

---

# Appendix J

---

## Interim Clause 4.6 Variation Request

---

**URBIS**

# **INTERIM CLAUSE 4.6 VARIATION REQUEST - FLOOR SPACE RATIO (FSR)**

Hunter Street West – Over  
Station Development

Prepared for  
**SYDNEY METRO**  
November 2022



**URBIS STAFF RESPONSIBLE FOR THIS REPORT WERE:**

Director	Ashleigh Ryan
Senior Consultant	Anna Wang
Project Code	SSD-46246214
Report Number	Final

**Urbis acknowledges the important contribution that Aboriginal and Torres Strait Islander people make in creating a strong and vibrant Australian society.**

**We acknowledge, in each of our offices, the Traditional Owners on whose land we stand.**

All information supplied to Urbis in order to conduct this research has been treated in the strictest confidence. It shall only be used in this context and shall not be made available to third parties without client authorisation. Confidential information has been stored securely and data provided by respondents, as well as their identity, has been treated in the strictest confidence and all assurance given to respondents have been and shall be fulfilled.

© Urbis Pty Ltd  
50 105 256 228

All Rights Reserved. No material may be reproduced without prior permission.

You must read the important disclaimer appearing within the body of this report.

**[urbis.com.au](http://urbis.com.au)**

# CONTENTS

<b>1.</b>	<b>Introduction .....</b>	<b>3</b>
<b>2.</b>	<b>Site Context .....</b>	<b>4</b>
2.1.	Site Description .....	4
2.2.	Existing Development .....	5
2.3.	Locality Context .....	6
2.3.1.	Surrounding Development.....	6
2.3.2.	Transport and Accessibility .....	7
<b>3.</b>	<b>Planning Background - Planning Proposal Request .....</b>	<b>8</b>
<b>4.</b>	<b>Proposed Development .....</b>	<b>9</b>
<b>5.</b>	<b>Variation of FSR Standard.....</b>	<b>10</b>
5.1.	Development Standard .....	10
5.2.	Proposed Variation to FSR .....	10
<b>6.</b>	<b>Relevant Assessment Framework.....</b>	<b>11</b>
<b>7.</b>	<b>Assessment of Clause 4.6 Variation .....</b>	<b>12</b>
7.1.	Is the Planning Control a Development Standard that can be varied? – Clause 4.6(2).....	12
7.2.	Is Compliance with the Development Standard unreasonable or unnecessary in the circumstances of the case? – Clause 4.6(3)(A).....	12
7.3.	Are there Sufficient Environmental Planning Grounds to justify contravening the Development Standard? – Clause 4.6(3)(B).....	16
7.3.1.	Built form and local character .....	16
7.3.2.	Density and land use intensity.....	16
7.3.3.	Daylight access .....	17
7.3.4.	Overshadowing.....	17
7.3.5.	View analysis .....	17
7.3.6.	Heritage .....	17
7.4.	Has the Written Request adequately addressed the matters in Sub-Clause (3)? – Clause 4.6(4)(A)(I) .....	18
7.5.	Is the Proposed Development in the Public Interest? – Clause 4.6(4)(B)(II).....	18
7.6.	Has the Concurrence of the Planning Secretary been obtained? – Clause 4.6(4)(B) and Clause 4.6(5) .....	20
<b>8.</b>	<b>Conclusion.....</b>	<b>21</b>
	<b>Disclaimer.....</b>	<b>22</b>

## FIGURES

Figure 1 Aerial map of Hunter Street Station precinct .....	4
---	---

## TABLES

Table 1 Site legal description .....	4
Table 2 Assessment of Consistency with Clause 4.4 Objectives.....	13
Table 3 Assessment of Compliance with Land Use Zone Objectives .....	18

# 1. INTRODUCTION

This interim Clause 4.6 Variation Request ('the Request') has been prepared to accompany a Concept State Significant Development Application (SSDA) SSD-46246214 for the Over Station Development (OSD) at the Hunter Street Station west site (the site). This Request is submitted to the NSW Department of Planning and Environment (DPE).

The Request seeks an exception from the floor space ratio (FSR) development standard prescribed for the site under clause 4.4 of *Sydney Local Environmental Plan 2012* (Sydney LEP 2012). The variation request is made pursuant to clause 4.6 of Sydney LEP 2012.

It should be noted that a Planning Proposal request has been submitted to the City of Sydney Council to amend the planning controls that apply to both the eastern and western Hunter Street Station sites under the Sydney LEP 2012. Specifically, the new controls are proposed to be included as site-specific provisions in the LEP which will amend the current FSR standard for the west site to 18.8:1. This Planning Proposal request was submitted to the City of Sydney Council in May 2022 and the City of Sydney Council and Central Sydney Planning Committee (CSPC) resolved on 12 September 2022 to submit the Planning Proposal to DPE for Gateway Determination. The NSW DPE issued a Gateway Determination for the Planning Proposal on 28 October 2022 stating that an amendment to SLEP 2012 to facilitate the OSD at the Hunter Street Station site should proceed, subject to conditions requiring public exhibition of the Planning Proposal.

The Concept SSDA proposes a maximum FSR of 18.71:1 (above ground) on the west site, which is consistent with the site-specific FSR provision outlined in the Planning Proposal request. Therefore, this interim Clause 4.6 Request is intended to be withdrawn from SSD-46246214 upon finalisation and gazettal of the Planning Proposal, as the FSR proposed within the Concept SSDA is intended to comply with the FSR standard at the time of gazettal.

This report should be read in conjunction with the Environmental Impact Assessment (EIS) and dated November 2022.

