

**CLAUSE 4.6 VARIATION  
REQUEST**

**SYDNEY LOCAL  
ENVIRONMENTAL PLAN  
2012**

**CLAUSE 4.4 FLOOR SPACE  
RATIO**

**SYDNEY METRO PITT  
STREET NORTH OVER  
STATION DEVELOPMENT**

**URBIS**

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# 1. INTRODUCTION

This Clause 4.6 variation request has been prepared to support a State Significant Development (**SSD**) Development Application (**DA**) for the construction of a commercial mixed-use Over Station Development (**OSD**) above the new Sydney Metro Pitt Street North Station. This request has been prepared by Urbis on behalf of Pitt Street Developer North Pty Limited which is part of the Oxford Properties group of companies, the applicant for the Detailed SSD DA (SSD-10375).

The detailed SSD DA is consistent with the Concept Approval (SSD 17\_8875) granted for the maximum building envelope and Gross Floor Area (**GFA**) on the site, as proposed to be modified.

The Minister for Planning and Public Spaces, or their delegate, is the consent authority for the SSD DA and this application is lodged with the NSW Department of Planning, Industry and Environment (**NSW DPIE**) for assessment.

This written request provides justification for the development sought within the Detailed SSD DA to vary the floor space ratio (**FSR**) development standard prescribed for the site under clause 4.4 of Sydney Local Environmental Plan 2012 (**SLEP**). It is noted that the approved Concept DA SSD 17\_8875 already varies the floor space ratio development standard as it applies to the site.

The site is subject to a base FSR of 8:1 as illustrated within the Floor Space Ratio Map (defined by the SLEP). An additional quantum of floor space is applicable to the development in line with the accommodation floor space and the end of journey floor space provisions of the SLEP (clauses 6.4 and 6.6 respectively).

A total of FSR of 15.97:1 (in comparison to the permissible SLEP FSR of 13.80:1) has been approved by the Concept SSD DA, therefore this variation request seeks an additional amount of FSR in addition to that already approved for the site.

A s4.55(2) modification to SSD 17\_8875 is lodged concurrently with this SSD DA which, amongst other things, seeks to increase the total maximum FSR on the site to 17.70:1. If the proposed modification to the Concept SSD DA is approved, the proposed Detailed SSD DA will be consistent with the approved GFA (as modified) and no further clause 4.6 variation to the floor space ratio standard will be necessary. However, this clause 4.6 variation is submitted with the Detailed SSD DA for abundant caution and as a matter of good practice for planning assessment.

As stated in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118 (Initial Action)* at [25], SLEP clause 4.6(3) does not require the consent authority to form its own opinion of satisfaction regarding the matters identified in clause 4.6(3)(a) and (b), but only indirectly must be satisfied that the applicant's written request has adequately addressed those matters. This request does that, and therefore the consent authority is open to be satisfied that subclause 4.6(3) has been met.

**Sections 7.2.3 - 7.2.6** of this request provide material to assist the consent authority to reach satisfaction under clause 4.6(4) that the development is consistent with the objectives for development within the B8 Metropolitan Centre zone and usefully addresses the matters that the consent authority is required to address under clause 4.6(5) when exercising the function of the Secretary.

## 2. ASSESSMENT FRAMEWORK

### 2.1. CLAUSE 4.6 OF SYDNEY LOCAL ENVIRONMENTAL PLAN 2012

Clause 4.6 of SLEP includes provisions that allow for exceptions to development standards in certain circumstances. The objectives of clause 4.6 are:

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

Clause 4.6 provides flexibility in the application of planning provisions by allowing the consent authority to approve a DA that does not comply with certain development standards, where it can be shown that flexibility in the particular circumstances of the case would achieve better outcomes for and from the development.

In determining whether to grant consent for development that contravenes a development standard, clause 4.6(3) requires that the consent authority consider a written request from the applicant, which demonstrates:

- 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.*

Furthermore, 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 standard and the objectives for development within the zone, and the concurrence of the Secretary has been obtained.

In deciding whether to grant concurrence, subclause (5) requires that the Secretary 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 Secretary before granting concurrence.*

[Note: Concurrence is assumed pursuant to Planning Circular No. PS 18-003 Variations to Development Standards dated 21 February 2018].

This document forms a clause 4.6 written request to justify the contravention of the floor space ratio development standard in clause 4.4 of the SLEP. The assessment of the proposed variation has been undertaken in accordance with the requirements of the SLEP, clause 4.6 exceptions to development standards.

### 2.2. NSW LAND AND ENVIRONMENT COURT: CASE LAW

Several key New South Wales Land and Environment Court (**NSW LEC**) planning principles and judgements have refined the manner in which variations to development standards are required to be approached.

The correct approach to preparing and dealing with a request under clause 4.6 is neatly summarised by *Preston CJ in Initial Action Pty Ltd v Woollahra Municipal Council [2018]* NSWLEC 118, duplicated for ease of consent authority reference as follows:

[13] *The permissive power in cl 4.6(2) to grant development consent for a development that contravenes the development standard is, however, subject to conditions. Clause 4.6(4) establishes preconditions that must be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard.*

[14] *The first precondition, in cl 4.6(4)(a), is that the consent authority, or the Court on appeal exercising the functions of the consent authority, must form two positive opinions of satisfaction under cl 4.6(4)(a)(i) and (ii). Each opinion of satisfaction of the consent authority, or the Court on appeal, as to the matters in cl*

4.6(4)(a) is a jurisdictional fact of a special kind: see *Woolworths Ltd v Pallas Newco Pty Ltd* (2004) 61 NSWLR 707; [2004] NSWCA 442 at [25]. The formation of the opinions of satisfaction as to the matters in cl 4.6(4)(a) enlivens the power of the consent authority to grant development consent for development that contravenes the development standard: see *Corporation of the City of Enfield v Development Assessment Commission* (2000) 199 CLR 135; [2000] HCA 5 at [28]; *Winten Property Group Limited v North Sydney Council* (2001) 130 LGERA 79; [2001] NSWLEC 46 at [19], [29], [44]-[45]; and *Wehbe v Pittwater Council* (2007) 156 LGERA 446; [2007] NSWLEC 827 at [36].

[15] The first opinion of satisfaction, in cl 4.6(4)(a)(i), is that the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by cl 4.6(3). These matters are twofold: first, that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (cl 4.6(3)(a)) and, secondly, that there are sufficient environmental planning grounds to justify contravening the development standard (cl 4.6(3)(b)). The written request needs to demonstrate both of these matters.

[16] As to the first matter required by cl 4.6(3)(a), I summarised the common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary in *Wehbe v Pittwater Council* at [42]-[51]. Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary.

[17] The first and most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard: *Wehbe v Pittwater Council* at [42] and [43].

[18] A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary: *Wehbe v Pittwater Council* at [45].

[19] A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable: *Wehbe v Pittwater Council* at [46].

[20] A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable: *Wehbe v Pittwater Council* at [47].

[21] A fifth way is to establish that 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, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary: *Wehbe v Pittwater Council* at [48]. However, this fifth way of establishing that compliance with the development standard is unreasonable or unnecessary is limited, as explained in *Wehbe v Pittwater Council* at [49]-[51]. The power under cl 4.6 to dispense with compliance with the development standard is not a general planning power to determine the appropriateness of the development standard for the zoning or to effect general planning changes as an alternative to the strategic planning powers in Part 3 of the EPA Act.

[22] These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.

[23] As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.

[24] The environmental planning grounds relied on in the written request under cl 4.6 must be "sufficient". There are two respects in which the written request needs to be "sufficient". First, the environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on



environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [31].

[25] The consent authority, or the Court on appeal, must form the positive opinion of satisfaction that the applicant's written request has adequately addressed both of the matters required to be demonstrated by cl 4.6(3)(a) and (b). As I observed in *Randwick City Council v Micaul Holdings Pty Ltd* at [39], the consent authority, or the Court on appeal, does not have to directly form the opinion of satisfaction regarding the matters in cl 4.6(3)(a) and (b), but only indirectly form the opinion of satisfaction that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3)(a) and (b). The applicant bears the onus to demonstrate that the matters in cl 4.6(3)(a) and (b) have been adequately addressed in the applicant's written request in order to enable the consent authority, or the Court on appeal, to form the requisite opinion of satisfaction: see *Wehbe v Pittwater Council* at [38].

[26] The second opinion of satisfaction, in cl 4.6(4)(a)(ii), is 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. The second opinion of satisfaction under cl 4.6(4)(a)(ii) differs from the first opinion of satisfaction under cl 4.6(4)(a)(i) in that the consent authority, or the Court on appeal, must be directly satisfied about the matter in cl 4.6(4)(a)(ii), not indirectly satisfied that the applicant's written request has adequately addressed the matter in cl 4.6(4)(a)(ii).

[27] The matter in cl 4.6(4)(a)(ii), with which the consent authority or the Court on appeal must be satisfied, is not merely that the proposed development will be in the public interest but that it will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out. It is the proposed development's consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest. If the proposed development is inconsistent with either the objectives of the development standard or the objectives of the zone or both, the consent authority, or the Court on appeal, cannot be satisfied that the development will be in the public interest for the purposes of cl 4.6(4)(a)(ii).

