourage high quality urban form.

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).

The Height of Building Map in the LMLEP 2014 prescribes maximum building heights of 43m, 30m and 16.5m for the subject site, as shown in **Figure 3** below.

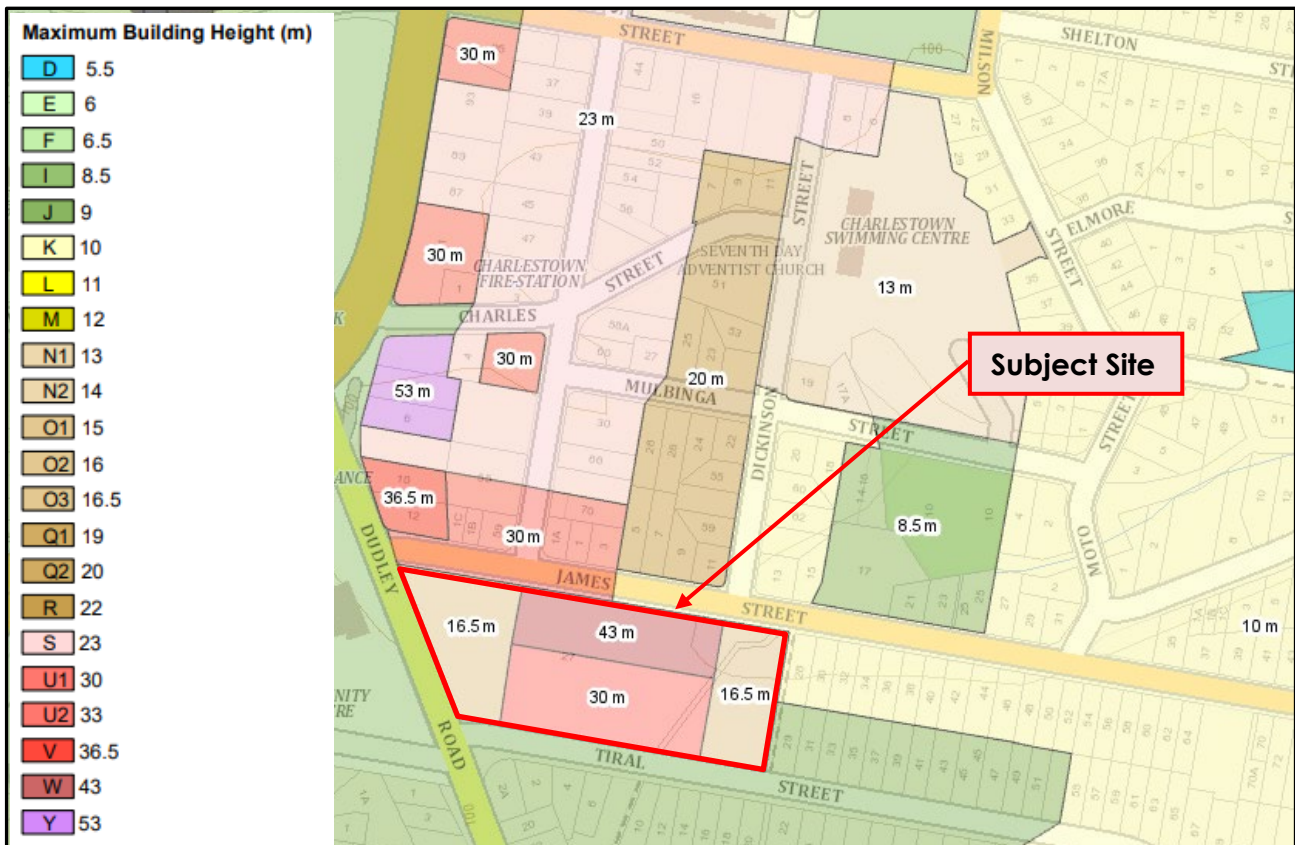


Figure 3: Extract from LMLEP 2014 Maximum Building Height Map.

Building Height controls applied to the site in the LMLEP 2014 reflect the block control plans established for the site in Chapter 10 (Charlestown Town Centre) of the LMDCP 2014.

Development achievable under existing LMLEP 2014 height controls and following LMDCP 2014 Block Control Plan are show in **Figure 4** below:

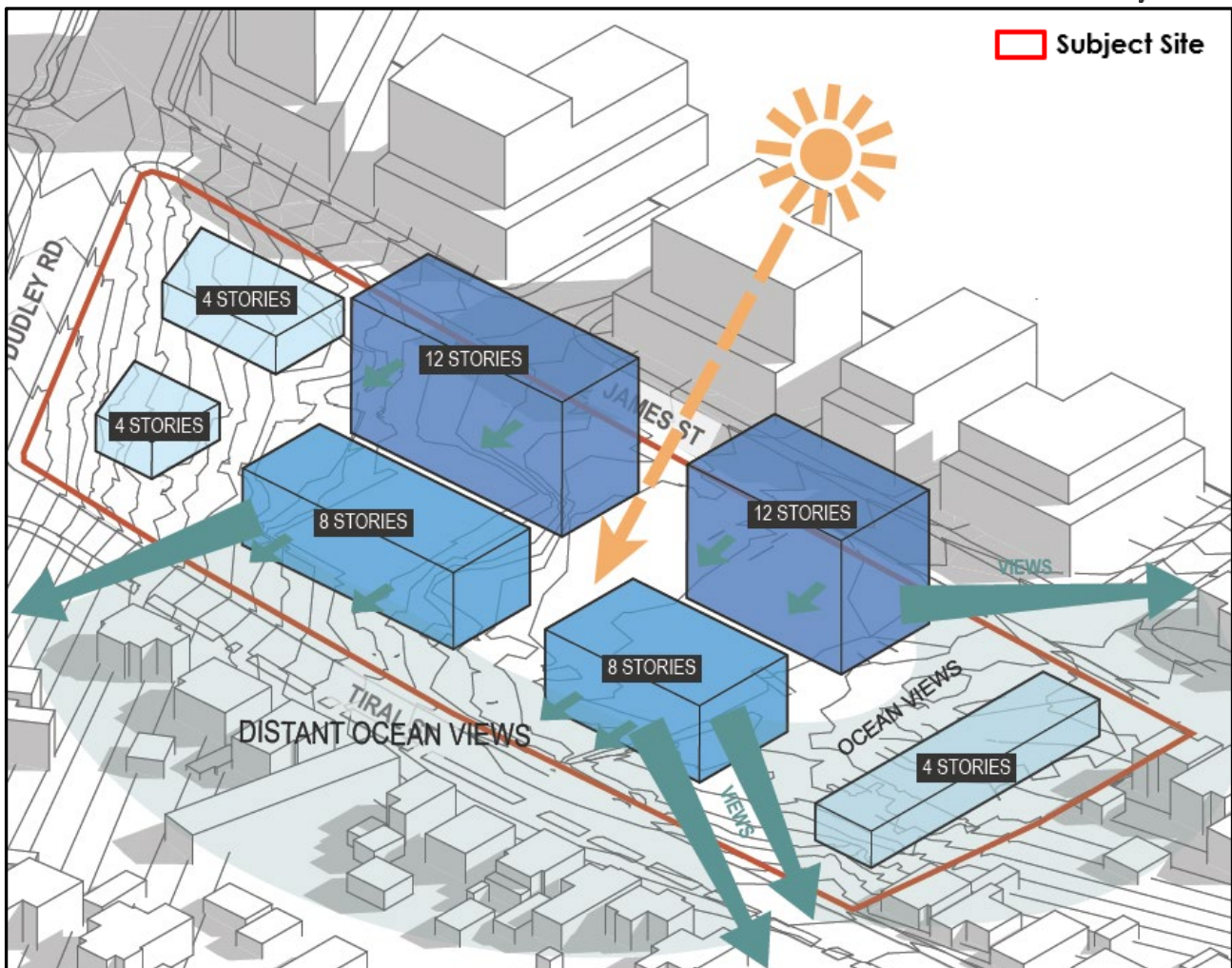


Figure 4: LMDCP 2014 Block Controls.

The proposed development provides an alternate approach to the placement of building mass across the site which improves urban design outcomes and results in variations to the LMDCP 2014 Block Control Plan and corresponding LMLEP 2014 height controls.

4.2 CONTRAVENTION OF THE DEVELOPMENT STANDARD

The proposal seeks development consent for a built form outcome which encroaches above the height controls established by the LMLEP 2014. The height of the proposed development relative to the controls outlined within the LMLEP 2014 is shown in **Figure 5** and the plan enclosed as **Appendix A**.