The following sections of the report include:

- **Section 2:** description of the site and its local and regional context, including key features relevant to the proposed variation
- **Section 3:** overview of Planning Proposal request
- **Section 4:** brief overview of the proposed development as outlined in further detail within the EIS and accompanying drawings
- **Section 5:** identification of the development standard which is proposed to be varied, including the extent of the contravention
- **Section 6:** outline of the relevant assessment framework for the variation in accordance with clause 4.6 of the LEP
- **Section 7:** detailed assessment and justification of the proposed variation in accordance with the relevant guidelines and relevant planning principles and judgements issued by the Land and Environment Court
- **Section 8:** summary and conclusion.

## 2. SITE CONTEXT

### 2.1. SITE DESCRIPTION

The Hunter Street Station is in the northern part of the Sydney CBD, within the commercial core precinct of Central Sydney and within the Sydney local government area. The Hunter Street Station includes two sites – the west site and the east site. This Request relates to the west site only.

The Hunter Street west site is on the corner of George and Hunter Street. It includes De Mestre Place, the heritage listed Former Skinners Family Hotel, and land predominantly occupied by the existing Hunter Connection retail plaza. The west site is also adjacent to the existing CBD and South East Light Rail that extends from Circular Quay to Moore Park, Kensington and Kingsford.

The Hunter Street west site relates to the properties at 296 George Street, 300 George Street, 312 George Street, 314-318 George Street, 5010 De Mestre Place (Over Pass), 5 Hunter Street, 7-13 Hunter Street, 9 Hunter Street and De Mestre Place, Sydney.

The site's location is shown in Figure 1.

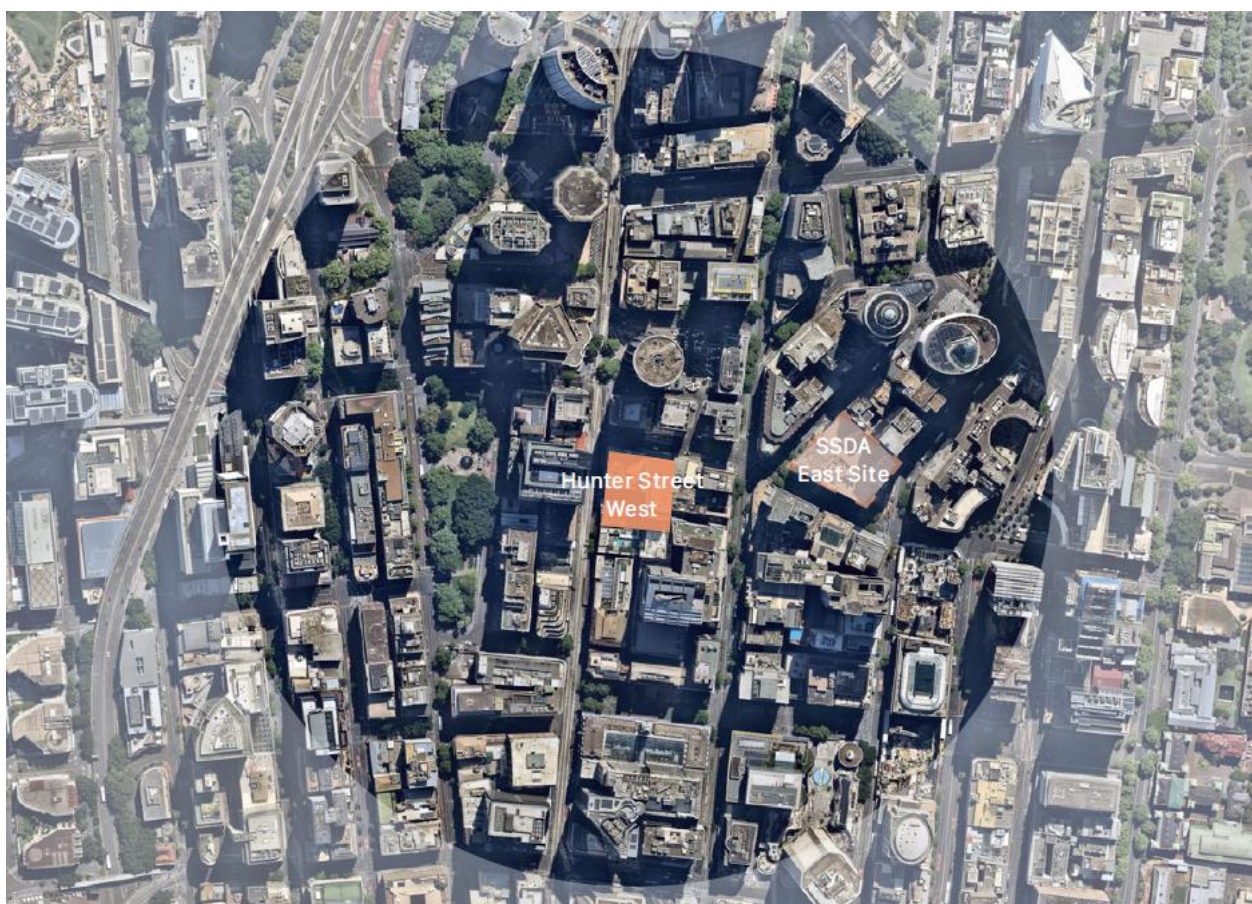


Figure 1 Aerial map of Hunter Street Station precinct

Table 1 sets out the address, and legal description of the parcels of land that comprise the site that is the subject of this clause 4.6. The total site area is 3,736sqm. The site has frontages of around 67m to George Street and 58m to Hunter Street.