[28] The second precondition in cl 4.6(4) that must be satisfied before the consent authority can exercise the power to grant development consent for development that contravenes the development standard is that the concurrence of the Secretary (of the Department of Planning and the Environment) has been obtained (cl 4.6(4)(b)). Under cl 64 of the *Environmental Planning and Assessment Regulation 2000*, the Secretary has given written notice dated 21 February 2018, attached to the *Planning Circular PS 18-003* issued on 21 February 2018, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under cl 4.6, subject to the conditions in the table in the notice.

[29] On appeal, the Court has the power under cl 4.6(2) to grant development consent for development that contravenes a development standard, if it is satisfied of the matters in cl 4.6(4)(a), without obtaining or assuming the concurrence of the Secretary under cl 4.6(4)(b), by reason of s 39(6) of the *Court Act*. Nevertheless, the Court should still consider the matters in cl 4.6(5) when exercising the power to grant development consent for development that contravenes a development standard: *Fast Buck\$ v Byron Shire Council* (1999) 103 LGERA 94 at 100; *Wehbe v Pittwater Council* at [41].

## 3. THE PROPOSED DEVELOPMENT

### 3.1. SYDNEY METRO

Sydney Metro is Australia's biggest public transport program. A new standalone railway, this 21st century network will revolutionise the way Sydney travels.

There are four core components:

**a) Sydney Metro Northwest** (formerly the 36km North West Rail Link)

This project is now complete and passenger services commenced in May 2019 between Rouse Hill and Chatswood, with a metro train every four minutes in the peak. The project was delivered on time and \$1 billion under budget.

**b) Sydney Metro City & Southwest**

Sydney Metro City & Southwest project includes a new 30km metro line extending metro rail from the end of Metro Northwest at Chatswood, under Sydney Harbour, through new CBD stations and southwest to Bankstown. It is due to open in 2024 with the ultimate capacity to run a metro train every two minutes each way through the centre of Sydney.

Sydney Metro City & Southwest will deliver new metro stations at Crows Nest, Victoria Cross, Barangaroo, Martin Place, Pitt Street, Waterloo and new underground metro platforms at Central Station. In addition, it will upgrade and convert all 11 stations between Sydenham and Bankstown to metro standards.

In 2024, customers will benefit from a new fully air conditioned Sydney Metro train every four minutes in the peak in each direction with lifts, level platforms and platform screen doors for safety, accessibility and increased security.

**c) Sydney Metro West**

Sydney Metro West is a new underground railway connecting Greater Parramatta and the Sydney CBD. This once-in-a-century infrastructure investment will transform Sydney for generations to come, doubling rail capacity between these two areas, linking new communities to rail services and supporting employment growth and housing supply between the two CBDs.

The locations of seven proposed metro stations have been confirmed at Westmead, Parramatta, Sydney Olympic Park, North Strathfield, Burwood North, Five Dock and The Bays.

The NSW Government is assessing an optional station at Pyrmont and further planning is underway to determine the location of a new metro station in the Sydney CBD.

**d) Sydney Metro - Western Sydney Airport**

Metro rail will also service Greater Western Sydney and the new Western Sydney International (Nancy Bird Walton) Airport. The new railway line will become the transport spine for the Western Parkland City's growth for generations to come, connecting communities and travellers with the rest of Sydney's public transport system with a fast, safe and easy metro service. The Australian and NSW governments are equal partners in the delivery of this new railway.

The Sydney Metro project is illustrated in **Figure 1**.

On 9 January 2017, the Minister for Planning approved the Sydney Metro City & Southwest - Chatswood to Sydenham project as a Critical State Significant Infrastructure project (reference SSI 15\_7400) (**CSSI approval**). The terms of the CSSI approval includes all works required to construct the Sydney Metro Pitt Street North Station, including the demolition of existing buildings and structures on the sites. The CSSI approval also includes construction of below and above ground improvements associated with the metro station structure within the 'metro box' envelope.

With regards to CSSI related works, any changes to the 'metro box envelope' and public domain will be pursued in satisfaction of the CSSI conditions of approval and do not form part of the scope of this SSD DA for the OSD.

[illegible]

### 3.2. CONCEPT SSD DA (SSD 17\_8875)

- A maximum building envelope, including street wall and setbacks for the over station development;
- A maximum building height of RL 188.74 metres;
- A maximum gross floor area of 50,310m<sup>2</sup> (including station floor space);
- Podium level car parking for a maximum of 50 parking spaces; and
- Conceptual land use for either one of a mixed-use or commercial scheme (not both).

A modification application to the Concept SSD DA has therefore been lodged concurrently with the Detailed SSD DA. The section 4.55(2) modification application seeks consent for the following amendments to the approved building envelope:

- Amend the concept building envelope plans approved on 25 June 2019 by the Minister under application number SSD 8875 to modify the podium envelope
  - at the Castlereagh Street façade to facilitate better built form relationship with the scale of the adjacent Masonic Building;
  - at the Pitt Street façade to facilitate better built form relationship with the scale of the adjacent National Building;
- Amend conditions to permit the protrusion beyond the building envelope for the purpose of sunshading elements, planted elements, balustrades and planter boxes;
- Increase in the total GFA across the site to 55,743sqm (including station floorspace);

- Replace Concept Approval envelope plans to show interrelationship of proposed OSD floor space with station floor space; and
- Make minor amendments to the Design Guidelines in respect to podium heights and tower setbacks.

### 3.3. DETAILED SSD DA (SSD-10375)

The Detailed SSD DA (**SSD-10375**) seeks approval for the detailed design of the OSD above the new Pitt Street North Station. The Detailed SSD DA is consistent with the Concept Approval (SSD 17\_8875) granted for the site, as proposed to be modified.

The Detailed SSD DA seeks development consent for:

- The design, construction, and operation of a new commercial tower with a maximum building height of RL 176.8 (39 levels) including ground and plant levels;
- A total of 55,743m<sup>2</sup> GFA, including station floor space;
- Private landscaped terraces on levels 10 and 11 to support the commercial OSD use;
- Integration with the approved CSSI proposal including though not limited to:
  - Structures, mechanical and electronic systems, and services; and
  - Vertical transfers.
- Use of spaces within the CSSI 'Sydney Metro box' building envelope for the purposes of:
  - Retail tenancies;
  - Commercial lobby and amenities including end of trip facilities;
  - 40 car parking spaces within the podium relating to the OSD commercial use;
  - Loading and service access; and
  - Pedestrian entrances to the OSD from Pitt Street and Castlereagh Street.
- Provision and augmentation of utilities and services (including within basement level 1);
- Provision of signage zones; and
- Stratum subdivision (staged) between metro station and OSD uses.

The proposed development will provide A-grade commercial floorspace in a tower form to deliver an integrated development where the OSD, Sydney Metro Pitt Street North Station and the public domain function together.

The proposal responds to the key site constraints, such as surrounding heritage built form, visual and view impacts, solar access and overshadowing, to deliver an integrated OSD which exhibits design excellence as illustrated at **Figure 2**.

The proposed development is detailed further in the Environmental Impact Statement (**EIS**) submitted with the detailed SSD DA, and in the Architectural Plans (**Appendix D**) and Architectural Design Report (**Appendix E1**) prepared by Foster + Partners.



Figure 2 – Artist's Impression of proposed development (Park Street ground plane, looking north west)