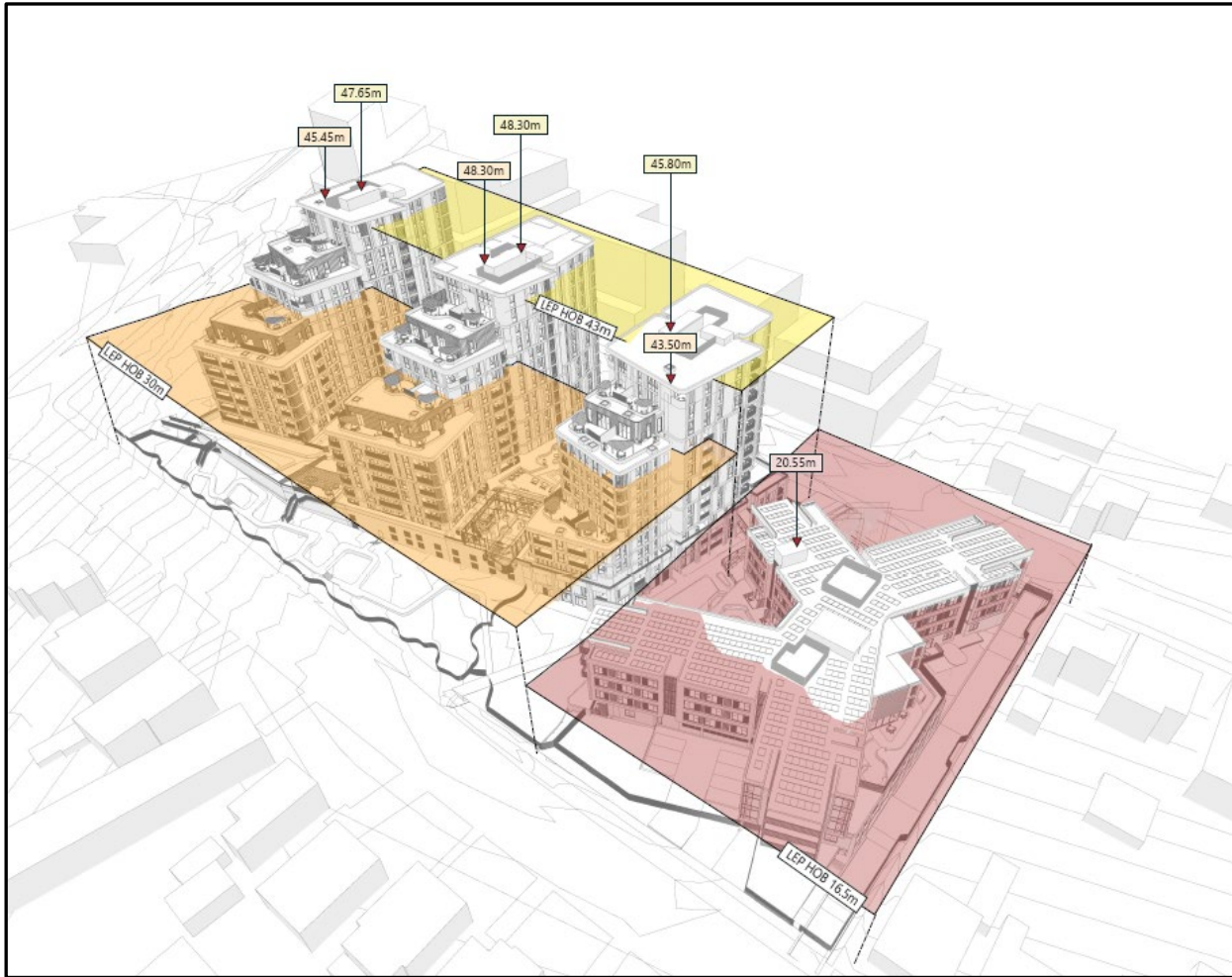


Figure 5: Proposed Building Height.

As illustrated on the above figure, the height exceedances occur predominately in the central and northern section of the subject site, where the proposed development exceeds the 43m, 30m and 16.5m height controls.

The proposed height exceedances are summarised in the table below:

Table 1: Proposed Height Exceedances

Height Control	Building	Maximum Height (vertical distance from ground level (existing))	Exceedance	Percentage Exceedance
16.5m	A	20.55m	4.05m	24.5%
30m	B	43.5m	13.5m	45%
	C	48.3m	18.3m	61.0%
	D	45.45m	15.45m	51.5%
43m	B	45.8m	2.8m	6.5%
	C	48.3m	5.3m	12.3%
	D	47.65m	4.65m	10.8%

It is noted that development in the southern portion of the site is lower than the permissible height outlined in the LMLEP 2014. This is a result of locating floor space at height in the central and northern portions of the site rather than at ground and lower levels in the southern section of the site where significant open space and landscaping are achieved. Also, as a result of locating floor space at height in the centre and north of the site, significant setbacks ranging between approximately 12m and 30m to Tiral Street are achieved where the 30m height control applies to the site.

4.3 OBJECTIVES OF THE DEVELOPMENT STANDARD

The objectives of the development standard are set out in Clause 4.3(1) of the LMLEP 2014 as follows:

- (a) to ensure the height of buildings are appropriate for their location,*
- (b) to permit building heights that encourage high quality urban form.*

5.0 Planning Context

This section establishes the planning context that frames the proposed variations.

5.1 STRATEGIC PLANNING

A summary of the consistency of the proposed development with the key strategic policies applicable to the site and proposed development is provided below. Each of the relevant strategic policies are addressed in detail within the EIS to which the Clause 4.6 Variation Request accompanies.

5.1.1 Housing 2041: NSW Housing Strategy

Housing 2041 sets out the State Government's 20-year vision for housing in NSW. It seeks to ensure that all people, at all stages of their lives, will be able to access the right type of housing at the right time and with the best support available.

The proposed development is closely aligned with the strategy's overarching vision. The proposed development seeks to deliver a range of dwelling sizes and types, including RAC units, Seniors ILUs and residential units. The proposed development represents a significant contribution to the availability and diversity of housing within Charlestown and the Lake Macquarie Local Government Area.

The proposed development is consistent with the vision and objectives of Housing 2041: NSW Housing Strategy, as follows:

- The proposal will deliver housing within the strategic centre of Charlestown on a site that has been zoned to facilitate residential development;
- The proposed development incorporates a diverse range of dwelling types, including RAC units and ILUs as well as residential units (not limited to seniors). The proposed development also includes a range of dwelling sizes and layouts;
- The proposal will provide a development outcome which addresses site opportunities and constraints and the existing and future character of the site and surrounds. A number of ESD initiatives are incorporated into the proposed development to ensure that the proposal contributes to shaping a healthy and resilient community; and
- The proposed development will assist in responding to the state's changing housing needs, through the delivery of additional seniors housing to cater for the projected growth in the elderly population.

The proposal is consistent with Housing 2041: NSW Housing Strategy.

5.1.2 Ageing Well in NSW: Seniors Strategy 2021-2031

Ageing Well in NSW: Seniors Strategy 2021–2031 sets out the NSW Government's ten-year plan to respond to the opportunities and challenges resulting from the state's ageing population.

The proposal will provide a range of additional age-friendly housing opportunities co-located with amenities and support services which will assist to cater for the needs of the growing aged population.

The proposed development will make a direct contribution to achieving the vision set out in the strategy.

5.1.3 Hunter Regional Plan 2036

The NSW Government has developed the *Hunter Regional Plan 2036* as an overarching framework to guide land use planning priorities and infrastructure funding decisions in the Hunter region over the next 20 years.

The Hunter Regional Plan 2036 focuses on new housing and jobs, and targets growth in strategic centres and renewal corridors close to transport to deliver social and economic benefits. The subject site is located within the strategic centre of Charlestown. The proposal will provide additional and diverse housing opportunities within the Charlestown Strategic Centre and is closely aligned to the directions outlined plan.

The plan outlines the following strategic priorities for the Charlestown Strategic Centre:

- *Support the development of Charlestown with further higher-density residential development and employment diversity to enable it to better function as a city centre with a range of commercial and government services, and housing.*
- *Retain and increase regionally significant retail and higher-order community facilities.*
- *Improve public transport connections to other strategic centres.*
- *Implement the Charlestown Town Centre Area Plan.*
- *Continue investigations into the economic diversification of the centre, increasing residential densities through redevelopment and public transport access, and improving public amenity and access to open space.*

The proposed development is entirely consistent with the strategic priorities outlined for the Charlestown Strategic Centre. The proposal will deliver increased residential density on the subject site, consistent with the future character outlined in the Charlestown Town Centre Area Plan. The proposal is consistent with the identified town centre character of Charlestown and will support the functioning of Charlestown as a city centre.

The proposed development is closely aligned with the Hunter Regional Plan 2036.

5.1.4 Draft Hunter Regional Plan 2041

The *Draft Hunter Regional Plan 2041* forms part of the five (5) year review of the *Hunter Regional Plan 2036*, and resets priorities for the area to ensure continued progress and prosperity for the Hunter community for the next 20 years.

Charlestown remains a strategic centre within the updated plan and is identified as having a 'very urban' future context, similar to the Newcastle City Centre.

Under this Plan, the regional vision for the Hunter is as follows:

"The leading regional economy in Australia, connected to and caring for Country, with a vibrant metropolitan city and sustainable 15-minute neighbourhoods at its heart."

The proposed development aligns with this vision, noting that it provides direct economic benefits to the Hunter region through a direct investment into the subject site. The proposed development will result in the creation of job opportunities during both the construction and operation phases of the development.

The site is well located to accommodate higher density residential development due to its position within the Charlestown Town Centre. The site is well serviced by existing services, employment opportunities and public transport networks. The proposal will directly contribute to achieving the 15-minute neighbourhoods envisioned by the plan. The proposal will contribute to the future vibrancy of Charlestown.

5.1.5 Greater Newcastle Metropolitan Plan 2036

The *Greater Newcastle Metropolitan Plan 2036* (GNMP 2036) sets out strategies and actions for local government areas within Lake Macquarie, Newcastle, Cessnock, Maitland and Port Stephens. The plan seeks to drive sustainable growth in Greater Newcastle.

The plan outlines four (4) outcomes which aim to deliver the vision for Greater Newcastle. These include:

- *Create a workforce skilled and ready for the new economy;*
- *Enhance environment, amenity and resilience for quality of life;*
- *Deliver housing close to jobs and services; and*
- *Improve connections to jobs, services and recreation.*

The proposed development is well aligned with the above outcomes noting it will provide a significant contribution to housing availability and diversity within Charlestown, an area identified for future growth as a result of its excellent access to existing and future jobs, services, amenities and transport infrastructure.

The plan seeks to prioritise the delivery of seniors housing and aged care services close to and within centres. The proposal will provide a significant contribution to the delivery of seniors housing within the Charlestown Town Centre and will contribute to achieving this goal.