Table 1 Site legal description

Address	Lot and DP
296 George Street, Sydney	Lot 1, DP438188
300 George Street, Sydney	CP and Lots 1-43, SP596

Address	Lot and DP
312 George Street, Sydney	Lot 1, DP211120
314-318 George Street, Sydney	Lot 13, DP622968
5010 De Mestre Place, Sydney (Over Pass)	Lot 1, DP1003818
9 Hunter Street, Sydney	Lot 2, DP850895
5 Hunter Street, Sydney (Leda House & Hunter Arcade)	CP and Lots 1-63, SP71068
5 Hunter Street, Sydney (Leda House & Hunter Arcade)	CP and Lots 1-14, SP65054
7-13 Hunter Street, Sydney (Hunter Connection)	CP and Lots 1-53, SP50276
7-13 Hunter Street, Sydney (Hunter Connection)	Lots 57 and 58, SP61007
7-13 Hunter Street, Sydney (Hunter Connection)	Lots 54, 55 and 56, SP60441
7-13 Hunter Street, Sydney (Hunter Connection)	Lots 59, 60 and 61, SP62889
7-13 Hunter Street, Sydney (Hunter Connection)	Lots 62, 63, 64 and 65, SP69300
7-13 Hunter Street, Sydney (Hunter Connection)	Lots 66 and 67, SP77409
7-13 Hunter Street, Sydney (Hunter Connection)	Lot 2, SP50276
De Mestre Place, Sydney	N/A
<b>TOTAL SITE AREA – 3,736sqm</b>	

## 2.2. EXISTING DEVELOPMENT

The site is occupied by commercial office buildings, restaurants, shops, as well as a range of business premises and employment and medical/health services premises, all of which, except 296 George St, will be demolished to facilitate building the Hunter Street Station (as approved as part of the Stage 2 CSSI Application). De Mestre Place enters the Hunter Connection from George Street providing access to the loading dock for delivery trucks and service vehicles.

The existing buildings occupying the site comprise a mix of commercial buildings, including the following.

- 296 George Street – An existing 3 storey building with a single level basement known as the former Skinners Family Hotel which is listed on the State Heritage Register. It is currently occupied by a retail store, and is located on the south-eastern corner of George and Hunter Streets
- 300 George Street – A 14 storey strata-titled commercial office building completed in 1964 which is adjacent to the Former Skinners Family Hotel and opposite Wynyard Place
- 312 George Street – Existing 3 storey building with restaurant at the ground floor
- 314-318 George Street – Existing 6 storey commercial office building
- 5010 De Mestre Place (Over Pass) – Stratum above ground level for a pedestrian bridge connecting George Street to Pitt and Hunter Streets via Hunter Connection
- 9 Hunter Street – Includes a 20 storey commercial office building, and the main Hunter Street entry point to Hunter Connection
- 5 Hunter Street – Includes Hunter Arcade and an 11 storey commercial office building known as Leda House, as well as several ground floor retail tenancies
- 7-13 Hunter Street – Includes Hunter Connection, an underground through-site link connecting George, Pitt and Hunter Streets to Wynyard Station which is lined with retail tenancies, cafes, and other take away food and beverage tenancies



- De Mestre Place – A laneway off George Street which includes access for loading and servicing including commercial and retail tenancies within Hunter Connection and the commercial buildings fronting George Street.

There are no parking spaces currently located on the site. The site includes a partial underground pedestrian through-site link that connects to Wynyard Station west of George Street via the Hunter Connection.

The Former Skinners Family Hotel, a State registered heritage item (I1766 in Sydney LEP 2012), comprises a 3-storey building with a single level basement used for the purposes of retail premises. This building will be protected and retained as part of the construction of the Hunter Street Station west site integrated station development. The original building has been substantially modified prior to its inclusion within the Hunter Street Station site area, and the existing site retains only a portion of the original building fronting the corner of Hunter and George Streets with a high degree of modification to the ground floor level.

## **2.3. LOCALITY CONTEXT**

### **2.3.1. Surrounding Development**

The northern part of the Sydney CBD is a highly developed commercial core with commercial, retail, health, government, and community-based uses, as well as high density residential developments.

Key buildings located in or around the Sydney CBD, include educational facilities, historic buildings and structures, law courts, public gathering spaces and places of worship. Significant areas of open space, such as the Martin Place, Chifley Square, Wynyard Park, Richard Johnson Square and the Royal Botanic Garden are located within the vicinity of the site, as well as the Sydney Opera House and the iconic Sydney Harbour Bridge.

The site is adjacent to several heritage items of local significance including the NSW Sports Club building at 10-14 Hunter Street (I1808 in Sydney LEP 2012), and the existing office building at 285-287 George Street (adjacent to Brookfield Place) (I1765 in Sydney LEP 2012).

The State heritage listed 'Tank Stream' (I1656 in Sydney LEP 2012) is located on the eastern boundary of the site, however the proposed development does not include any modifications to the Tank Stream structure itself. The structure extends from King Street to Circular Quay with the State Heritage Register curtilage extending to protect an area extending to three metres from each surface of the structure along its entire length. The Tank Stream became an unofficial sewer by 1826 and an official sewer by 1857.

The site is located at a prominent location, with frontages to both George and Hunter Streets, and include De Mestre Place within the site area. Little Hunter Street is also located to the north on the opposite side of Hunter Street. A further description of surrounding development is outlined in the following sections.

#### **North**

Opposite the site on the northern side of Hunter Street is the locally heritage listed (I1808 in Sydney LEP 2012) NSW Sports Club at 10-14 Hunter Street. It is around five storeys in height and was established in 1896 as home to many sporting groups in NSW.

#### **East**

To the east of the site are a mix of commercial office buildings and ground floor retail tenancies. This includes 20-25 Hunter Street which is an existing 17-storey commercial office building located on the south-western corner of Hunter and Pitt Streets.

An existing private laneway known as Empire Lane is also located to the east of the site which provides access for waste collection from Pitt Street.

#### **South**

To the south of the site is the Ash Street and Angel Place dining precinct which comprises a variety of boutique restaurants and bars at the ground and lower ground floors, as well as a nightclub.