Source: Foster + Partners

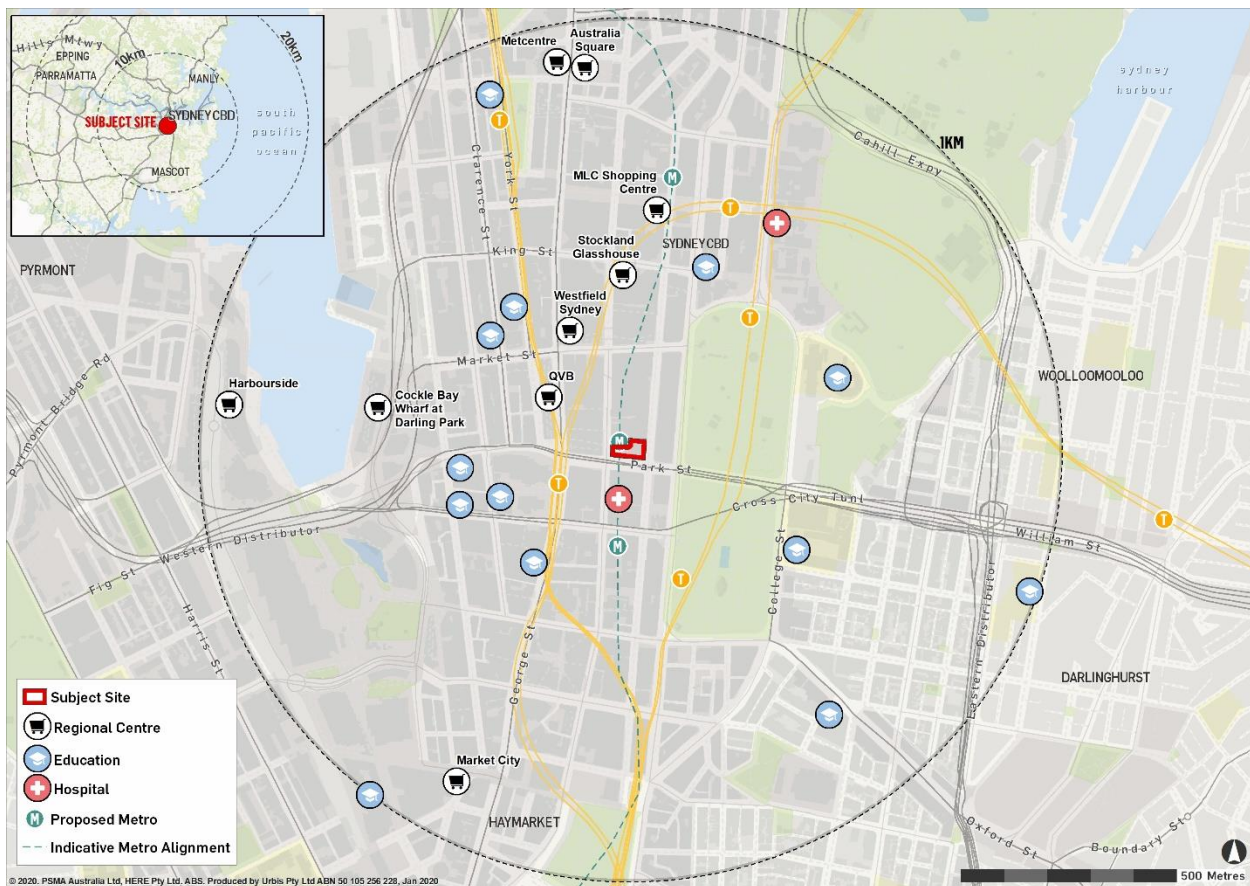
## 4. SITE AND LOCALITY

### 4.1. SITE CONTEXT AND LOCATION

The site is centrally located within the Sydney Central Business District (**CBD**) which forms part of the City of Sydney Local Government Area (**LGA**). The Sydney CBD is situated approximately 3 kilometres south of North Sydney CBD and 8 kilometres northeast of Sydney International Airport (refer **Figure 3**).

The Sydney CBD is identified as the “Harbour CBD” within Sydney’s overarching strategic plan, A Metropolis of Three Cities. It is Sydney’s largest commercial precinct, followed by Parramatta CBD and North Sydney CBD, and is part of the eastern economic corridor from Macquarie Park to Sydney Airport functioning as a fundamental component of the state’s Global Economic Corridor. The area is characterised by a consolidated commercial core and Metropolitan centre (with key public open spaces), contributing to global financial, professional, education and innovation sectors which is predicted to provide a skilled labour force of 500,000 jobs by the year 2036.

Figure 3 – Site context map



Source: Google Earth

### 4.2. SITE DESCRIPTION

The site comprises the southern extent of the Sydney CBD block bounded by Pitt Street, Park Street and Castlereagh Street (**Figure 4**). The site is an irregular L shaped allotment with street frontages of approximately 27.8m to Pitt Street, 81m to Park Street and 48.3m to Castlereagh Street. Internal facing boundaries consist of a north eastern boundary measuring approximately 41.3m, a north western boundary of 41.6m and a northern internal boundary of 15.7m resulting in a site area of 3150.1sqm.

The public domain between the site and the Pitt and Park Street carriageways contain street trees. Various street furniture, streetlights, signage, bicycle racks and parking ticket machines are also located within the public domain areas along all three street frontages.



Figure 4 – Aerial photograph of site



Source: Google Earth

The site occupies one allotment and is legally described as Lot 20 in DP 1255509. The allotment includes a series of easements affecting parts of the land for stormwater drainage and sewer, as outlined within the Site Survey submitted with the Detailed SSD DA. The existing easements however do not impede the construction of the proposed development.

### 4.3. PREVIOUS DEVELOPMENT

Prior to the demolition of all buildings across the site under the terms of CSSI Approval, the site was previously occupied by a mix of low-rise retail and mid-rise office developments. These are briefly discussed below:

| Address             | Lot and DP          | Former Development Description   |
|---------------------|---------------------|--|
| 252-254 Pitt Street | Lot 1 in DP596474   | Two adjacent three storey developments on Pitt Street, both containing retail premises at the ground level. A club was formerly located above the development at 252 Pitt Street                 |
| 256 Pitt Street     | Lot 17 in DP1095869 | This site was used as a fast food premises and was constructed to a height of four storeys. The building was constructed to the street alignment and abutted the National Building to the north. |
| 40 Park Street      | Lot 2 in DP509677   | A series of uniform height three storey buildings located adjacent to one another, of a similar architectural design and style. Most buildings   |
| 42 Park Street      | Lot 2 in DP982663   |  |

| Address                    | Lot and DP        | Former Development Description   |
|----------------------------|-------------------|--|
| 46 Park Street             | Lot 3 in DP61187  | comprised ground floor retail uses, with two further storeys located above used for additional retail space. All buildings were built to the front boundary, affording no setback to Park Street |
| 48 Park Street             | Lot 1 in DP74367  | The Windsor Hotel. This building was six storeys in height, with a slight setback at the topmost floor.  |
| 175-183 Castlereagh Street | Lot 3 in DP74952  | 14 storey mixed use commercial building, featuring business premises at the ground floor and office levels above.  |
|                            | Lot 2 in DP900055 |  |
|                            | Lot 1 in DP229365 |  |

The previous site conditions displayed a pattern of development with very little consistency in scale, form or alignment. Mid-rise commercial buildings were abutting low-rise retail and food and drink premises.

The surrounding streets are frequently used by pedestrians as a thoroughfare during peak times and are anticipated to support increased pedestrian traffic once the Pitt Street metro station is constructed. The current pathway conditions are encumbered in part due to the presence of construction hoardings, and overall are considered to be a poor but temporary interface for pedestrians traversing the CBD.

As discussed, all the buildings and structures previously on the site have now been demolished under the CSSI Approval for the Pitt Street Station. Construction of the Pitt Street metro station is currently underway, with the site occupied by a large temporary shed structure (see **Figure 5**).



Figure 5 – Site Photos



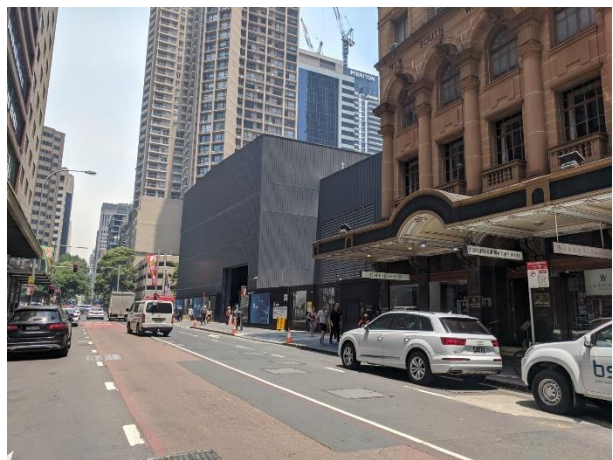
Picture 1 – View from corner of Park and Pitt streets



Picture 2 – Looking north along Pitt Street (site on right)



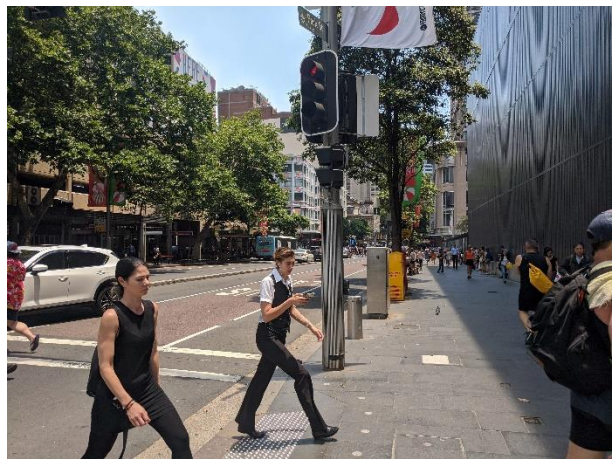
Picture 3 – Looking east along Park Street (site on left)



Picture 4 – Looking south along Castlereagh Street (site on right)



Picture 5 – Looking west along Park Street (site on right)



Picture 6 – Looking west along Park Street (site on right)

Source: Urbis

## 4.4. SURROUNDING DEVELOPMENT

The surrounding context is characterised by predominantly modern commercial buildings interspersed with commercial heritage buildings.

The immediate site is generally bound as follows:



- **North** – Adjoining the north eastern boundary of the site at 169-173 Castlereagh Street, is the NSW Masonic Club and Castlereagh Boutique Hotel, a 12 storey rendered brick building heritage listed under the Sydney Local Environmental Plan 2012 (SLEP 2012). Adjoining the north western boundary of the site at 250 Pitt Street, is the National Building, an early twentieth century 12 storey brick and concrete commercial building, also heritage listed under SLEP 2012. Further north is ANZ Tower (242 Pitt Street) which consists of a podium with tall tower form of approximately 245m.
- **South** – Abutting the site to the south is Park Street, a key east-west transport corridor through the Sydney CBD. Park Street provides a key role as a pedestrian avenue across the city between Hyde Park and the Town Hall Civic Precinct. Further south, on the opposite side of Park Street at 258-260 Pitt Street, is the Criterion Hotel (4 storeys) heritage listed under SLEP 2012 and the Park Regis building (136m). The Park Regis (27 Park Street) contains hotel rooms up to level 12, with residential apartments above. Victoria Tower (197 Castlereagh Street) is located directly behind the Park Regis building and contains residential apartments.
- **East** – Castlereagh Street abuts the site to the east. To the south east of the site is 201 Elizabeth Street, a 38 storey commercial office tower. The site has approval for redevelopment for a mixed use retail, residential and hotel building envelope, featuring a 45m podium and a 37 storey tower above.
- **West** – Pitt Street abuts the site to the west. To the west of Pitt St at 275 Pitt Street is the Citigroup Centre building, a commercial office building with podium retail premises with a maximum height of 243m.