The GNMP 2036 identifies a need to increase housing diversity and choice to meet both the ageing population and reduction in household sizes. The plan also seeks to deliver 60% of new housing in existing urban areas. The proposed development will result in the provision of additional and diverse housing opportunities within an existing urban area.

The proposed development is consistent with the GNMP 2036.

5.1.6 Let's Thrive – Lake Macquarie City Housing Strategy 2021

Let's Thrive – Lake Macquarie Housing Strategy 2021 is Lake Macquarie City Council's Housing Strategy. The strategy supports a housing market that meets the diverse and changing needs of the Lake Macquarie community, with a focus on areas where there are gaps in the housing market.

The proposed development will contribute to the increase in housing availability and diversity within the Charlestown area through the delivery of dwellings across a range of housing types including residential apartments, Seniors ILU apartments and RAC bedrooms. Through doing this, the proposed development will provide additional housing choice which is targeted towards a number of growing demographic groups.

Acknowledging the principles of overarching regional strategic plans, the strategy seeks to create compact settlements by focusing housing growth within identified strategic centres with established infrastructure, services and public transport. The proposed development is positioned in the Charlestown Town Centre and is consistent with the strategic future character outlined for the area.

The proposed development is consistent with the *Lake Macquarie City Housing Strategy 2021*.

5.1.7 Shaping the Future – Local Strategic Planning Statement

The *Lake Macquarie Local Strategic Planning Statement* (LSPS) describes how Lake Macquarie will achieve the city's vision and uphold the community's values, through strategic planning. The LSPS guides the growth of Lake Macquarie City in line with State and Regional planning goals.

Charlestown is identified within the LSPS as being a strategic economic centre within the North East Growth Area (refer **Figure 6** below).

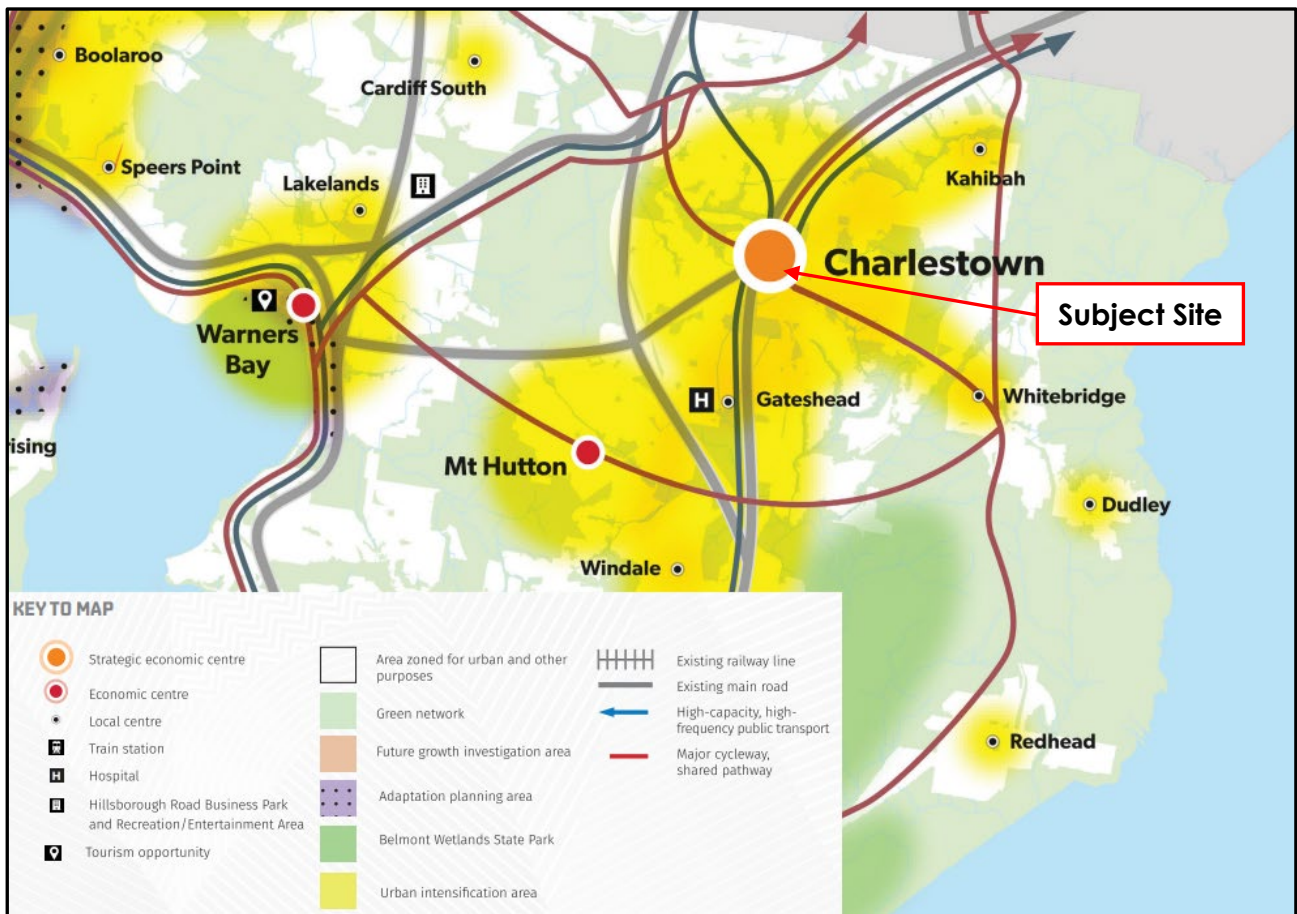


Figure 6: Extract from the LSPS – North East Growth Area.

Key objectives of the North-East Growth Area include redeveloping Charlestown to attract intensive multi-storey commercial and residential development, and providing diverse housing to meet the needs of those wishing to live closer to jobs and services. The proposed development is consistent with these objectives, particularly noting that it will provide multistorey housing within close proximity to existing services and jobs within the Charlestown Town Centre.

The proposed development is consistent with the vision established within the LSPS and the planning priorities and directives outlined therein.

5.1.8 Supporting Over 55s in the City – Ageing Population Plan 2018-2022

Supporting over 55s in the City is Lake Macquarie City Council's plan to care for and support the ageing population in the area.

The plan identifies that the number of people aged 65 years and over is expected to grow substantially in the coming 20 years. The plan outlines strategies and actions aimed at supporting and catering for this growth.

Improving infrastructure and the built environment is a priority area of the plan. The plan seeks to increase ratios of seniors housing and improve the choice and quality of life for seniors. The plan also aims to improve access for older people.

The proposed development is entirely consistent with the aims of the strategy. It incorporates the provision of additional seniors housing opportunities within the Charlestown Town Centre, where good access to existing and future services and facilities and public transport facilities are available. The proposed development seeks to create a supportive and inclusive community which promotes wellbeing and healthy lifestyles.

The proposed development is closely aligned with Supporting over 55s in the City.

5.1.9 Imagine Lake Mac

Imagine Lake Mac is a high-level, long-term strategy that guides the growth and change of Lake Macquarie. Imagine Lake Mac follows the same strategic aspirations as the LSPS.

Charlestown is identified as a strategic economic centre within the plan. The plan seeks to focus change and growth within centres. As discussed above, the proposed development will deliver multi-storey residential development to meet the housing needs of the local community, in particular the ageing community. The proposed development seeks to activate the site and contribute to the future character of the Charlestown Town Centre.

The proposed development will contribute to achieving the vision outlined within Imagine Lake Mac for the Charlestown area and wider LGA.

5.1.10 Lake Mac 2032 – Community Strategic Plan

The Lake Macquarie City Community Strategic Plan describes how the City's vision can be achieved. This Plan is based on the aspirations, knowledge and values expressed by Lake Macquarie's residents.

The proposed development is consistent with the relevant key focus areas of the plan, noting the following:

- The proposed development will protect Lake Macquarie's unique natural environment through establishing residential development within an appropriate and strategically identified location;
- The proposed development is well located with respect to existing public transport facilities and existing jobs, services and amenities;
- The proposal will result in a significant investment directly into the subject site;
- The proposed development will generate 620 jobs during the construction period and 150 jobs during operations; and
- The SSD assessment process incorporates assessment by various local and state government departments as well as public consultation in the decision-making process. Additionally, the applicant has undertaken community consultation during the preparation of this EIS.

6.0 Building Design and Urban Form

The need for the proposed variation has arisen following a detailed site analysis to determine opportunities and constraints, the outcomes of which were applied as parameters for the architectural design. The proposed architectural design follows the rationale of the block control plans established for the site in the Charlestown Town Centre Area Plan and proposes built form outcomes which better address key site constraints and opportunities. The design considerations which have informed the proposed architectural design are discussed below.

Building A

Building A is (RAC building) is located adjacent to the eastern boundary of the subject site. Building A presents as a four (4) storey building to Tiral Street. At the James Street boundary, Building A presents as a five (5) storey building.

Building A has been designed to achieve the following beneficial urban design outcomes:

- A reduced building footprint at ground level to maximise opportunities for the provision of landscaping and open space;
- Increases to the setback of building bulk from the James Street and Tiral Street frontages as well as the eastern boundary;
- Reduced overlooking of adjoining properties to the east; and
- Increased building modulation, to provide visual interest and minimise potential overbearing impacts.

The above urban design benefits are achieved by reducing the building footprint adjacent to the northern, eastern and southern boundaries and siting, angling and modulating the built form as proposed. To accommodate the reduction of building footprint adjacent to site boundaries, a modest increase in building height is proposed in the northern portion of the site. This ensures that the design benefits are achieved without resulting in a significant loss in residential floor space, noting strategic objectives for the site seek to increase residential density.