#### **West**

To the west of the site on the opposite side of George Street is the recently completed 27-storey commercial office building known as Brookfield Place at 10 Carrington Street, as well as the main eastern entrance to Wynyard Station.

Adjacent to Brookfield Place is the locally heritage listed (I1765 in Sydney LEP 2012) 8-storey commercial office building at 285-287 George Street.

### **2.3.2. Transport and Accessibility**

The site comprises an existing public lane De Mestre Place and is also bounded by the following roads:

- Hunter Street to the north
- George Street to the west

The site is well located in proximity to a number of high frequency public transport services and multi-modal interchanges.

Existing bus stands on Carrington Street and York Street outside Wynyard Station form the largest and nearest bus interchange near the Hunter Street sites. As a major transport hub, the bus stands at Wynyard Station are serviced by 74 bus routes.

Light rail services operate on George Street. Two stops provide access within interchanging distance, to the north at the intersection at Bridge Street and south of the proposed station at Wynyard. Both stops are within 150 metres of the Hunter Street Station access points.

Wynyard Station is located 120 metres west of the Hunter Street Station sites and is served by the T1, T2, T3, T8, and T9 rail services. The station allows for universal access from the York Street entrance via lifts which provide access to the station platforms. There are no bicycle racks or facilities for cyclists to securely store bicycles at Wynyard Station.

### 3. PLANNING BACKGROUND - PLANNING PROPOSAL REQUEST

A Planning Proposal request has been submitted to the City of Sydney Council to amend the planning controls that apply to both the eastern and western Hunter Street Station sites under the Sydney LEP 2012. The new controls are proposed to be included as site-specific provisions in the LEP that address the following objectives:

- Contribute towards the establishment of an integrated transport hub within the Sydney CBD which strengthens Sydney's rail network and improves connectivity.
- Facilitate future development that promotes design excellence and is consistent with the objectives of the Central Sydney Planning Framework.
- Deliver high quality employment generating floor space that aligns with the objectives for development within the tower cluster areas (identified within the Central Sydney Planning Framework).
- Delivery employment density alongside the delivery of significant new public transport infrastructure which services the site and surrounding CBD precinct.

The Planning Proposal seeks to insert new site-specific provisions under Division 5 of the Sydney LEP 2012. The new site-specific provisions support the proposed increase in the floor space ratio (FSR) development standard that will apply to the site. The new site-specific provisions require development that seeks to utilise this additional FSR above the existing Sydney LEP 2012 development standards, to achieve other public benefits and built form outcomes including facilitating the delivery of a non-residential building that would:

- comprise a maximum building height of between RL 148.2 and RL 220.0 (as it varies to comply with the relevant sun access plane controls)
- include a maximum floor space ratio (FSR) of 18.8:1, measured above ground level, on the site
- include the adaptive reuse of the existing Former Skinners Family Hotel for commercial and/or retail premises
- include only employment and other non-residential land uses
- require the mandatory consideration of a site-specific Design Guideline within the site-specific SLEP 2012 controls to guide the assessment of the development consent sought under the future Concept SSDA (and subsequent Detailed SSDAs)
- limit the provision of up to a maximum of 70 car parking spaces on the site (a total of 70-spaces are to be provided between the eastern and western Hunter Street Station sites, with the number on each site to be determined in a future detailed SSDA)

The Planning Proposal will also establish an alternative approach to design excellence approach that responds to the physical and procedural requirements for the integration of the OSD with the Hunter Street Station and broader Sydney Metro West project.

The Planning Proposal request also clarifies the application of clause 6.11 of SLEP 2012 relating to heritage floor space. As per the terms of the Planning Proposal request, if gazetted an amount 2.25:1 of heritage floor space will be required to be allocated to the development. This provision of heritage floor space is consistent with the existing provisions outlined in clause 6.11 of SLEP 2012.

This Planning Proposal request was submitted to the City of Sydney Council and Central Sydney Planning Committee (CSPC) in May 2022. The Planning Proposal report along with the draft Design Guidelines for the Hunter Street OSDs (draft Design Guidelines), Design Excellence Strategy, public benefit offer, and supporting information was approved by the City of Sydney Council and CSPC on 19 September 2022 for Gateway Determination. The NSW Department of Planning and Environment (DPE) issued a Gateway Determination for the Planning Proposal on 28 October 2022 stating that an amendment to SLEP 2012 to facilitate the OSD at the Hunter Street Station site should proceed, subject to conditions requiring public exhibition of the Planning Proposal.

## 4. PROPOSED DEVELOPMENT

The Concept SSDA seeks concept development consent for building envelopes and indicative land uses above the Sydney Metro Hunter Street Station west site. The Concept SSDA specifically seeks consent for the following:

- maximum building envelope and built form parameters (including tower envelopes and building setbacks)
- maximum building height of RL 220m (about 51 storeys)
- conceptual land use for the OSD building which, subject to future detailed applications could include:
  - commercial land uses within the tower building envelope
  - commercial and retail land uses within the building envelope for the podium
- maximum floor space within the proposed OSD building envelope with total maximum GFA of 69,912m<sup>2</sup>, indicatively comprising:
  - around 65,914m<sup>2</sup> of commercial premises
  - around 933m<sup>2</sup> of retail premises
  - around 3,065m<sup>2</sup> of station uses (subject to Stage 3 CSSI Application)
- provision of up to 70 car parking spaces within the podium or tower envelope (a total of 70 spaces are to be provided between the eastern and western Hunter Street Station sites, with the number on each site to be determined in a future Detailed SSDA).
- adaptive reuse of the existing Former Skinners Family Hotel for commercial and/or retail premises (subject to Detailed SSDA)
- loading, vehicular, and pedestrian access arrangements for the OSD
- utilities augmentation and connections where required (subject to Detailed SSDA(s)).