Key surrounding buildings are shown in **Figure 6** below.

Figure 6 – Surrounding Development – Key Sites



Source: Google Earth

## 5. SYDNEY LEP FLOOR SPACE RATIO CONTROLS

This section sets out the SLEP provisions that inform the FSR development standard applicable to the site. The relevant SLEP clauses are:

- Clause 4.4 Floor space ratio
- Clause 6.3 Additional floor space in Central Sydney
- Clause 6.4 Accommodation floor space
- Clause 6.6 End of Journey floor space
- Clause 6.21 Design excellence

### 5.1. DEFINITION OF FLOOR SPACE RATIO

The definition of FSR under clause 4.5 of SLEP is:

*“The **floor space ratio** of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.”*

The definition of GFA is:

**gross floor area** means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes—

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes—
  - (d) any area for common vertical circulation, such as lifts and stairs, and
  - (e) any basement—
    - (i) storage, and
    - (ii) vehicular access, loading areas, garbage and services, and
    - (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
  - (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
  - (h) any space used for the loading or unloading of goods (including access to it), and
  - (i) terraces and balconies with outer walls less than 1.4 metres high, and
  - (j) voids above a floor at the level of a storey or storey above.

### 5.2. CLAUSE 4.4 - FLOOR SPACE RATIO

The objectives of clause 4.4 as set out in clause 4.4(1) of the SLEP are:

- (a) to provide sufficient floor space to meet anticipated development needs for the foreseeable future,
- (b) to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic,
- (c) to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure,

(d) to ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.

Clause 4.4(2) sets out the maximum floor space ratio for development as shown on the Floor Space Ratio Map. The site is subject to a maximum floor space ratio of 8:1 as shown in **Figure 7** below.

Figure 7 – Floor Space Ratio Map



Source: SLEP

### 5.3. CLAUSE 6.3 - ADDITIONAL FLOOR SPACE IN CENTRAL SYDNEY

Whilst the maximum permitted FSR is governed primarily by clause 4.4 of the SLEP, Clause 6.3 states:

#### 6.3 Additional floor space in Central Sydney

Despite clause 4.4, the gross floor area of a building on land in Central Sydney may exceed the maximum permitted as a result of the floor space ratio shown for the land on the Floor Space Ratio Map by an amount no greater than the sum of any one or more of the following for which the building may be eligible—

- (a) any accommodation floor space,
- (b) any amount determined by the consent authority under clause 6.21(7)(b),
- (c) any car parking reduction floor space, end of journey floor space, entertainment and club floor space, lanes development floor space or opportunity site floor space.



## 5.4. CLAUSE 6.4 - ACCOMMODATION FLOOR SPACE

Clause 6.4 of SLEP details where accommodation floor space provisions are triggered. In this case, the site is located within Area 2, and as such an additional quantum of floorspace being equivalent to an FSR of 4.5:1 is unlocked by virtue of the proposed office and retail use.

Clause 6.4 provides that:

*(1) A building that is in an Area, and is used for a purpose specified in relation to the Area in paragraph (a), (b), (c), (d), (e), (f) or (g), is eligible for an amount of additional floor space (accommodation floor space) equivalent to that which may be achieved by applying to the building the floor space ratio specified in the relevant paragraph—*

*(a) Area 1, hotel or motel accommodation, community facilities or centre-based child care facilities—6:1,*

*(b) Area 1, office premises, business premises, retail premises, residential accommodation or serviced apartments—4.5:1,*

***(c) Area 2, office premises, business premises or retail premises—4.5:1,***

*(d) Area 2, residential accommodation, serviced apartments, hotel or motel accommodation, community facilities or centre-based child care facilities—6:1,*

*(e) Area 3, office premises, business premises or retail premises—2:1,*

*(f) Area 3, residential accommodation, serviced apartments, hotel or motel accommodation, community facilities or centre-based child care facilities—3:1,*

*(g) Area 4, residential accommodation, serviced apartments, hotel or motel accommodation, community facilities or centre-based child care facilities—1.5:1.*

*(2) The amount of additional floor space that can be achieved under a paragraph is to be reduced proportionally if only part of a building is used for a purpose specified in that paragraph.*

*(3) More than one amount under subclause (1) may apply in respect of a building that is used for more than one purpose.*

In this instance, as the “building” comprises 94% office, business or retail premises, (with the remainder being allocated as station floor space) the development is eligible for accommodation floor space of 4.23:1.

## 5.5. CLAUSE 6.6 - END OF JOURNEY FLOOR SPACE

Clause 6.6 of SLEP provides an additional quantum of floor space for end of journey facilities, up to a maximum FSR equivalent to 0.3:1.

Clause 6.6 states:

*(1) A building on land in Central Sydney that is used only for the purposes of commercial premises and that has all of the following facilities together in one area of the building, is eligible for an amount of additional floor space (end of journey floor space) equal to the floor space occupied by those facilities—*

*(a) showers,*

*(b) change rooms,*

*(c) lockers,*

*(d) bicycle storage areas.*

*(2) The amount of end of journey floor space cannot be more than the amount of floor space that can be achieved by applying a floor space ratio of 0.3:1 to the building.*

There is 482sqm of end of journey floor space provided in the building. The site is therefore eligible for an additional 0.15:1 FSR, equivalent to the 482sqm of end of journey floor space.

## 5.6. CLAUSE 6.21 - DESIGN EXCELLENCE

Clause 6.21 provides that a building demonstrating design excellence is eligible for an amount of additional floor space, to be determined by the consent authority, of up to 10% of:

- (i) the amount permitted as a result of the floor space ratio shown for the land on the Floor Space Ratio Map, and
- (ii) any accommodation floor space or community infrastructure floor space for which the building is eligible under Division 1 or 2.

In this instance, and subject to satisfying the design excellence provisions of SLEP, the bonus would be calculated on the base 8:1 plus accommodation FSR of 4.23:1 thereby being equivalent to 1.22:1.

In the instance that this DA was a local DA and not a SSD DA, the consent authority would via this clause be able to grant a FSR bonus of up to 10% where a competitive design process was followed and the Stage 2 application demonstrated design excellence.

The proposal has demonstrated design excellence through an alternative design excellence process outlined within the Endorsed Design Excellence Strategy (discussed in further detail in **Section 8.1.1** of the EIS and refer **Appendix G** of the EIS).

A 10% bonus (of the Mapped FSR and Accommodation Floor Space) which would otherwise be available pursuant to clause 6.21 of the SLEP, has been included in the FSR calculations, on this basis.

## 5.7. TOTAL SITE FSR

The total FSR applicable to the site for the proposed development is 13.6:1 as set out in Table 1 below.

Table 1 – SLEP FSR Calculation

| SLEP FSR Control   | Calculation  |
|--|--|
| <b>Mapped FSR</b><br>(clause 4.4 SLEP)   | 8:1  |
| <b>Accommodation floor space</b><br>Area 2 for the use of office premises, business premises or retail premises. Reduced proportionally if only part of a building is used for a purpose specified.<br>(clause 6.4 SLEP) | 4.5:1<br>$4.5 \times 0.98 = 4.41:1$  |
| <b>Design excellence</b><br>10% bonus for base FSR and accommodation floor space (10% of 12.41:1)<br>(otherwise available to the site via clause 6.21 SLEP)  | 1.24:1   |
| <b>End of journey floor space</b><br>Maximum 0.3:1 bonus for allocated end of journey floor space.<br>(clause 6.13 SLEP)   | 0.15:1   |
| <b>Permissible FSR</b>   | 13.8:1<br>(by comparison, an FSR of 14.05:1 would be available if full accommodation |

| SLEP FSR Control | Calculation  |
|------------------|--|
|                  | floor space and subsequent Design Excellence provisions were applied and maximum EOJ floorspace included). |

A permissible FSR of 13.8:1 and a site area of 3,151sqm equates to a permissible GFA of 43,484sqm.

## 6. FSR AND GFA COMPARISON WITH CONCEPT APPROVAL AND SLEP

The Concept DA (SSD 17\_8875) approved a maximum GFA of 50,310sqm (including station floor space) which equates to an FSR of 15.97:1. That number was informed by a design scheme comprising a different land use mix of approximately 300 residential apartments, 200 hotel rooms and 1,500sqm of commercial office space.

The Detailed SSD DA proposes a GFA of 55,743sqm (including station floor space) which equates to an FSR of 17.70:1. Commercial floorspace makes up 54,651sqm of the total GFA (17.35:1 FSR).

Table 2 below shows the FSR comparison of the SSD DA with the Concept Approval and the SLEP provisions applicable to the proposal.

Table 2 – Extent of Contravention

|     | <b>Permissible under SLEP for commercial building</b> | <b>Approved Concept DA for mixed use building</b> | <b>Proposed Detailed DA for commercial building including station floor space</b> |
|-----|---|---|---|
| FSR | 13.8:1  | 15.97:1   | 17.70:1   |
| GFA | 43,484sqm   | 50,310sqm   | 55,743sqm   |

Table 3 details the difference in FSR and GFA of the proposed development in comparison with the approved Concept DA and the maximum permissible SLEP FSR allowance as set out above.