Building A complies with the LMLEP 2014 height controls on the southern portion of the site.

The proposed height of the RAC building does not result in any environmental impacts to adjoining properties.

Buildings B, C and D

Proposed Buildings B, C and D are positioned centrally within the subject site and comprise of buildings with two (2) storey podiums and residential towers above.

The architectural design of Buildings B, C and D seeks to achieve the following:

- Address the site's transitional interface character:
 - The site is currently adjoined by low density residential dwellings;
 - The subject site and adjoining land to the north is positioned within the Charlestown Town Centre and is identified for significant future growth focused around the provision of taller building forms; and
 - The site is therefore located at the interface between land identified for future higher density development to the north and lower density residential land uses to the south.
- Maintain appropriate solar access to adjoining properties; and
- Maximise the retention of existing vegetation within the site, particularly the well-established vegetation adjacent to the southern boundary which presents to Tiral Street.

The design of proposed Buildings, B, C and D achieves the above urban design outcomes by:

- Reducing building heights within the southern portion of the site and maximising setbacks to Tiral Street to the south;
- The reductions to building height and increased setbacks to the south are achieved by removing permissible floor space from adjacent to the southern boundary and placing it at height in the centre and northern side of the site, where the site presents to the Charlestown Town Centre and has a higher visual bearing capacity for taller built forms;
- The introduction of a middle massing to allow the incremental stepping of the proposed built form from north to south, consistent with the site's transitional character. The introduction of the middle massing also allows for additional building bulk to be shifted from the southern portions of the site, to a more central location; and
- Orienting built form on a north to south axis (rather than the east to west axis envisioned by height and Block Plan Controls). The proposed building orientation is achieved without resulting in significant loss of residential floor area (noting strategic objectives to provide increased density on the site) by placing additional floor space at height in the northern and central portions of the site.

The proposed development, inclusive of the additional height, will provide the following benefits when compared to a scheme which complies with the LMLEP 2014 height controls and LMDCP 2014 Block Control Plan:

- Reduced overshadowing impacts to adjoining residential properties to the south (refer **Figures 8, 9** and **10** below), directly contributing to zone objectives of maintaining and enhancing the residential amenity. This is achieved by shifting building height away from the southern portion of the site and orienting built form as proposed;
- Provision of an improved streetscape presentation to lower density residential development to the south through:
 - Providing lower built forms adjacent to the southern boundary which are below the 30m maximum height achievable under current site controls;
 - Increasing setbacks to the southern boundary and providing a greater separation between the proposed built form and existing dwellings to the south; and
 - Retention of a significant area of existing mature vegetation adjacent to the southern boundary which provides visual softening to the proposed development.

It is noted that under current controls it is possible to extend eight (8) storey-built form close to the southern Tiral Street boundary of the site. The proposed reduced building height, increased setback and provision of the southern landscape buffer provides a presentation to Tiral Street which is more compatible with existing development to the south (single storey dwellings);

- The provision of a built form outcome which steps down in height from north to south, providing an appropriate transition in built form;
- Provision of significant landscaping and communal and public outdoor areas which provide public benefit;
- The proposed north to south building orientation for Buildings B, C and D is more consistent with the existing pattern of built form immediately adjacent to the site; and
- Improved visual permeability by achieving a north to south building orientation without resulting in substantial losses to residential floor space (noting the desired increased residential density for the site). The proposed building orientation allows the presentation of built form to James and Tiral Street to be broken down into shorter distinct forms with increased building breaks, resulting in improved visual permeability through the site to and from the town centre.

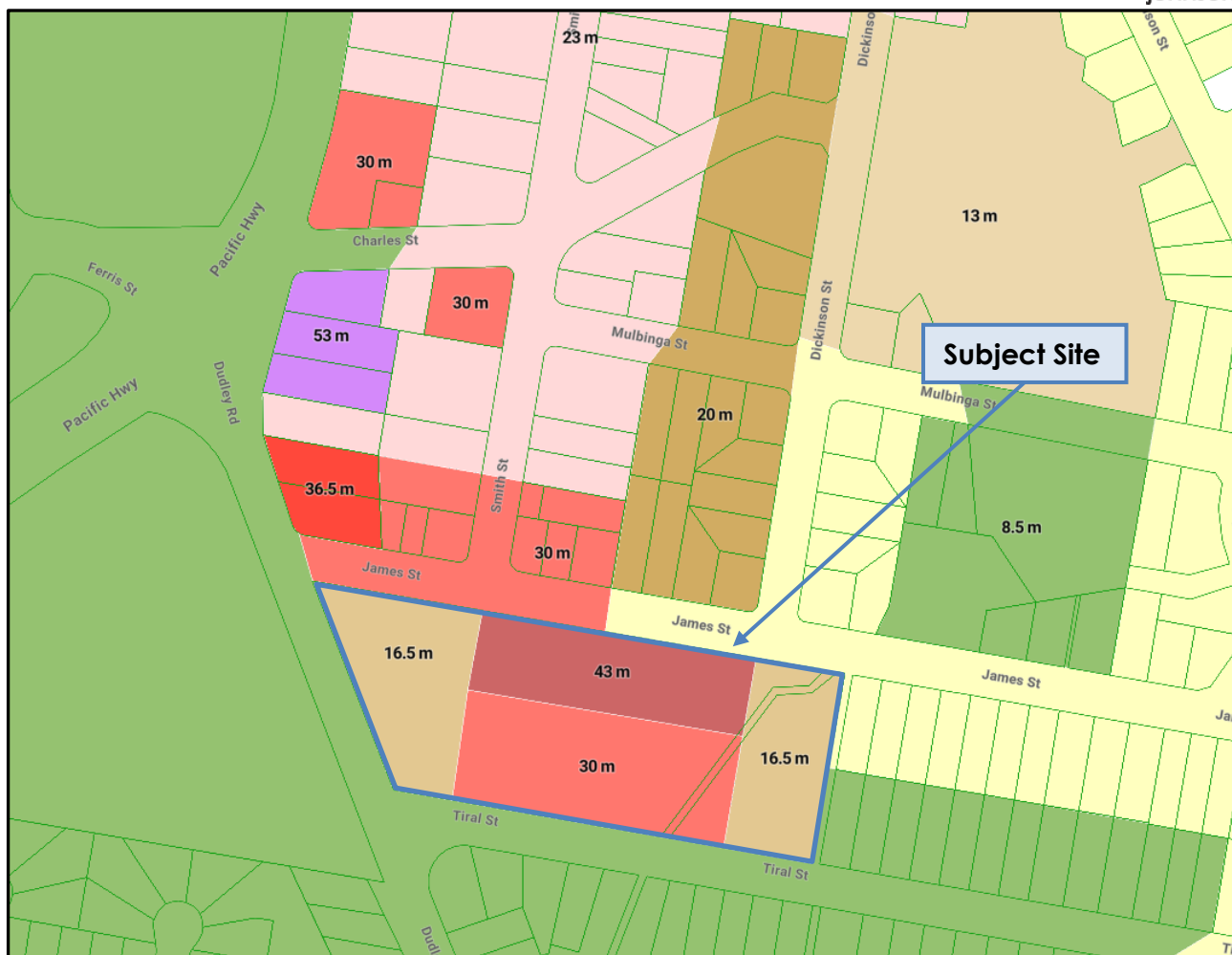


Figure 7: Building Height Controls.



Figure 8: Solar Diagram 11am.



Figure 9: Solar Diagram 2pm.



Figure 10: Solar Diagram 3pm.

It is noted that the architectural design of the proposed development could be augmented to achieve a height compliant development scheme by redistributing the building bulk where height non-compliances occur to different areas of the site. Relocating building bulk to achieve a height compliant scheme would result in poorer urban design outcomes as it would result in the above-described urban design benefits being lost or a reduction in residential floor area on a site where increased residential density is identified as desirable.

The proposed development scheme has been reviewed by Lake Macquarie City Council, the Lake Macquarie Urban Design Review Panel (UDRP) and State Design Review Panel (SDRP) as part of pre-DA consultation. Each of the parties were supportive of the approach taken to massing and siting of built form, subject to detailed review. **Table 2** below summarises consultation with Council and the UDRP and SDRP to date.

Table 2: LMCC, UDRP and SDRP Consultation

Date	Agency	Comments Relevant to Building Height
10 June 2020	Lake Macquarie City Council	Council planning staff can see merit in the design approach with the buildings running north south, rather than east west as per the LM DCP, to allow for greater solar access (on site and off site) and view capture. A height variation on the R3 zoned part of the site could be considered via a Clause 4/6 Variation.
9 July 2020	Lake Macquarie UDRP	Although departing from the town centre DCP suggested block layout, the Panel is of the view that the block massing offered in the proposal represents a significant improvement to the DCP layout, in urban form and in terms of future amenity for residences on site. This is achieved without increasing any potential adverse impacts on residences to the southern side of Tiral Street.