In addition, the Concept SSDA seeks approval the following strategies and guidelines for consideration in subsequent Detailed SSDA(s):

- ESD sustainability targets
- strategies for utilities and service provision
- strategies for the management of stormwater and drainage

An indicative concept reference design has been prepared illustrating how the site could potentially be developed within the proposed building envelope. As this is a concept development pursuant to section 4.22 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), future approval would be sought for the detailed design and construction of the OSD.

## 5. VARIATION OF FSR STANDARD

This section of the report identifies the development standard, which is proposed to be varied, including the extent of the contravention. A detailed justification for the proposed variation is provided in Section 6 of the report.

### 5.1. DEVELOPMENT STANDARD

The site is subject to a number of FSR provisions under the Sydney LEP 2012.

Under clause 4.4 of the Sydney LEP 2012, the base maximum FSR for the site is 8:1. Under clause 6.4 the proposal is also eligible for additional 4.5:1 accommodation floor space for providing business premises, office premises and retail premises on site. Under clause 6.6 an additional 0.3:1 FSR is also allowed onsite for the provision end of journey facilities provided in a consolidated location on the site.

It is noted that the site is partly located within the mapped tower cluster areas under clause 6.21E, and therefore the site may be eligible for additional height and FSR provisions (up to 50 per cent FSR bonus), upon the completion of an architectural design competition in accordance with the City of Sydney Competitive Design Policy. However, the proposed Concept SSDA does not rely upon the tower cluster area provisions to secure additional development uplift on the site and therefore the FSR bonus under clause 6.21E does not apply for the proposal.

The Concept SSDA also does not seek to rely upon the maximum 10 per cent FSR bonus available under clause 6.21D(3) of the Sydney LEP 2012 as a competitive design process is not required if the consent authority is satisfied that such a process would be unreasonable or unnecessary in the circumstances.

Overall, the site of the proposed development is currently eligible for maximum FSR of 12.8:1 under the Sydney LEP 2012.

### 5.2. PROPOSED VARIATION TO FSR

The proposed FSR for the development is 18.71:1, which exceeds the base FSR control (under clause 4.4) applicable to the site. The proposed FSR is calculated based on the following:

- Given this Concept SSD relates to the over station development only, the proposed total GFA is measured from ground level and excludes any GFA below ground level for rail infrastructure and ancillary uses.
- The inclusion of De Mestre Place as part of the site area for the purpose of calculating FSR.

If the area of De Mestre Place were excluded from the calculation of site area, as per the current definition of clause 4.5 of the Sydney LEP 2012, the proposed FSR within the Concept SSDA would be approximately 20.27:1.

It should be noted that the proposal is consistent with the site-specific FSR provision under the Planning Proposal request. Therefore, this interim Clause 4.6 Request is intended to be withdrawn upon finalisation and gazettal of the Planning Proposal, as the proposed FSR will comply with the site-specific FSR provision as gazetted.

## 6. RELEVANT ASSESSMENT FRAMEWORK

Clause 4.6 of Sydney LEP 2012 includes provisions that allow for exceptions to development standards in certain circumstances. The objectives of clause 4.6 of Sydney LEP are:

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

Clause 4.6 provides flexibility in the application of planning provisions by allowing the consent authority to approve a development application 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 to consider a written request from the applicant that seeks to justify the contravention of the development by demonstrating:

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

Clause 4.6(4)(a) requires the consent authority to be satisfied that the applicant's written request adequately addresses each of the matters listed in clause 4.6(3). The consent authority should also be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which it is proposed to be carried out.

Clause 4.6(4)(b) requires the concurrence of the Secretary to have 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.*

The concurrence of the Secretary can be assumed to have been granted for the purpose of this variation request in accordance with the Department of Planning Circular PS 18–003 'Variations to development standards', dated 21 February 2018. This circular is a notice under section 55(1) of the *Environmental Planning and Assessment Regulation 2021* and provides for assumed concurrence. A consent granted by a consent authority that has assumed concurrence is as valid and effective as if concurrence had been given.

Consent authorities for SSD may assume the Secretary's concurrence where development standards will be contravened. Any matters arising from contravening development standards will be dealt with in Departmental assessment reports.

This Request demonstrates that compliance with the FSR prescribed for the site in clause 4.4 of Sydney LEP 2012 is unreasonable and unnecessary, that there are sufficient environmental planning grounds to justify the requested variation, and that the approval of the variation is in the public interest because it is consistent with the development standard and zone objectives.

In accordance with clause 4.6(3), the applicant requests that the FSR development standard be varied (subject to the applicant's position that such a request should not actually be necessary).

## 7. ASSESSMENT OF CLAUSE 4.6 VARIATION

The following sections of the report provide a comprehensive assessment of the request to vary the development standards relating to the FSR in accordance with clause 4.4 of Sydney LEP 2012.

Detailed consideration has been given to the following matters within this assessment:

- Varying development standards: A Guide, prepared by the Department of Planning and Infrastructure dated August 2011.
- Relevant planning principles and judgements issued by the Land and Environment Court.

The following sections of the report provides detailed responses to the key questions required to be addressed within the above documents and clause 4.6 of the Sydney LEP 2012.

### 7.1. IS THE PLANNING CONTROL A DEVELOPMENT STANDARD THAT CAN BE VARIED? – CLAUSE 4.6(2)

The FSR prescribed by clause 4.4 of Sydney LEP 2012 is a development standard capable of being varied under clause 4.6(2) of Sydney LEP 2012.

The proposed variation is not excluded from the operation of clause 4.6(2) as it does not comprise any of the matters listed within clause 4.6(6) or clause 4.6(8) of Sydney LEP 2012.

### 7.2. IS COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE? – CLAUSE 4.6(3)(A)

Historically, the most common way to establish a development standard was unreasonable or unnecessary was by satisfying the first method set out in *Wehbe v Pittwater Council* [2007] NSWLEC 827. This method requires the objectives of the standard are achieved despite the non-compliance with the standard.