Table 3 – Proposed variation in GFA and FSR for proposed development

|  | <b>GFA</b>           | <b>FSR</b>        | <b>Percent Difference</b> |
|--|----------------------|-------------------|---------------------------|
| <b>Difference proposed development with approved Concept DA</b>  | Additional 5,433sqm  | Additional 1.73:1 | <b>10.80%</b> increase    |
| <b>Difference proposed development with SLEP Permissible GFA</b> | Additional 12,259sqm | Additional 3.9:1  | 28% increase              |

As demonstrated above, the percentage increase in the proposed development in comparison with the approved concept is 10.80%, which is significantly lower than the difference between the proposed development and the development yield permissible under the SLEP.



## 7. COMPOSITION OF TOTAL FSR

The site is uniquely positioned to benefit from and support the successful delivery of Sydney Metro. However, as the definition of **floor space ratio** in the SLEP is the ratio of the gross floor area of all buildings within the site to the site area, it does not take into consideration the unique circumstance of the development being a commercial tower located above an integrated metro precinct.

It is noted that the formulation of FSR controls under SLEP 2012 preceded, and accordingly does not recognise, the delivery of a new metro station at the site which is capable of accommodating an increased intensity of development.

### GFA definition

The definition of GFA within the SLEP was designed to provide a clear delineation of what could and could not be included in the calculation of GFA, to allow future density to be controlled through FSR standards.

FSR calculated for a site includes all GFA on that site, not just GFA allocated to that part of a building for which development consent is sought. As such, all GFA included in the maximum site calculation for the proposed development must also include station floor space approved or allocated for delivery under CSSI (SSI 15\_7400). Station GFA equating to 1,092sqm is contained within the podium / basement of the development. The proposed GFA of the OSD component, excluding station floor space, is 54,651sqm.

The necessity of including station floor space in the total FSR calculation reduces the maximum amount of floor space which can be provided as part of the OSD. This is despite the station floor space being for a public use of substantial benefit to the wider public. It is also noted that the station floor space was approved via a CSSI pathway where consideration of LEP controls, including FSR provisions, is not required.

### Displacement of typical basement uses

Additionally, as a result of the integrated metro use of the site, necessary elements of the development such as retail storage and garbage areas are unable to be provided in a basement, meaning that these storage and garbage areas must be counted towards the overall GFA figures at the site.

Elements of the OSD which would not be included in GFA, if the station was not located within the basement, include:

- Above ground storage: 127sqm
- Garbage areas: 104sqm

These areas total 231sqm. These elements constitute 0.4% of the proposed 54,651sqm commercial GFA on the site.

### Calculation of Accommodation Floor Space

Clause 6.4(2) [of Clause 6.4 Accommodation floor space] states that *"the amount of additional floor space that can be achieved under a paragraph [referred to in Clause 6.4(1)] is to be reduced proportionally if only part of a building is used for a purpose specified in that paragraph."*

Therefore, as this site includes both station and OSD (commercial) floor space, the accommodation floor space bonus is only able to be applied to that part of the building that is office or retail premises. If the station floor space was not provided on the site, the proposal would be eligible for an additional 0.09:1 of FSR, equivalent to 283.59sqm.

### Design excellence bonus

The design excellence bonus available under clause 6.21 of SLEP provides for a bonus of 10% of base FSR and accommodation floor space if the design excellence requirements are complied with. For the proposed development, it has not been possible to comply with the prescribed clause 6.21 requirements because an alternative design excellence process has been undertaken, as required and endorsed by Sydney Metro.

If this alternative process was not required and the design excellence provisions of clause 6.21 had been met, the development would be eligible for an additional 10% of the base FSR and accommodation floor space FSR, amounting to 1.24:1. It is noted that if the station floorspace was not provided on the site, the 10% bonus FSR would equate to 1.25:1.

This additional amount of FSR (1.24:1) has been included in the calculations for FSR above as it is considered that design excellence has been met through the rigorous alternative process required by Sydney Metro.

### Impacts on FSR

With regard to the OSD, as use of floor space for a public transport concourse is not contemplated by the various floor space bonus provisions, the proportion of floor space used for metro purposes above the base 8:1 accordingly results in a proportionate reduction in the bonus floor space available. This effectively means that the public transport infrastructure being provided results in a penalty on the accommodation floor space which could otherwise have been provided for the development.

In effect, the overall impact is that the development is penalised for the station space occupying a portion of the site, with regard to both the base FSR and accommodation floor space bonus. This is considered unreasonable, given that this floor space is being used for a separately approved, public use which will benefit the Sydney region.

As noted, 1,092sqm of GFA is attributed to the station and included for the purpose of calculating the maximum FSR applying to the site, which results in both the loss of development capacity on the site due to the provision of public transport infrastructure, whilst simultaneously resulting in a lowering of the maximum FSR permitted under clause 6.4 of SLEP 2012. This results from exclusion of 1,092sqm GFA from uses which benefit from the accommodation floor space and design excellence bonuses, exacerbating the extent of variation from the development standard. If strictly enforced, this would penalise the capacity of the site for the provision of significant new public transport infrastructure due to the impact on the associated development above.

Table 4 below demonstrates the additional FSR and GFA being sought, in comparison to the FSR under the approved Concept DA and permissible FSR under the SLEP. In a scenario which did not include the station, a development would be able to utilise the base FSR, accommodation floor space bonus FSR and design excellence bonus FSR. The potential FSR on the site is shown in Table 4 below.

Table 4 – Permissible FSR if station not part of development

| <b>SLEP FSR Control</b>  | <b>Calculation</b>            |
|--|-------------------------------|
| <b>Mapped FSR</b><br>(clause 4.4 SLEP)   | 8:1                           |
| <b>Accommodation floor space</b><br>Area 2 for the use of office premises, business premises or retail premises).<br>Reduced proportionally if only part of a building is used for a purpose specified.<br>(clause 6.4 SLEP) | 4.5:1                         |
| <b>Design excellence floor space</b><br>10% of base FSR and accommodation floor space<br>(clause 6.21 SLEP)  | 1.25:1<br>(12.5 x 10% = 1.25) |
| <b>End of journey floor space</b><br>Maximum 0.3:1 bonus for allocated end of journey floor space.<br>(clause 6.13 SLEP)   | 0.3:1 (max)                   |
| <b>Maximum permissible FSR if station not part of development</b>  | 14.05:1                       |

Therefore, in a scenario with no station, the maximum permissible FSR would be 14.05:1 rather than 13.6:1.

Table 5 below demonstrates the extent of FSR increase sought if the station was not part of the proposed development.

Table 5 – Extent of contravention excluding Station GFA

|     | <b>Permissible under SLEP for commercial building excluding station</b> | <b>Approved Concept DA for mixed use building excluding station floor space</b> | <b>Proposed Detailed DA for commercial building excluding station floor space</b> |
|-----|---|---|---|
| FSR | 14.05:1   | 15.59:1   | 17.3:1  |
| GFA | 44,272sqm   | 49,121sqm   | 54,651sqm   |

Table 6 details the difference in FSR and GFA proposed, if station GFA is removed, as a comparison to the Concept Approval and to the SLEP FSR allowance.

Table 6 – Proposed variation, station GFA excluded

|   | <b>GFA</b>           | <b>FSR</b>        | <b>Percent Difference</b> |
|---|----------------------|-------------------|---------------------------|
| Proposed difference from permissible SLEP (station GFA excluded)    | Additional 10,379sqm | Additional 3.25:1 | 23% increase              |
| Proposed difference from approved Concept DA (station GFA excluded) | Additional 5,530sqm  | Additional 1.71:1 | 10.9% increase            |

If the proposed development did not include the station, the increase in GFA being sought above the amount approved by the Concept DA would be a 10.9% increase, rather than a 10.80% increase with the station included, as demonstrated in Table 3 above. If the 0.4% of GFA currently required for above ground storage and garbage areas was able to be used for commercial/retail GFA, the percentage difference between the approved Concept DA GFA and the proposed development would reduce to 10.5%.

## 8. CLAUSE 4.6 HEADS OF CONSIDERATION

The following sections of the report provide an assessment of the request to vary the floor space ratio development standard in accordance with clause 4.6 of SLEP.

### 8.1. KEY QUESTIONS

#### Is the Planning Control a Development Standard?

The floor space ratio control prescribed under clause 4.4 of the SLEP is a numeric development standard capable of being varied under clause 4.6 of SLEP.

#### Is the Development Standard Excluded from the Operation of Clause 4.6?

The development standard is not excluded from the operation of clause 4.6 as it is not listed within clause 4.6(6) or clause 4.6(8) of SLEP.

Clause 4.6(8) of the SLEP precludes the grant of development consent to development that would contravene a variety of clauses. Those clauses of relevance to this proposal include:

- Clause 4.3 Height of buildings - Under the SLEP 2012, the site is located entirely within 'Area 3' on the Height of Buildings Map. On this basis, the maximum height at the site is determined in accordance with the relevant sun access plane provided for in clause 6.17 of the SLEP 2012, and the relevant exceptions provided for at clause 6.18.
- Clause 6.10 Heritage floor space - The proposed development will be the subject of heritage floor space requirements.
- Clause 6.11 Utilisation of certain additional floor space requires allocation of heritage floor space – The proposed development will comply with this clause. Heritage floor space equal to 50% of the accommodation floor space to be utilised, will be allocated to the site.
- Clause 6.17 Sun access planes and Clause 6.18 Exceptions to sun access planes – The proposed development complies with the relevant sun access plane taking into consideration the relevant exceptions (allowed by Clause 6.18) as outlined within the EIS accompanying the SSD DA.
- Clause 6.19 Overshadowing of certain public spaces – The proposed does not result in any additional overshadowing of areas outlined in clause 6.19, in particular Sydney Town Hall steps and Sydney Square which are within proximity of the site.