Date	Agency	Comments Relevant to Building Height
		<p>Although the maximum heights for the three towers are compliant with the control, the heights of the central parts of each of the three towers B, C and D, moderately exceed height control. However, no adverse impacts arise either within the site or externally from this exceedance, and it is supported by the Panel. This moderate departure from the control is considered to produce a positive urban design outcome that does not increase visual bulk, and which results in interesting, visually balanced built forms.</p> <p>The panel commended Uniting Care and the Architect for the approach taken towards achieving design excellence for this important site, and considers the conceptual documentation to demonstrate excellence in its contextual analysis and its response.</p>
1 September 2021	Lake Macquarie City Council	Overall Council is supportive of the scheme, subject to detailed assessment of the height variations and other planning considerations.
13 October 2021	Lake Macquarie UDRP	<p>The Panel was advised that Council is currently looking into possible height increases for buildings in the Charlestown town centre. This is likely to further support the Panel's previously stated advice that in urban design terms at least, the site is considered capable of support for some greater heights than indicated in the current controls.</p> <p>The proposed departures from the height controls will need to be well argued in terms of better urban design and amenity outcomes than would be achieved under the indicative block arrangements suggested in the DCP, as well as changes to the controls that are currently under consideration.</p> <p>Providing that the quality of the remaining design development reflects that of the more advanced areas presented, the development appears capable of setting a benchmark in Lake Macquarie.</p>
30 March 2022	SDRP	<p>The scheme has been well considered in particular, the thoughtful integration of landscape and built form.</p> <p>The approach to the massing and siting of the buildings is supported, however, the project team must demonstrate how the proposal results in a positive urban design outcome to justify the proposed increase in height over the controls in the Lake Macquarie LEP 2014. The project team must demonstrate:</p> <ul style="list-style-type: none"> a. That the proposed development would not impact surrounding buildings (with regard to overshadowing, noise, traffic, and view loss) more than that of a development complying with the DCP Block Control Plan envelope, and; b. How the proposal will deliver additional public benefit, high amenity for the proposed dwellings, and high sustainability outcomes. <p>The retention of significant trees on the site and the proposal to increase the tree canopy cover was supported.</p>

Minutes from each of the meetings detailed above are attached to the EIS which this report accompanies.

7.0 Justification of Variation

In accordance with Clause 4.6(3) and (4) of LMLEP 2014 and having regard to the established law on Clause 4.6, this section identifies that:

- Compliance with the Development Standard is unreasonable and/or unnecessary in this instance as the objectives of the development standard are satisfied notwithstanding the proposed non-compliance;
- There are sufficient environmental planning grounds to justify contravening the development standard; and
- The proposed development is in the public interest because it is consistent with the objectives of the development standard and the relevant land zones which apply to the site.

7.1 ZONING & ZONE OBJECTIVES

The zoning of the land and the zone objectives are relevant to the assessment of the request to contravene the Development Standard.

The subject site is zoned R3 Medium Density Residential and B4 Mixed Use under the LMLEP 2014 (refer **Figure 11** below). The proposed development is positioned fully within the R3 zone, with the exception of a landscaped through site link which adjoins the proposed RFB to the west. Given the proposed built form (which exceeds the building height control) is positioned entirely within the R3 Medium Density Residential portion of the site, only the objectives of the R3 zone are relevant to the proposed variation. Notwithstanding, the proposed development is consistent with the objectives of the B4 zone. This is discussed within the EIS which this request accompanies.

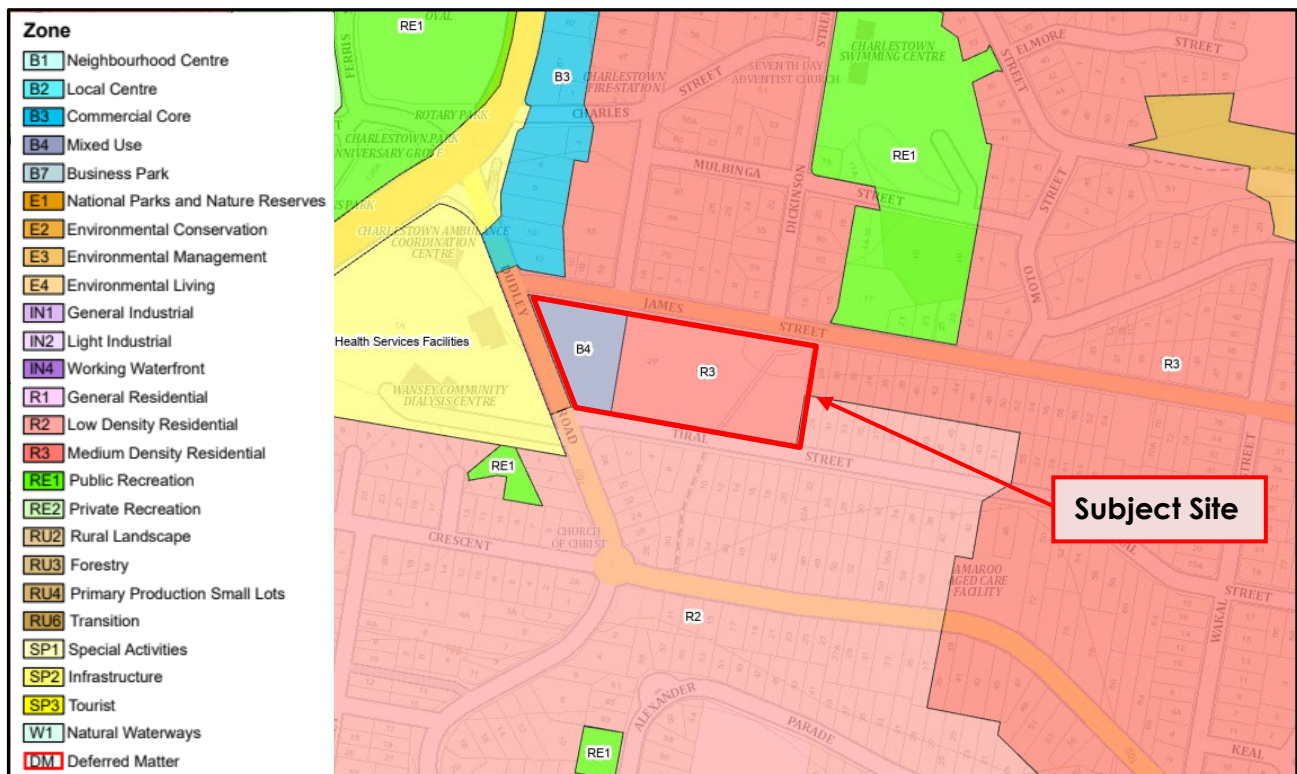


Figure 11: Zoning map extract from LMLEP 2014.

The objectives of the R3 Medium Density Residential zone are:

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To maintain and enhance the residential amenity and character of the surrounding area.

The proposed development, inclusive of the height variation proposed remains consistent with the objectives of the R3 zone as shown in **Table 3** below.

Table 3: Consistency with R3 Zone Objectives

Objective	Comment
<i>To provide for the housing needs of the community within a medium density residential environment.</i>	The proposal will deliver medium density residential development which provides for the housing needs of the community.
<i>To provide a variety of housing types within a medium density residential environment</i>	The proposed development incorporates a range of dwelling types including RAC units, seniors ILUs and residential units not specifically intended for seniors.
	Unit sizes range from 1 – 3 bedrooms.
<i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>	The proposed development incorporates a range of ancillary support services and amenity uses to complement the seniors housing component of the proposed development.
<i>To maintain and enhance the residential amenity and character of the surrounding area.</i>	The proposed development will contribute to the emerging and desired future medium density residential character identified for the site and the vision established for the Charlestown Town Centre in strategic and land use planning policies.
	The proposed development achieves reduced overshadowing impacts to adjoining properties to the south when compared to development that would be consistent with existing height controls.
	The proposed development focusses taller built form on the northern side of the site, where the site presents to the Charlestown Town Centre and has a higher visual bearing capacity for larger built forms. Notwithstanding the proposed additional height in the central and northern portions of the site, the proposal remains compatible with to the town center character identified for James Street at the frontage of Buildings B, C and D.
	By placing additional building mass at height within the central and northern portion of the site and reducing mass and height in the south, the proposal is able to achieve an improved urban outcome that enhances residential amenity and character. This is because: <ul style="list-style-type: none"> • The proposed height of buildings in the southern portion of the site is more consistent with the character of adjoining low density residential land uses to the south; • The proposal achieves increased setbacks to Tiral Street, where the site interfaces with low density residential land; and

Objective	Comment
	<ul style="list-style-type: none"> It allows for the retention of a significant area of existing vegetation adjacent to the southern boundary which provides visual softening to the proposed development when viewed from the south.

7.2 CONSISTENCY WITH THE OBJECTIVES OF THE DEVELOPMENT STANDARD

In accordance with the principles set out in *Wehbe v Pittwater Council [2007] NSW LEC 827*, strict compliance with the building height development standard set out in Clause 4.3 of the LMLEP 2014 is considered unreasonable in this case as the proposed development, inclusive of the height variations proposed, satisfies the objectives of the development standard as follows:

(a) to ensure the height of buildings are appropriate for their location,

The proposed development including with the additional height remains appropriate for the location for the following reasons:

- The proposed building, including the additional height, remains compatible with that of an urban centre, in which the site is located;
- The proposed additional height ensures that floor space lost to achieving better design outcomes (see discussion under b) below) is maintained in a location where dwelling density is desired taking into account strategic objectives to grow Charlestown;
- The proposed building including with additional height has no significant impacts to neighbouring properties taking into consideration privacy and shadowing as demonstrated within the included plans and reports; and
- The proposed height does not significantly impact on any visually sensitive landscape.

(b) to permit building heights that encourage high quality urban form.

The proposed development and arrangement of building height, which exceeds the height controls for part of the site, will encourage a higher quality of urban form than strict compliance with the standard for the following reasons:

- Through shifting building bulk from the south to the north of the site, an improved streetscape presentation is achieved at the site's southern interface by providing reduced building heights, increasing setbacks from the street and allowing for significant retention of existing vegetation adjacent to the southern boundary, without significantly reducing residential density on the site;
- The proposed building heights and architectural form allow for improved solar access through the site and reduced overshadowing impacts to adjoining properties to the south;
- Through placing additional floor space at height, the footprint of the proposed development is minimised, allowing for landscaping and open space opportunities at ground level to be maximised. The proposed ground plane landscape design provides appropriate visual softening to the proposed development and promotes pedestrian movements through the site;
- The proposed north to south orientation of the built form generates larger facades to the east and west increasing opportunities for solar access to dwellings;
- The proposed building heights allow for the establishment of a stepped built form outcome which better addresses the transitional character of the site;
- No significant offsite impacts will result from the proposed heights; and
- The proposed development, inclusive of the height variations proposed remains consistent with the principles of *State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development* and the Apartment Design Guide.