This was recently re-affirmed by the Chief Judge in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [16]-[17]. Similarly, in *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 at [34] the Chief Judge held that “establishing that the development would not cause environmental harm and is consistent with the objectives of the development standards is an established means of demonstrating that compliance with the development standard is unreasonable or unnecessary”.

This Request addresses the first method outlined in *Wehbe v Pittwater Council* [2007] NSWLEC 827. This method alone is sufficient to satisfy the ‘unreasonable and unnecessary’ requirement.

The Request also seeks to demonstrate the ‘unreasonable and unnecessary’ requirement is met because the burden placed on the community by not permitting the variation would be disproportionate to the non-existent or inconsequential adverse impacts arising from the proposed non-complying development. This disproportion provides sufficient grounds to establish unreasonableness (relying on comments made in an analogous context, in *Botany Bay City Council v Saab Corp* [2011] NSWCA 308 at [15]).

- ***The objectives of the standard are achieved notwithstanding non-compliance with the standard*** (the first method in *Wehbe v Pittwater Council* [2007] NSWLEC 827 [42]-[43])

The specific objectives of the FSR as specified in clause 4.4 of Sydney LEP 2012 are detailed in Table 2 below. An assessment of the consistency of the proposed development with each of the objectives is also provided.

Table 2 Assessment of Consistency with Clause 4.4 Objectives

Objectives	Assessment
<p><i>(a) to provide sufficient floor space to meet anticipated development needs for the foreseeable future,</i></p>	<p>The FSR non-compliance relates to business and employment floor space, which as proposed will increase Central Sydney's capacity for economic growth and new jobs targets.</p> <p>The proposed FSR is consistent with the maximum FSR that would be permitted on a site mapped within the tower cluster areas under clause 6.21E of the Sydney LEP 2012. As such, the proposed floor space is appropriate to meet the anticipated needs for employment floor space in the future.</p>
<p><i>(b) to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic,</i></p>	<p>The proposed FSR has been informed by an Urban Design and Built Form Report prepared by FJMT (Appendix E of the EIS) and details the proposed building envelope (Appendix G of the EIS) and indicative reference scheme for the site (Appendix H of the EIS), demonstrating that the site can accommodate the future OSD without significant detrimental impact to the streetscape and public domain amenity.</p> <p>The proposed FSR includes the recommended quantum of architectural articulation in accordance with the City of Sydney's Draft Guideline for Site-Specific Planning Proposals (2020), to ensure the building envelope includes flexibility to respond to detailed design matters without resulting in additional building height or in appropriate building scale. As such, the proposed employment density does not result in inappropriate external impacts, while delivering additional economic benefits for Central Sydney.</p> <p>The Concept SSD also includes a maximum of 70 private vehicle car parking spaces (to be provided between the eastern and western Hunter Street Station sites). The proposed parking provision is consistent with the City of Sydney's Draft Guideline for Site-Specific Planning Proposals (2020) which recommends car parking provision to be no more than the existing provision, or the maximum in the LEP, whichever is the lesser. Therefore, the FSR non-compliance does not trigger the provision of additional parking beyond that currently permitted by the planning instruments.</p> <p>The Concept SSDA is accompanied by a Transport and Accessibility Impact Assessment (Appendix Q of</p>



Objectives	Assessment
	<p>the EIS) that calculated vehicle and pedestrian trips generated by the proposal on the subject sites. The assessment concluded that:</p> <p>The traffic modelling undertaken shows that impacts to future intersection performance are anticipated to be negligible, and the future load road network will operate within acceptable level of service thresholds. The number of car trips generated by the proposed development is negligible. The proportion of trips made by public transport is expected to significantly increase and become the primary form of travel to and from the site.</p> <p>The increase in pedestrian flows from the OSD are negligible compared to the pedestrian flows and accessibility impacts resulting from the construction of the Hunter Street Station.</p> <p>Overall, the proposed FSR variation will not impact on road network and pedestrian infrastructure surrounding the site.</p>
<p><i>(c) to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure,</i></p>	<p>The proposal, including significant employment generating floorspace above a new metro station in the Sydney CBD, contributes to a vision for a 30-minute city as it will increase employment opportunities close to existing and future public transport connections across many parts of Greater Sydney.</p> <p>As the site is located within the Sydney CBD it is well served by the full range of public utilities including electricity, telecommunications, water, sewer, and stormwater. A Utilities and Infrastructure Servicing Assessment (Appendix BB of the EIS) has been prepared to support of the Concept SSDA. The assessment confirms that existing utility infrastructure can be augmented to meet the anticipated augmentation required to meet the increased demand generated by the future OSD on the site.</p> <p>The proposed FSR is also consistent with the maximum FSR that would be permitted on a site mapped within the tower cluster areas under clause 6.21E of the Sydney LEP 2012. As such, the proposed floor space is commensurate with the capacity of existing infrastructure and planned infrastructure including the Sydney West Metro.</p>

Objectives	Assessment
<p><i>(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.</i></p>	<p>The proposed building envelope, including the maximum FSR proposed on the site, has been the subject of pedestrian wind comfort and safety and daylight testing to ensure that the built form results in better or equivalent impacts compared to a base case building envelope in accordance with the provisions of the Sydney Development Control Plan 2012 (Sydney DCP 2012). Further, the proposed building envelope has been assessed against key urban design considerations including visual impacts, heritage and streetscape characteristics to ensure the built form resulting from the proposed density remains consistent with the local character of the Central Sydney area.</p> <p>The additional floor space proposed on the site will not adversely impact on the amenity of the locality in terms of built form impact, visual impact and overshadowing to public domain. This is discussed in detail in the following section.</p>

The objectives of the development standard are therefore achieved, notwithstanding the variation with the standard in the circumstances described in this variation report.