#### What is the Underlying Object or Purpose of the Standard?

The objectives of the standard are clearly established in the SLEP as set out in **Section 5** of this report.

### 8.2. CONSIDERATIONS

#### 8.2.1. Clause 4.6(3)(a) – Compliance with the Development Standard is Unreasonable or Unnecessary in the Circumstances of the Case

There are a number of reasons why capping development at the maximum applicable FSR would be unreasonable and unnecessary in the circumstances. If the development is limited as required by the FSR development standard, it would constitute an adverse penalty on the development potential of a prime CBD site due to the unique circumstance of the metro station being located below. This outcome would have minimal, if any, benefit and would inhibit the orderly, economic and efficient development of land in the centre of the CBD.

The common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary are listed within the 'five-part test' outlined in *Wehbe v Pittwater* [2007] NSWLEC 827. These tests are outlined in Section 2.2 of this request (paragraphs [17]-[21]).

An applicant does not need to satisfy each of the tests or 'ways'.

The development is justified against three of the Wehbe tests as set out below.

**Test 1: The objectives of the development standard are achieved notwithstanding non-compliance with the standard**

The proposed development achieves the objective of the floor space ratio development standard (clause 4.4) as described in **Table 7** notwithstanding the non-compliance with the floor space ratio standard.

Table 7 – Assessment of consistency with the objectives of the FSR standard

| Objective  | Compliance   |
|--|--|
| (a) to provide sufficient floor space to meet anticipated development needs for the foreseeable future,  | <p>The NSW Government has identified Sydney as Australia's finance and economic capital, containing half of Australia's globally competitive service sector jobs. Sydney's population is forecast to increase from 4.3 million to 6.2 million people by 2036, and employment is expected to increase from 2.1 million to 3.1 million by 2036.</p> <p>The proposed development provides office and retail floor space to support the growth of jobs in the Sydney CBD. The subject site is ideally situated to provide capacity to support anticipated needs across the employment sector based upon the significant increase in public transport services immediately available at the site.</p> <p>The proposal maximises the development potential of the site generally within the approved building envelope without any adverse amenity impacts.</p> <p>The resultant GFA over and above the FSR standard will contribute to the growing floor space needs of the commercial services sector.</p> <p>Accordingly, this objective is satisfied notwithstanding the variation to the development standard.</p>  |
| (b) to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic, | <p>The site, by virtue of the delivery of the Pitt Street metro station in accordance with the CSSI Approval, will provide a significant boost to the public transport capacity of the broader Sydney CBD. Accordingly, it has a unique ability to accommodate a density and intensity of land use albeit with a minor exceedance of the applicable FSR controls without resulting in any adverse environmental impacts.</p> <p>The additional GFA being sought under this Clause 4.6 Variation does not comprise any increase in the apparent density of the development, the GFA of which will be wholly contained within the volumetric building envelope that has already been approved under the Concept Approval.</p> <p>A minor modification to the Concept DA building envelope is concurrently sought with the detailed SSD DA to better respond to built form context along Castlereagh and Pitt Streets, such that the street wall height matches that of the adjacent heritage-listed Masonic and National buildings. No GFA will be located within that additional volume.</p> <p>A detailed assessment of the built form impacts of the increase in GFA is contained within <b>Section 8.1</b> of the EIS and the Architectural Design Report provided as <b>Appendix E1</b> of the EIS.</p> |

| Objective | Compliance  |
|-----------|---|
|           | <p>This assessment concludes that the proposed development and modification to the building envelope will not result in any unacceptable adverse impacts on the surrounding urban environment in terms of urban design, built form, overshadowing, residential amenity, wind impacts or impacts on utilities infrastructure.</p> <p>The detailed SSD DA which is informing the Concept Modification has been reviewed and endorsed by the Sydney Metro Design Review Panel, which supports the position that the concept approval modifications will support delivery of a building that will result in a land use density and built form that is suitable to its context and addresses the relevant built form requirements.</p> <p>The transport and traffic impacts of the proposed development are considered at <b>Section 8.1.9</b> of the EIS and <b>Appendix V</b> of the EIS. The site is located within a busy CBD environment, with substantial pedestrian and vehicular traffic in the immediate vicinity of the site. The delivery of the metro station will significantly enhance public transit capacity within the Sydney CBD, providing increased opportunities for public transit utilisation and reducing the need for driving.</p> <p>Future users of the OSD will benefit from an unprecedented level of accessibility and as such vehicular trip generation is expected to be low and substantially reduced over the former vehicle generation at the site, resulting in minimal impacts on the operation of the local road network.</p> <p>The proposal will accommodate a maximum of 40 spaces (the maximum approved under the Concept DA is 50 spaces) and will include the operation of a Green Travel Plan (GTP) which will seek to increase active and public transport use over time, thereby reducing vehicle generation.</p> <p>The objective of the GTP is to put forward strategies and recommendations that are relevant, feasible and likely to be effective in encouraging safe, healthy and sustainable travel choices for the proposed development's new tenants. This means providing facilities, information and support to encourage walking, cycling, public transport and car-sharing whenever practicable, while discouraging private car use. More specifically, the objectives of this GTP can be grouped into the following areas:</p> <ul style="list-style-type: none"> <li>• Creating awareness (information emanation);</li> <li>• Improving safety and confidence (infrastructure and training);</li> <li>• Provision of measures (recommendations and actions); and</li> <li>• Provision of mechanisms to review and update the GTP.</li> </ul> <p>The proposed development allows for a total of 507 bicycle parking spaces in line with the Sydney DCP requirements. It is proposed that</p> |

| Objective   | Compliance   |
|---|--|
|   | <p>200 bicycle spaces are provided upon opening of the development, with allowance for additional bicycle parking spaces to be built as demand increases, to the maximum number in line with the Sydney Development Control Plan 2012 bike parking requirements.</p> <p>The proposed site location directly above the Pitt Street metro station will significantly shorten the travel distance to public transport services for tenants and visitors and will provide an average service frequency of 4 minutes throughout the day. In addition, the recently opened Sydney CBD and South East Light Rail service has one of its stops (Town Hall) within 400m of the proposed development, which will provide another public transport option for development tenants and users. Overall, the proposed building is accessible to numerous public transport options and this is expected to be the primary travel mode for most tenants and visitors.</p> <p>Public domain upgrades which will be delivered at the ground plane in association with the CSSI Approval and in accordance with the Station Design Precinct Plan (SDPP), will improve the pedestrian experience and contribute to the walkability of the CBD. These have been informed by pedestrian modelling which have found that the pedestrian flows generated by the OSD development are expected to be a minor proportion of the total pedestrian flows generated by the integrated development and will therefore have an insubstantive impact. The design of the building with the main commercial entrance off Pitt Street helps to direct pedestrian traffic generated by the building away from the main flows along Park Street which serve the metro station entrance.</p> <p>As a result of the studies discussed above, it has been demonstrated that the OSD will not result in any significant adverse impacts on the built form, land use intensity, vehicle or pedestrian generation on the site and therefore satisfies this objective notwithstanding the proposed variation to the FSR development standard.</p> <p>The proposal therefore meets this objective.</p> |
| (c) to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure, | <p>The development has been proposed within the context of the wider Sydney Metro Chatswood to Sydenham CSSI project, which comprises a step change public transport project which aims to improve accessibility through the Sydney CBD. This is one of the key planned infrastructure projects in Sydney in the coming years and will have a direct positive impact on the public transport capacity of the Sydney CBD.</p> <p>The OSD has been designed to integrate with the Pitt Street metro station (with high frequency service, every 3 minutes) sitting directly beneath the site, which will significantly improve the site's accessibility to public transport. Furthermore, it is expected that future employees and visitors to the building will utilise sustainable travel options (public transport and active transport) as their primary transport mode, by</p>  |



| Objective  | Compliance  |
|--|---|
|  | <p>virtue of the ease of access to these services and the low availability of parking bays. Encouraging active transport usage is further documented as part of the Green Travel Plan.</p> <p>Assessment of impacts on utilities and services infrastructure at the site has been undertaken within <b>Section 8.1.15</b> of the EIS and within the Infrastructure Services and Utilities Report at <b>Appendix Y</b> of the EIS.</p> <p>This assessment has determined that the site is located within an established urban area and currently contains all necessary services including electricity, gas, water, communications, drainage and sewerage. Furthermore, future development on the site can be connected to these services as required.</p>   |
| <p>(d) to ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.</p> | <p>The proposed OSD provides for new employment capacity within the Sydney CBD, which has been identified through the <i>Greater Sydney Region Plan 2018</i>, the <i>Eastern City District Plan 2018</i> and local planning policies as the focal point for Metropolitan Sydney's growth within the Eastern City.</p> <p>The delivery of high-density employment-generating development on this uniquely well-serviced site is entirely compatible with this desired future character for the Sydney CBD. Sydney Metro provides for a significant increase in public transport infrastructure capacity within the Sydney CBD.</p> <p>The additional proposed GFA fits within an envelope that was assessed and approved through the Concept DA process as reflecting the desired character of the locality. The approval allowed for either a mixed use or commercial development for the site. The proposed development is consistent with the Concept DA and the additional FSR sought will contribute positively to the site and its locality for commercial purposes.</p> <p>A detailed assessment of the built form impacts of the increase in GFA is contained within <b>Section 8.1</b> of the EIS and the Architectural Design Report provided as <b>Appendix E1</b> of the EIS. This assessment concludes the proposed OSD is consistent and compatible with the desired character, scale and density of development within the locality.</p> <p><b>Overshadowing</b></p> <p>A key component to the development of the proposed OSD tower has been ensuring that the overshadowing impacts of the development are acceptable in nature, in particular maximising solar access to surrounding public open spaces, including Hyde Park.</p> <p>The overshadowing analysis provided with the SSD DA demonstrates that the shadow impact of the proposed built form is less than that contemplated by the Stage 1 Concept Approval Envelope. Refer to <b>Section 8.1.6</b> and <b>Appendix E3</b> and <b>Appendix E4</b> of the EIS.</p> |