7.3 JUSTIFICATION ON ENVIRONMENTAL PLANNING GROUNDS

As outlined in **Section 3**, there needs to be sufficient environmental planning grounds to justify contravening the development standard (Clause 4.6(3)(b) of the LMLEP 2014).

In considering the relevant environmental planning grounds, it is necessary to consider the objects of the *Environmental Planning and Assessment Act 1979* (EPA Act) and the matters for consideration outlined in section 4.15 of the EPA Act.

Objects of the EP&A Act

The proposed variation to the development standard will promote the objects of the EP&A Act. The relevant objective of the EP&A Act which is relevant to the proposed building height variation is addressed below:

Object (g):

"To promote good design and amenity of the built environment".

The proposed development, including the proposed height exceedances, promotes good design and amenity of the built environment. The proposal addresses the transitional character of the site by organising built form to provide increased height in areas of the site with a higher visual bearing capacity and establishing more appropriate built form interfaces to the more sensitive edges of the site. In reorienting building bulk, the proposal also achieves better outcomes relating to solar access, streetscape presentation, privacy for adjoining properties and establishment of additional landscaping and passive open space opportunities.

The additional building height proposed will not result in any significant adverse impact to the amenity of adjoining properties.

The proposed development, inclusive of the height variations proposed remains consistent with the principles of SEPP 65.

Section 4.15 EPA Act

Under section 4.15 of the EPA Act, a consent authority is required to take into account the following matters (being those matters that are of relevance to the development the subject of the development application):

- The provisions of any environmental planning instrument and any proposed instrument that is or has been the subject of public consultation under this Act;
- The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality; and
- The public interest.

Environmental Planning Instruments

As discussed within this Clause 4.6 Variation Report, the proposed development is consistent with the applicable zone objectives for the site and is permissible with development consent under the relevant land zoning for site. The proposal remains consistent with the objectives of Clause 4.3 – Height of Buildings of the LMLEP 2014.

In addition to the above, the applicant notes that the recently released *State Environmental Planning Policy (Housing) 2021* (SEPP (Housing)) introduces building height incentives for seniors housing developments. In accordance with Section 87 of SEPP (Housing), a 3.8m building height bonus is available to seniors housing developments which also meet controls relating to site area and floor space ratio (FSR). Section 87 is reproduced below:

87 Additional floor space ratios

- (1) This section applies to development for the purposes of seniors housing on land to which this Part applies if—
 - (a) development for the purposes of a residential flat building or shop top housing is permitted on the land under another environmental planning instrument, or
 - (b) the development is carried out on land in Zone B3 Commercial Core.
- (2) Development consent may be granted for development to which this section applies if—
 - (a) the site area of the development is at least 1,500m², and
 - (b) the development will result in a building with the maximum permissible floor space ratio plus—
 - (i) for development involving independent living units—an additional 15% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of independent living units, or
 - (ii) for development involving a residential care facility—an additional 20% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of the residential care facility, or
 - (iii) for development involving independent living units and residential care facilities—an additional 25% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of independent living units or a residential care facility, or both, and
 - (c) the development will result in a building with a height of not more than 3.8m above the maximum permissible building height.

Section 87 is consistent with the following principle of SEPP (Housing):

encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability.

The applicant has taken a conservative approach to the interpretation of Clause 87, whereby it is considered that the subject site is precluded from Section 87 because it does not have a maximum floor space ratio control.

Notwithstanding this, the proposed development remains consistent with the intent of Section 87 and the overarching principles of SEPP (Housing) which seek to encourage housing for seniors and people with a disability in appropriate locations with good access to facilities.

It is noted that the proposed height exceedances in many locations are less than the 3.8m height bonus offered by SEPP (Housing) for seniors housing developments.

Impacts of the Development

The subject site is positioned within a strategic centre which is identified for significant future growth owing to its excellent access to public transport facilities, services, and employment opportunities.

The proposal achieves the desired density for the site in a configuration which addresses site specific conditions and opportunities and provides improved outcomes in relation to:

- Solar access and overshadowing;
- Privacy;
- Increased landscape and open space opportunities;
- Streetscape presentation; and
- Visual permeability.

Details on how the proposal addresses the above matters is provided within **Table 4** below.

Table 4: Improved Environmental Outcomes

Matter	Comment
Solar Access and overshadowing	By siting and orienting built form as proposed, the development will provide improved solar access outcomes when compared to a scheme which complies with the building height controls set out in the LMLEP 2014 and LMDCP 2014 block plans. The proposed development will increase solar access to units within the site by generating larger facades to the east and west. The proposed design minimises overshadowing impacts to adjoining properties to the south (refer Figures 8, 9 and 10 above).
Privacy (Building A)	By providing modest height increases in the north of Building A, the proposed development is able to relocate building mass from adjacent to the eastern boundary of the site. By relocating mass from adjacent to the eastern boundary, the architectural design is able to achieve the following: <ul style="list-style-type: none"> • Increased separation between Building A and the eastern boundary; • Building orientation which allows to implementation of privacy screens to protect the privacy of neighbouring properties; and • Increased building modulation and visual interest when viewed from the east.
Increased Landscape and Open Space Opportunities	The proposed development, through providing additional floor space at height, minimises the footprint of the proposed development. Through minimising the footprint, areas of landscaping and open space at the ground floor plane are maximised. The proposed development provides a landscape design at ground level which incorporates significant areas of landscaping and open space, including through site links.
Streetscape Presentation	The provision of additional floor space at height in the northern and central portions of the site allows the reduction in height and building mass at the Tiral Street frontage and provides an improved streetscape presentation through: <ul style="list-style-type: none"> • Reducing building heights in the southern portion of the site and increasing setbacks to Tiral Street, allowing an appropriate interface to be established between the proposed development and lower density residential uses on the southern side of Tiral Street; • The introduction of a middle massing allows the incremental stepping of the proposed built form from north to south, consistent with the site's transitional character. The introduction of the middle massing also allows for additional building bulk to be shifted from the southern portions of the site, to a more central location; and • By increasing setbacks to Tiral Street, the proposed development retains a significant area of existing vegetation adjacent to the southern boundary which maintains part of the existing streetscape and provides visual softening to the proposed development when viewed from the south. <p>The taller height to the north remains consistent with the Charlestown Town Centre.</p>

Matter	Comment
Visual Permeability	The proposed development achieves a north to south building orientation without resulting in substantial losses to residential floor space (noting the desired increased residential density for the site) by increasing heights in the north of the site. The proposed building orientation allows the presentation of built form to James and Tiral Street to be broken down into shorter distinct forms, with increased building breaks resulting in an improved visual permeability through the site to the town centre.

The height variations proposed will not result in any significant adverse built or natural environmental outcomes.

Public Interest

The proposed development, inclusive of the development control variations is in the public interest. In particular it provides for the achievement of desirable development in a key location without significant impacts, which is consistent with the strategic vision established for the site and surrounds.

Notwithstanding the proposed height variation, the proposed development remains consistent with the relevant objectives of:

- The EP&A Act;
- The land zoning applicable to the site;
- The applicable height control; and
- Strategic planning policies which apply to the site.

8.0 Concurrence

In accordance with Clause 4.6(4)(b) of the LMLEP 2014 development consent must not be granted for development that contravenes a development standard unless the concurrence of the Secretary has been obtained.

In accordance with Planning Circular *PS 20-002 Variations to Development Standards*, the consent authority (the Minister) may assume the Secretary's concurrence where development standards will be contravened for State Significant Development.

9.0 Conclusion

The applicant considers that the consent authority can be satisfied that this request adequately addresses the matters required to be demonstrated by Clause 4.6(3), being:

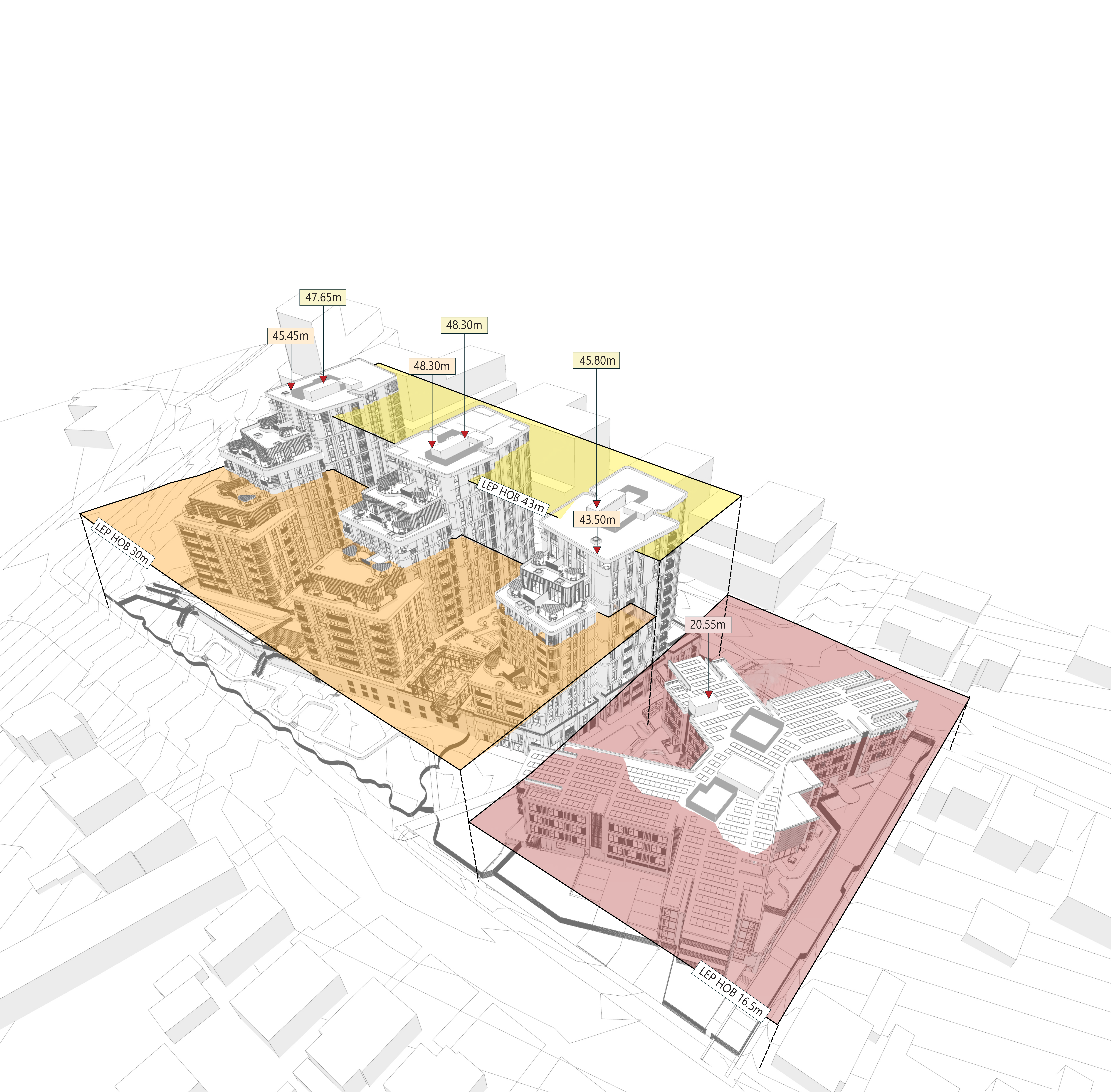
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

It is also considered that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

In those circumstances, the consent authority is permitted to grant development consent for the development notwithstanding the contravention of the subject development standard.

Appendix A

ADDITIONAL BUILDING HEIGHT AND SOLAR PLANS



47.65m

45.45m

48.30m

48.30m

45.80m

43.50m

20.55m

LEP HOB 30m

LEP HOB 43m

LEP HOB 16.5m

PUBLIC OPEN SPACE (POS)

COMMUNAL OPEN SPACE (COS)

SOLAR ON COMMUNAL SPACE

SOLAR ON PUBLIC SPACE

DRAWING TO BE READ IN CONJUNCTION WITH A0000 LEGEND, RELEVANT SCHEDULES AND PROJECT SPECIFICATION.



21 June 9am



21 June 10am



21 June 10:30am



21 June 11am

FOR APPROVAL

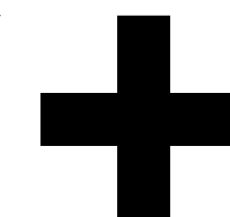
DATE	REVISION	BY	CHK	NO.

DATE	REVISION	BY	CHK	NO.

CONSULTANTS			
CIVIL ENGINEER	<input type="checkbox"/>	MPC	T (02) 4927 5566
STRUCTURAL ENGINEER	<input type="checkbox"/>	NORTHROP	T (02) 9241 4188
LANDSCAPE ARCHITECT	<input type="checkbox"/>	ARCADIA	T (02) 8571 2900
QUANTITY SURVEYOR	<input type="checkbox"/>	WT GROUP	T (02) 9929 7422
TRAFFIC CONSULTANT	<input type="checkbox"/>	VARGA TRAFFIC PLANNING	T (02) 9094 3224

CONSULTANTS			
GEOTECHNICAL ENGINEER	<input type="checkbox"/>	DOUGLAS PARTNERS	T (02) 9800 0666

Uniting



plus
architecture

Melbourne
Brisbane
Christchurch
Sydney
Western Australia
Auckland

Telephone
+61 2 8823 7000
Instagram
@plusarchitecture
arch@plusarchitecture.com.au
www.plusarchitecture.com.au

PROJECT
**27 TIRAL STREET,
CHARLESTOWN**

DRAWING TITLE
SHADOW DIAGRAM

In accepting and utilizing this document the recipient agrees that Plus Architecture Pty. Ltd. ACN 600506303, retain all common law, statutory law and other rights including copyright and intellectual property rights. The recipient agrees not to use this document for any purpose other than its intended use, to waive all claims against Plus Architecture resulting from unauthorised changes, or to reuse the document or other projects without the prior written consent of Plus Architecture. Under no circumstances shall transfer of this document be deemed a sale. Plus Architecture makes no warranties of fitness for any purpose. The Builder/Contractor shall verify job dimensions prior to any work commencing. Figured dimensions shall take precedence over scaled work.

SCALE
1:1000 @A1

DATE
18/08/2023

DRAWN
SH

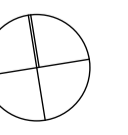
JOB NO.
20456

REVISION
05

PLOT DATE
18/08/2023

CHECKED
GD

DRAWING NO.
PLA-CT-MP-DWG-AR-P4-00305



PUBLIC OPEN SPACE (POS)

COMMUNAL OPEN SPACE (COS)

SOLAR ON COMMUNAL SPACE

SOLAR ON PUBLIC SPACE

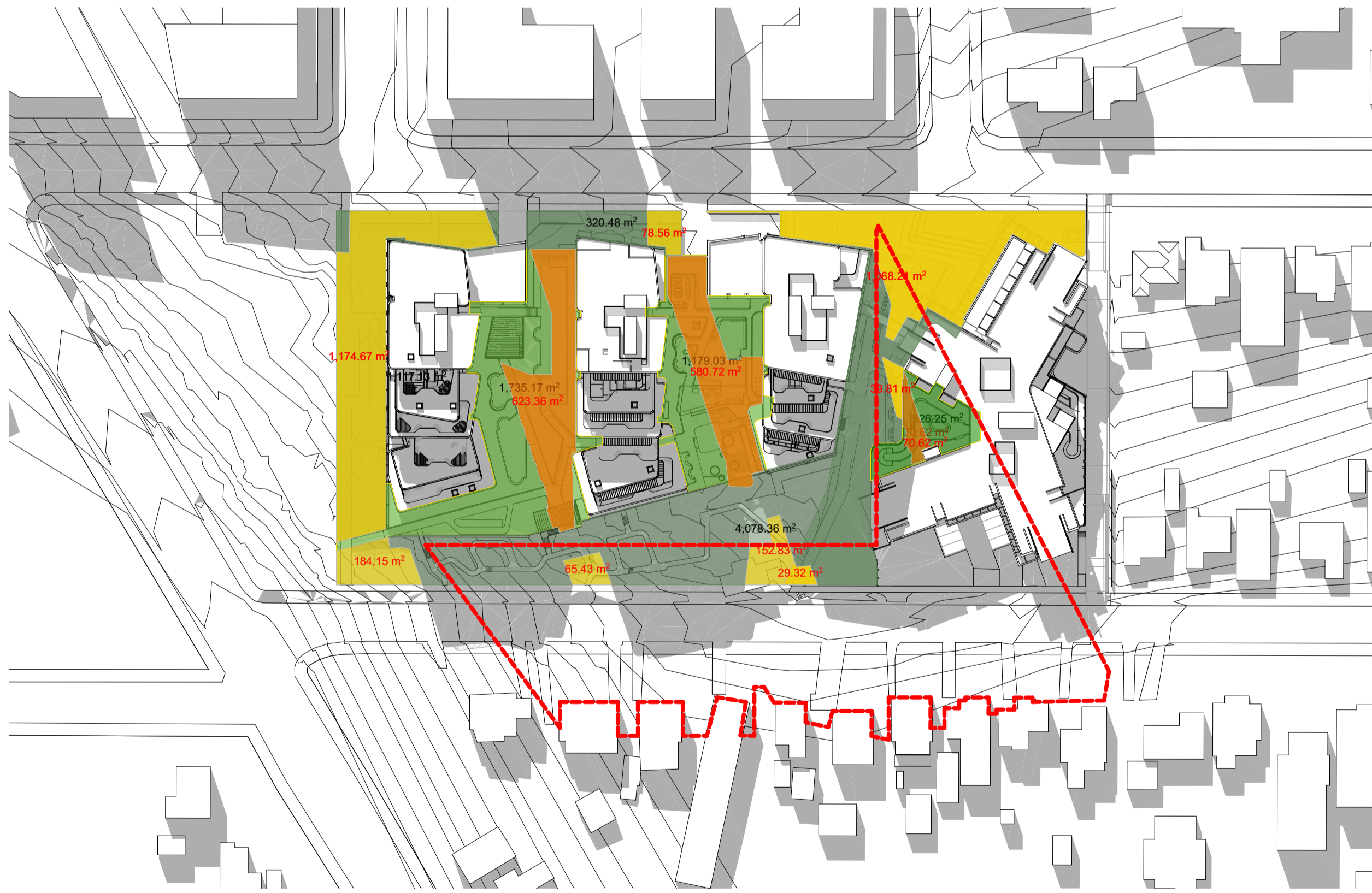
DRAWING TO BE READ IN CONJUNCTION WITH A0000 LEGEND, RELEVANT SCHEDULES AND PROJECT SPECIFICATION.