- **The underlying object or purpose would be undermined, if compliance was required with the consequence that compliance is unreasonable** (the third method in *Wehbe v Pittwater Council* [2007] NSWLEC 827 [42]-[43] as applied in *Linfield Developments Pty Ltd v Cumberland Council* [2019] NSWLEC 131 at [24])

Not relied upon

- **The burden placed on the community (by requiring strict compliance with the FSR standard) would be disproportionate to the (non-existent or inconsequential) adverse consequences attributable to the proposed non-compliant development** (cf *Botany Bay City Council v Saab Corp* [2011] NSWCA 308 at [15]).

As the proposed FSR is consistent with the maximum FSR that would be permitted on a site mapped within the tower cluster areas under clause 6.21E of the Sydney LEP 2012, the interim variation can achieve the desired development outcome envisioned under the Central Sydney Planning Strategy. Strict compliance with the existing FSR standard outlined in clause 4.4 would significantly restrict the delivery of additional employment generating floor space above a new metro station and would hinder the renewal of this key site including the delivery of public domain improvements in the Hunter Street Station precinct.

The proposed built form complies with the sun access plane controls for The Domain, Pitt Street and Martin Place. This demonstrates that the overall development is of a scale consistent with the built form scale envisaged as part of the Central Sydney Planning Strategy, and the FSR variation does not represent an overdevelopment of the site. The proposed development is consistent with the desired density for Central Sydney as envisioned under the Central Sydney Planning Strategy.

The proposal is consistent with the public interest as it promotes the orderly and efficient use of land. Maintaining the development standard would not result in a public benefit.

## **7.3. ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD? – CLAUSE 4.6(3)(B)**

The Land & Environment Court judgment in *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 118, assists in considering the sufficient environmental planning grounds. Preston J observed:

*“...in order for there to be 'sufficient' environmental planning grounds to justify a written request under clause 4.6, the focus must be on the aspect or element of the development that contravenes the development standard and the environmental planning grounds advanced in the written request must justify contravening the development standard, not simply promote the benefits of carrying out the development as a whole; and*

*...there is no basis in Clause 4.6 to establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development”*

There is an absence of environmental harm arising from the contravention and positive planning benefits arising from the proposed development as outlined in detail above.

There are sufficient environmental planning grounds to justify the proposed variations to the development standard and are discussed in the following sections. The justifications are specific to the areas of noncompliance.

### **7.3.1. Built form and local character**

The Central Sydney Planning Strategy and Schedule 12 of the Sydney DCP 2012 sets the base case envelope for new towers in Central Sydney, providing guidance on street wall heights, building articulation, and tower setbacks.

The proposed building envelope has been assessed against a base case envelope, prepared in accordance with the Strategy and Schedule 12 of the Sydney DCP 2012. The proposed envelope was assessed to result in a generally improved wind and daylight condition (this is discussed further below) as compared to the base case envelope.

Further to the above, the Central Sydney Planning Strategy and accompanying Draft Guideline for Site-Specific Planning Proposals (2020) also provides guidance in the calculation of an appropriate maximum GFA, includes exclusion for plant levels, building core and architectural articulation proportionate to the height of the tower. The proposed FSR includes an architectural articulation zone of 12.5 per cent across the building, providing sufficient flexibility to enable a high-quality design response, which is consistent with the recommendation under the Central Sydney Planning Strategy,

The podium street-wall fronting Hunter Street steps up from RL 25m to RL 34m adjacent to the eastern boundary of the site, as recommended by the Design Advisory Panel as an intentional design response to create variation in the street wall height that is characteristic to Hunter Street and its heritage context, and to accommodate essential infrastructure that will support the delivery of the CSSI and future operation of the station.

Accordingly, the FSR variation is able to support a built form that is generally consistent with the future tower character defined under the Central Sydney Planning Strategy, including accommodating articulation zone in the FSR calculation and varied street height podium to respond to the streetscape character.

### **7.3.2. Density and land use intensity**

The additional floor space will not impact on the efficiency of the existing road and pedestrian network, and existing infrastructures can be augmented to support the proposal. The FSR variation will deliver a development that is of an appropriate density and land use intensity that is anticipated under the Central Sydney Planning Strategy, to help deliver economic growth, in line with the City's vision and strategies for the area.

### **7.3.3. Daylight access**

The proposed building envelope has been assessed against public domain amenity testing, measuring the extent of sky visible from various points, expressed numerically as sky view factor. The Urban Design and Built Form Report prepared by FJMT included this sky view testing, prepared in accordance with the City's requirements.

The testing demonstrated that the proposal achieves consistency with the requirements of the Central Sydney Planning Strategy, with the proposed envelope showing an increase of 0.000203 of Visible Sky when compared to the base case building envelope.

The sky view analysis demonstrates that the FSR variation will not adversely impact daylight access to the public domain compared to a compliant built form. As such, the FSR non-compliance is consistent with the equivalence testing requirements for tower cluster sites, ensuring the future development will maintain an acceptable amenity outcome for pedestrians and the public domain.

### **7.3.4. Overshadowing**

The Sydney LEP 2012 includes provisions preventing new buildings from creating additional overshadowing to protect certain public places, including Martin Place and Pitt Street. The proposed building envelope, including the FSR variation, does not overshadow significant public domain areas during the times or areas that are protected by the Sydney LEP 2012.

The proposed building envelope will however result in minor additional overshadowing to The Domain at the winter solstice outside of the times protected by the Sydney LEP 2012 controls. Similarly, the proposed building envelopes will overshadow Wynyard Park briefly in the morning in mid-summer, however this is also outside of the protected areas of sunlight for this open space and will not adversely impact upon amenity of the park.