| Objective | Compliance  |
|-----------|---|
|           | <p><b>Views</b></p> <p>A detailed View and Visual Impact Analysis has been undertaken at <b>Section 8.1.5</b> and <b>Appendix W</b> of the EIS, which determines that the proposed development is acceptable from both a private view and visual impact perspective and also that the proposed development does not interrupt any key public view corridors across the Sydney CBD.</p> <p><b>Heritage</b></p> <p>The site is in close proximity to a number of heritage items including The National Building and Masonic club located adjacent to the site's northern boundary. A detailed assessment of heritage impacts has been undertaken in <b>Section 8.1.4</b> of the EIS and the Statement of Heritage Impact provided <b>Appendix L</b> of the EIS. This assessment has demonstrated that there will be no adverse impacts on the heritage significance of surrounding items from the proposal. The proposal is considered to present an improved contextual relationship to these heritage buildings than that contemplated by the Concept Approval and schematic design.</p> <p><b>Wind</b></p> <p>A Wind Impact Assessment (<b>Appendix O</b> of the EIS) has been undertaken which demonstrates that the proposed development will not result in any adverse environmental impacts, with wind conditions around the development, including on the Level 10 and 11 roof terraces, classified as acceptable for pedestrians.</p> <p><b>Summary</b></p> <p>Having regard to the above, it is considered that the proposed development will, notwithstanding the proposed variation to the development standard, be consistent with the existing and desired future character of the locality by delivering high-quality commercial office floorspace that supports additional employment and economic development in a location within the Sydney CBD that is uniquely well-served by public transport.</p> <p>The proposed development, and specifically the proposed variation to the development standard, does not give rise to any adverse impacts on the amenity of the locality for the key reasons outlined above and as described in further detail in the EIS and supporting studies.</p> <p>By providing for additional new commercial office space above the future Sydney Metro station, the OSD will deliver increased environmental, social and economic benefits to the community.</p> <p>Accordingly, the proposal is considered to achieve the objectives of the FSR development standard, notwithstanding the FSR non-compliance.</p> |

In summary, achieving compliance with the standard is unreasonable and unnecessary (clause 4.6(3)(a)) as notwithstanding the non-compliance, the development is consistent with the objectives of the standard (clause 4.6(4)(a)(iii)).

**Test 2: The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary**

The unique circumstances of the development consisting of an integrated station/OSD precinct, need to be taken into consideration when considering the relevance of the FSR development standard in this case.

In applying the FSR development standard and other FSR clauses as outlined in SLEP, the OSD development is effectively penalised due to the metro station located beneath. This penalty occurs with regards to station GFA as the FSR calculation requires inclusion of GFA allocated to the station, which obtained CSSI approval without regard to FSR controls. In addition, it is also penalised as a result of the development not having access to a basement for storage and waste areas. The FSR calculation for the proposed development therefore must include floorspace as GFA which would otherwise be excluded by virtue of these elements being located in the basement.

It is noted that the proposed wholly commercial development of the site would have an FSR of 17.3:1 if the station, above ground storage spaces and above ground garbage areas were excluded from the calculation of FSR. This is just 1.33:1 above the FSR for the approved Concept DA of 15.97:1. Given that the metro station below the OSD is providing a substantial public benefit through its contribution to the transport infrastructure of the Sydney CBD, this is considered an acceptable non-compliance.

A mixed use scheme on the site would achieve a higher FSR, resulting from the allocation of accommodation floorspace. A scheme otherwise comprising wholly residential or wholly tourist and visitor accommodation uses would also attract a higher available FSR. Notwithstanding this, and the ability to pursue a scheme in accordance with the Concept Approval for a mixed use scheme, it has been demonstrated that the commercial use of the site is the most appropriate in this instance. This is due to the site's context in this specific location within the Sydney CBD and that a commercial land use outcome would not result in any adverse impacts on the surrounding area.

A new commercial office building above Pitt Street Station North is considered an opportunity to enhance a strong commercial precinct within the Sydney CBD. The building will provide tenants and visitors easy access to amenities which the midtown has to offer, including retail, heritage listed buildings and parks, and a range of food and beverage options. As demonstrated, the proposal is a minor variation from an alternate non-metro compliant residential scheme which would not provide any new infrastructure capacity. The proposed development is therefore considered to be entirely compatible with the capacity of the site from a development intensity perspective.

The special circumstances of the site warrant that the FSR standard is not strictly relevant to a development of this type.

**Test 3: The underlying objective or purpose of the standard would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable**

The site is uniquely positioned to benefit from and support the successful delivery of Sydney Metro. It is noted that the formulation of FSR controls under SLEP 2012 preceded, and accordingly does not recognise, the delivery of a new metro station at the subject site with the capability to accommodate an increased intensity of development.

Objective 4.4(c) is *"to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure"*. Compliance with the FSR control is considered unreasonable as objective 4.4(c) would be thwarted if the additional FSR were not approved. The capacity of existing and planned infrastructure is shown by the Traffic Impact Assessment and the various utilities reports to be sufficient for the proposed development, in addition to the significant additional transport capacity to be afforded to the site as a result of the metro construction. Failure to support the proposed FSR variation, where that floorspace is located wholly within the approved building envelope and is capable of being supported by existing and planned infrastructure would be contrary to achievement of this clause objectives.

**Test 4: The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable**

Not relied upon.

**Test 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, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary**

Not relied upon.

### **8.2.2. Clause 4.6(3)(b) – Are there Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard?**

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

- The development is consistent with the objects of the *Environmental Planning and Assessment Act 1979* by promoting the orderly and economic use and development of the land and promoting and delivering good design and amenity. This is achieved through the delivery of an A-grade office tower that will support significant new employment within Sydney CBD and leverage from the significant NSW Government investment into the Sydney Metro, specifically the new Pitt Street Station.
- The proposed development achieves the objectives of the development standard prescribed in clause 4.4 of the SLEP, as described in Section 8.2.1 above, and achieves the objectives of the B8 Metropolitan Centre zone as described within Section 8.3.3 below. The proposal seeks to provide for the pre-eminent role of business, office and retail premises in Australia's participation in the global economy. It will provide opportunities for an intensity of land use commensurate with Sydney's global status. The additional FSR being sought will increase the opportunity for these objectives to be met.
- The proposed variation to the floor space ratio control will have no adverse impacts upon the ability of the proposal to achieve design excellence as established through the endorsed Design Excellence Process.

The Design Excellence Process comprises a multi-phase process including a competitive selection which involved an Expression of Interest and Request for Tender process, benchmarking studies and continued design review by a Design Excellence Evaluation Panel (DEEP) and subsequently the Sydney Metro Design Review Panel (DRP).

The Design Excellence Process has been established for development of the site to ensure a building form is developed which relates to the approved metro station and exhibits a high level of design excellence. The proposed development must be in accordance with the established Pitt Street North Over Station Development Design Guidelines and has been subject to ongoing review by the Sydney Metro Design Review Panel.

Since the selection of Pitt Street Developer North Pty Ltd as the development partner for the Pitt Street North Station OSD, the applicant has presented to the Sydney Metro DRP eight times. Throughout this process the DRP has provided ongoing design review of the proposed Pitt Street North Station OSD proposal to ensure design excellence and integrity have been achieved.

The proposed development contributes positively to the skyline with a stepped building form that reduces the scale of the development as viewed from south of the site and Hyde Park.

- There are a variety of unique circumstances at the site which warrant the provision of an increased FSR. The development incurs penalties as a result of GFA being counted towards the FSR calculation that would normally not be included. This happens in the following ways:
  - The metro station contributes to GFA in a way that is unique to the site and reduces the potential floorspace that could be attributed to the OSD development if no station was to be provided on the site.
  - Storage and garbage areas are required to be provided in the podium level which then need to be counted towards GFA due to the station being located beneath the site.
  - The accommodation floor space bonus available in addition to the base FSR is reduced through the SLEP methodology as GFA for the station area must be included in the calculation, which does not

accrue any accommodation floor space bonus. This is a unique situation and the additional FSR is considered warranted to optimise the land use transport integration benefits of the site.

- The future development of the site will achieve design excellence in accordance with the Design Excellence Strategy which has been implemented across the various Sydney Metro City & Southwest integrated station developments.

The development will contribute to the legacy of the Sydney Metro project and will significantly benefit from the public transport synergies resulting from its location above the station. The proposed development will be one of the most visible landmark buildings of the Sydney Metro project due to its Central Sydney location at the northern entrance to Pitt Street station. The development will provide additional commercial capacity in the centre of the CBD which will benefit greatly from the additional transport capacity provided by the Sydney Metro project.