21 June 11:30am



21 June 12pm



21 June 12:30pm



21 June 1pm

FOR APPROVAL

DATE	REVISION	BY	CHK	NO.

DATE	REVISION	BY	CHK	NO.

CONSULTANTS			
CIVIL ENGINEER	<input type="checkbox"/>	MPC	T (02) 4927 5566
STRUCTURAL ENGINEER	<input type="checkbox"/>	NORTHROP	T (02) 9241 4188
LANDSCAPE ARCHITECT	<input type="checkbox"/>	ARCADIA	T (02) 8571 2900
QUANTITY SURVEYOR	<input type="checkbox"/>	WT GROUP	T (02) 9929 7422
TRAFFIC CONSULTANT	<input type="checkbox"/>	VARGA TRAFFIC PLANNING	T (02) 9004 3224

CONSULTANTS			
GEOTECHNICAL ENGINEER	<input type="checkbox"/>	DOUGLAS PARTNERS	T (02) 9800 0666

Uniting



plus
architecture

Melbourne
Brisbane
Christchurch
Sydney
Western Australia
Auckland

Telephone +61 2 8823 7000
Instagram #plusarchitecture
arch@plusarchitecture.com.au
www.plusarchitecture.com.au

PROJECT
**27 TIRAL STREET,
CHARLESTOWN**

DRAWING TITLE
SHADOW DIAGRAM

In accepting and utilizing this document the recipient agrees that Plus Architecture Pty. Ltd. ACN 600506303, retain all common law, statutory law and other rights including copyright and intellectual property rights. The recipient agrees not to use this document for any purpose other than its intended use, to waive all claims against Plus Architecture resulting from unauthorized changes, or to make the document or other projects without the prior written consent of Plus Architecture. Under no circumstances shall transfer of this document be deemed a sale. Plus Architecture makes no warranties of fitness for any purpose.
The Builder/Contractor shall verify job dimensions prior to any work commencing. Figured dimensions shall take precedence over scaled work.

SCALE
1:1000 @A1

DATE
18/08/2023

DRAWN
SH

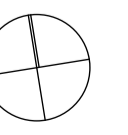
JOB NO.
20456

REVISION
05

PLOT DATE
18/08/2023

CHECKED
GD

DRAWING NO.
PLA-CT-MP-DWG-AR-P4-00306



PUBLIC OPEN SPACE (POS)

COMMUNAL OPEN SPACE (COS)

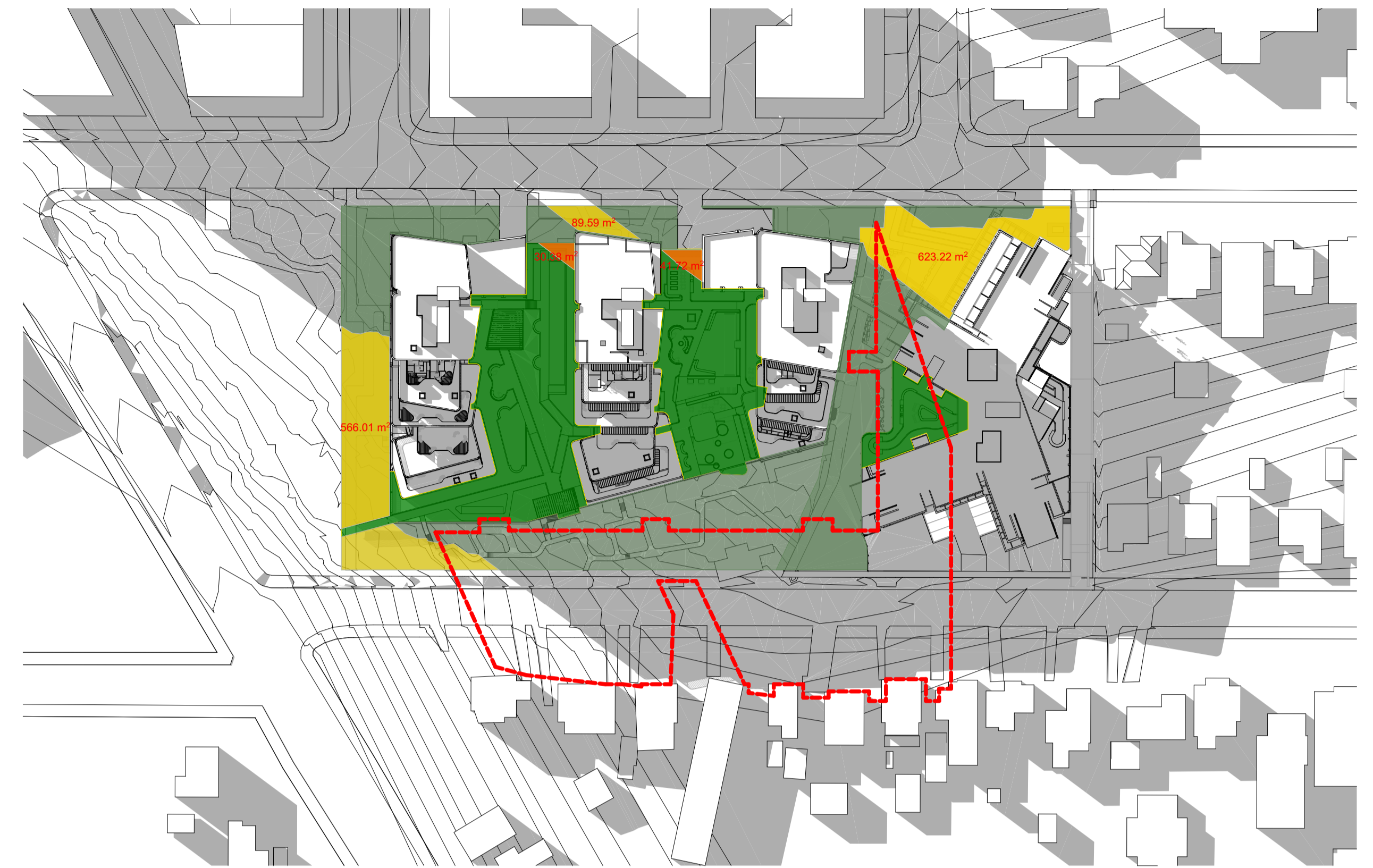
SOLAR ON COMMUNAL SPACE

SOLAR ON PUBLIC SPACE

DRAWING TO BE READ IN CONJUNCTION WITH A0000 LEGEND, RELEVANT SCHEDULES AND PROJECT SPECIFICATION.



21 June 2pm



21 June 3pm

	9AM	10AM	10:30AM	11AM	11:30PM	12PM	12:30PM	1PM	2PM	3PM
TOTAL AREA OF SOLAR	1448.41m ²	2742.85m ²	3583.75m ²	4336.30m ²	4634.77m ²	4123.43m ²	3665.27m ²	2791.41m ²	2021.28m ²	1350.92m ²
TOTAL PERCENTAGE OF SOLAR	21.10%	40.08%	51.69%	63.37%	67.73%	60.26%	53.56%	40.79%	29.54%	19.7%

TOTAL (COS + POS) : 6842.11 m²

FOR APPROVAL

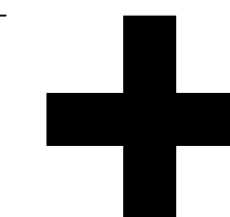
DATE	REVISION	BY	CHK	NO.

DATE	REVISION	BY	CHK	NO.

CONSULTANTS			
CIVIL ENGINEER	<input type="checkbox"/>	MPC	T (02) 4927 5566
STRUCTURAL ENGINEER	<input type="checkbox"/>	NORTHROP	T (02) 9241 4188
LANDSCAPE ARCHITECT	<input type="checkbox"/>	ARCADIA	T (02) 8571 2900
QUANTITY SURVEYOR	<input type="checkbox"/>	WT GROUP	T (02) 9929 7422
TRAFFIC CONSULTANT	<input type="checkbox"/>	WARGA TRAFFIC PLANNING	T (02) 9504 3224

CONSULTANTS			
GEOTECHNICAL ENGINEER	<input type="checkbox"/>	DOUGLAS PARTNERS	T (02) 9800 0666

Uniting



Level 4, 222 Clarence Street
Sydney, NSW 2000 Australia
Plus Architecture Pty. Ltd.
ACN 60059303
Nominated Architect (NSW):
Amit Julka 10002 | Rido Pin 11286

plus
architecture

Melbourne
Brisbane
Christchurch
Sydney
Western Australia
Auckland
Telephone
+61 2 8823 7000
Instagram
#plusarchitecture
arch@plusarchitecture.com.au
www.plusarchitecture.com.au

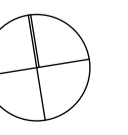
PROJECT
**27 TIRAL STREET,
CHARLESTOWN**

DRAWING TITLE
SHADOW DIAGRAM

In accepting and utilizing this document the recipient agrees that Plus Architecture Pty. Ltd. ACN 60059303, retain all common law, statutory law and other rights including copyright and intellectual property rights. The recipient agrees not to use this document for any purpose other than its intended use, to waive all claims against Plus Architecture resulting from unauthorised changes, or to reuse the document on other projects without the prior written consent of Plus Architecture. Under no circumstances shall transfer of this document be deemed a sale. Plus Architecture makes no warranties of fitness for any purpose. The Builder/Contractor shall verify job dimensions prior to any work commencing. Figured dimensions shall take precedence over scaled work.

SCALE
1:1000 @A1
DATE
18/08/2023
DRAWN
SH
JOB NO.
20456

REVISION
05
PLOT DATE
18/08/2023
CHECKED
GD
DRAWING NO.
PLA-CT-MP-DWG-AR-P4-00307





www.adwjohnson.com.au