- The proposed additional floor space will have negligible material environmental impacts compared to a compliant scheme and when compared to the approved envelope on the site, in terms of built form, overshadowing, view or heritage impacts as:
  - All proposed GFA sits entirely within the approved Concept Envelope, which was approved with a maximum FSR of 15.97 including station floorspace or 15.59 excluding station floorspace.
  - The proposed building design results in an improved relationship with the neighbouring heritage items, being the Masonic and National Buildings to the site's north.
  - The proposed development maintains solar access to Hyde Park, nearby residences, Town Hall steps and Sydney Square. The development would cause no net additional overshadowing to surrounding Special Areas, zone RE1 Public Recreation Land or any other sensitive area. Solar access to Hyde Park is improved from that deemed acceptable under the Concept Approval.
  - The proposed ground, podium level and tower setbacks preserve the integrity of the streetscape and have been designed to respond sensitively to the scale and form of buildings fronting Pitt, Park and Castlereagh Streets, both in terms of scale and materiality.
  - Within the overall envelope, only 84% has been taken up by the built form of the commercial development, which demonstrates that the proposal has been restrained in its design yet is efficient in its layout due to the commercial use of the building.
  - The floorplates have a very high level of efficiency (93% NLA/GFA compared to an average of around 90%) by keeping the core small through various measures such as coordination of services from very early on in the design process. In taking into account the columns coming up from the station below, the design has required careful planning of floorplates.
  - The proposed height of RL176.8 is well within the RL188.74 approved in the Concept DA.
  - The design has achieved a 'building in the round', addressing the three street frontages and expressing the building on all three sides through visually interesting façades.
  - The assessment of view impact concludes that there will be no material change in view impact resulting from the change in building envelope or extrusion of sun shading devices outside the approved building envelope. It is noted that these elements do not contain GFA and ensure that the building responds to and provides a transition from the scale of adjacent heritage items and can achieve the required ESD targets.

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

### **8.2.3. Clause 4.6(4)(a)(ii) – Will the Proposed Development be in the Public Interest Because it is Consistent with the Objectives of the Particular Standard and Objectives for Development within the Zone in Which the Development is Proposed to be Carried Out?**

The proposed development is consistent with the objectives of the development standard as outlined within **Section 5.2** of this Request.

The proposal is also consistent with the land use objective that applies to the site under SLEP as demonstrated within Table 8 below. The site is located within the B8 Metropolitan Centre zone.

Table 8 – Assessment of Compliance with Land Use Zone Objectives.

| B8 Zone Objective  | Compliance   |
|--|--|
| <p>To recognise and provide for the pre-eminent role of business, office, retail, entertainment and tourist premises in Australia's participation in the global economy.</p> | <p>The proposed commercial office floor space will make a significant contribution towards the economic development and growth of the Sydney CBD, will contribute to a high quality of design and building amenity but without generating adverse vehicular or pedestrian traffic impacts.</p> <p>The proposed development will support increased economic activity within the CBD by providing for additional ongoing employment capacity on a site that is uniquely positioned to deliver upon integrated transport and land use planning objectives. The OSD provides for a high-quality built form that attains design excellence, thereby supporting Sydney's positioning as a pre-eminent centre within the Australian, Asia-Pacific and global economies.</p> <p>The proposed development is consistent with this objective.</p>                |
| <p>To provide opportunities for an intensity of land uses commensurate with Sydney's global status.</p>  | <p>The proposed development will provide for an intensity of land use which is commensurate with Sydney's status as a global city, whilst remaining within the infrastructure capacity of the site and not giving rise to any adverse environmental impacts.</p> <p>The intensity of land use proposed is consistent with this objective.</p>  |
| <p>To permit a diversity of compatible land uses characteristic of Sydney's global status and that serve the workforce, visitors and wider community.</p>                    | <p>The proposed development provides for employment floor space which is compatible with the delivery of the future Sydney Metro station and with Sydney's global status as a major economic and employment centre.</p> <p>The proposed land use is compatible with the use of surrounding land and is permitted with development consent within the B8 Metropolitan Centre zone.</p> <p>Notwithstanding the proposed variation to the FSR development standard, the proposed development would not give rise to any amenity impacts that would be incompatible with surrounding existing land uses. The proposed land use directly serves the needs of Sydney's existing and future businesses and workforce, as well as the broader community through increased economic growth and development and is therefore consistent with this objective.</p> |
| <p>To encourage the use of alternatives to private motor vehicles, such as public transport, walking or cycling.</p>   | <p>The proposed development is consistent with this objective by promoting increased development for office purposes in a location that is directly integrated with the future Sydney Metro station and which will accordingly encourage public transport usage.</p> <p>A Green Travel Plan will be prepared for the development which will seek to increase public transport usage. Given the site's location within</p>  |

| B8 Zone Objective   | Compliance  |
|---|---|
|   | <p>the Sydney CBD, there is expected to be a high level of reliance on public transport services.</p> <p>Car parking provided for the proposed land use is limited and less than that permitted under the provisions of SLEP 2012, which will further promote increased public transport usage, walking and cycling.</p> <p>The proposed development is therefore consistent with this objective.</p>   |
| <p>To promote uses with active street frontages on main streets and on streets in which buildings are used primarily (at street level) for the purposes of retail premises.</p> | <p>Whilst the proposed development is constrained at the ground level by the approved Pitt Street North Station entrance occupying a large portion of the Park Street frontage and loading and services occupying the majority of the Castlereagh Street frontage, the proposal has activated the available space as much as practicable.</p> <p>Small-scale retail uses have been incorporated along with rationalised station and commercial lobbies to ensure an active, vibrant ground plane. By providing for a critical mass of employment capacity within the OSD component, the proposed development will contribute to increased pedestrian interaction and activity within the site and the broader precinct, which is consistent with this objective.</p> <p>Overall, it is considered the proposed development is consistent with this objective.</p> |

The proposal is considered to be in the public interest as the development is consistent with the objectives of the development standard, and the land use objectives of the zone.

#### **8.2.4. Clause 4.6(5)(a) – Would Non-Compliance Raise any Matter of Significance for State or Regional Planning?**

The proposed non-compliance with the FSR development standard will not raise any matter of significance for State or regional environmental planning.

#### **8.2.5. Clause 4.6(5)(b) – Is There a Public Benefit of Maintaining the Planning Control Standard?**

The proposed development achieves the objectives of the FSR development standard and the land use zoning objectives despite the non-compliance, and the contravention has been demonstrated to be appropriate and supportable in the circumstances of the case. As such, there is no public benefit in maintaining the development standard in this case.

#### **8.2.6. Clause 4.6(5)(c) – Are there any other matters required to be taken into consideration by the Secretary before granting concurrence?**

The Planning Circular PS 18-003, issued on 21 February 2018, outlines that consent authorities for SSD may assume the Secretary's concurrence where development standards will be contravened.

Nevertheless, 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.



## 9. CONCLUSION

The OSD proposal responds to the need to provide additional employment capacity and sustainable development, renewal and design. As detailed in *Sustainable Sydney 2030* (2019), the City of Sydney Council is seeking to make the City 'more green, global and connected'. The Sydney Metro Pitt Street project will deliver sustainable transport options whilst contributing to the supply of commercial office floor space.

The proposed variation to the development standard is justified on the grounds that:

- there is an unreasonable floor space penalty over the site resulting from the provision of metro infrastructure;
- there are a variety of unique circumstances at the site which warrant the provision of a higher FSR;
- the proposed building form does not result in any significant adverse impacts and achieves a good urban development outcome for the site, in addition to meeting the key amenity criteria of the LEP, DCP, Concept Approval and Design Guidelines;
- all GFA is contained wholly within the approved Concept Envelope, and takes up only 84% of that volume, demonstrating a restrained design with efficient floorplate layouts;
- the proposed height of RL176.8 is substantially below the RL188.74 approved in the Concept DA;
- the design has achieved a 'building in the round', addressing the three street frontages and expressing the building on all three sides through visually interesting façades;
- the proposal has achieved design excellence through an extensive DRP process and demonstrates consistency with the approved site-specific Design Excellence Strategy; and
- the proposal contributes a significant legacy to Sydney as part of the broader Sydney Metro project.

This variation request is made pursuant to clause 4.6 of the SLEP. For a request to meet the requirements of clause 4.6(3) of SLEP, it must:

- adequately demonstrate that compliance with the FSR standard is unreasonable or unnecessary in the circumstances of the project on the site; and
- adequately demonstrate that there are sufficient environmental planning grounds to justify contravening the FSR standard.

This request contains justified reasoning supporting conclusions in respect of the above two matters, specifically that:

- Compliance with the FSR standards is unreasonable and unnecessary in the circumstances of the proposed development.
- There are sufficient environmental planning grounds to justify the contravention, which results in a better planning outcome than a strictly compliant development in the circumstances of this particular case.
- There are unique circumstances arising from the relationship between the OSD component and broader Sydney Metro integrated station development approach and the provision of an appropriate design excellence process for Sydney Metro projects.
- There is an absence of any environmental impacts arising from the proposed variation.
- The proposal, notwithstanding the non-compliance, is consistent with the objectives of the FSR standard and the B8 Metropolitan Centre zone.
- The proposed non-compliance with the FSR standard will not result in any matter of significance for State or regional environmental planning, but rather would result in development which achieves the strategic objectives of the NSW State Government.

In view of the above, we submit that the proposal is in the public interest and that the proposed clause 4.6 variation request to vary the FSR development standard prescribed by clause 4.4 of SLEP should be supported.

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