Overall, the proposed built form complies with the applicable sun access planes for The Domain, Pitt Street, and Martin Place, and the FSR variation does not contribute to additional shadow within the time periods and area protected under the Sydney LEP 2012.

### **7.3.5. View analysis**

The proposed building envelopes are accompanied by a Visual Impact Assessment (Appendix O of the EIS) which assesses the visual and view impacts of the proposal. The analysis explored views from and along George Street and from and along Hunter Street. The view analysis also explored the impact of the two Hunter Street Station over station development towers on the cityscape.

The assessment found that the visual impacts of the proposed building envelope was generally compatible with the existing urban character of the surrounding area and the desired future character as outlined by the City. Most locations had capacity to absorb physical change, and the proposed planning envelope does not result in a high or significant visual impact on the public domain.

The photomontages show that in close views the proposed built form will create visual change to the existing composition of some views and block a minor amount of heritage facades in close views. The upper parts of the proposed envelope is likely to be visible in distant views from the west, north and east against a backdrop of urban development or sky. Notwithstanding, the proposed building envelope allows for 12.5 per cent articulation, which may result in a more slender appearance of the tower form.

Accordingly, FSR variation does not directly contribute to any adverse view impact. The level of visual change has been contemplated by the existing control which allows for tall tower forms similar to the envelope proposed. In addition, the additional FSR accommodates further built form articulation, so the future detailed design of the development can deliver a more slender form which will reduce the level of visual impact when compared to the current concept envelope.

### **7.3.6. Heritage**

The proposal incorporates the retention of the Former Skinner Family Hotel building and its adaptive reuse (to be further developed as part of future Detailed SSDA). The FSR variation does not compromise the sensitive integration of the heritage item as part of the proposal.

The Historic Heritage Impact Statement submitted with the EIS (Appendix Z) concludes the proposed building envelope, despite the FSR variation, will have an acceptable impact from a heritage perspective.

The proposed envelope has been developed to ensure impacts to any adjacent heritage item is minimised. The podium has been designed to respond to the Former Skinner Family Hotel through a matching street wall height and setback (12.5m) providing a suitable visual setting that does not overwhelm and detract from the heritage item.

Therefore, the FSR variation does not adversely impact on the heritage significance of the Former Skinner Family Hotel and this heritage item can be suitably integrated with the future development.

## **7.4. HAS THE WRITTEN REQUEST ADEQUATELY ADDRESSED THE MATTERS IN SUB-CLAUSE (3)? – CLAUSE 4.6(4)(A)(I)**

Clause 4.6(4)(a)(i) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3).

Each of the sub-clause (3) matters are comprehensively addressed in this written request, including detailed consideration of whether compliance with a development standard is unreasonable or unnecessary in the circumstances of the case. The written request also provides sufficient environmental planning grounds, including matters specific to the proposal and the site, to justify the proposed variation to the development standard.

## **7.5. IS THE PROPOSED DEVELOPMENT IN THE PUBLIC INTEREST? – CLAUSE 4.6(4)(B)(II)**

Clause 4.6(4)(a)(ii) states development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied the proposal will be in the public interest because it is consistent with the objectives of the development standard and the objectives for the zone.

The consistency of the development with the objectives of the development standard is demonstrated in Table 2. The proposal is also consistent with the land use objectives that apply to the site under Sydney LEP 2012. The site is located within the B8 Metropolitan Centre zone. The proposed development is consistent with the relevant land use zone objectives as outlined in Table 3.

Table 3 Assessment of Compliance with Land Use Zone Objectives

<b>Objective</b>	<b>Assessment</b>
<i>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.</i>	The FSR variation will provide additional contemporary commercial floor space, which will contribute to the pre-eminent role of Australia’s participation in the global economy and commensurate with Sydney’s global status by providing new commercial and retail opportunities.
<i>To provide opportunities for an intensity of land uses commensurate with Sydney’s global status.</i>	<p>The FSR variation provides opportunities for additional commercial floor space, which allows for the efficient development of an important CBD site that is located above new public transport infrastructure. The proposed density is consistent with the Central CBD core characteristic and contribute to Sydney’s global status.</p> <p>The proposed FSR is also consistent with the maximum FSR that would be permitted on a site mapped within the tower cluster areas under clause 6.21E of the Sydney LEP 2012. As such, the proposed floor space is commensurate with the anticipated density of</p>

Objective	Assessment
	development within Sydney CBD and in particular within a tower cluster area.
<i>To permit a diversity of compatible land uses characteristic of Sydney’s global status and that serve the workforce, visitors and wider community.</i>	The FSR variation provides opportunities for additional commercial floor space, which will be occupied by a diversity of new retail and businesses in the future that serve the workforce, visitor and the wider community.
<i>To encourage the use of alternatives to private motor vehicles, such as public transport, walking or cycling.</i>	The FSR variation will not result in the provision of additional car parking spaces above what is allowed under the Sydney LEP 2012 rate and which was located on the Hunter Street Station east site prior to demolition. Therefore the FSR variation does not hinder the development to encourage the use public transport, walking and cycling.
<i>To promote uses with active street frontages within podiums that contribute to the character of the street.</i>	The FSR variation does not hinder the site’s ability to provide retail uses within the podium and the activation of street frontages via these retail uses.
<i>To promote the efficient and orderly development of land in a compact urban centre.</i>	The FSR variation demonstrates a more efficient and orderly development of the site in the centre by providing a density of development consistent with the tower cluster area provisions without compromising public amenity.
<i>To promote a diversity of commercial opportunities varying in size, type and function, including new cultural, social and community facilities.</i>	The FSR variation provides the opportunity for a diversity of commercial opportunities varying in size, type and function, which will be developed further as part of the future Detailed SSD.
<i>To recognise the important role that Central Sydney’s public spaces, streets and their amenity play in a global city.</i>	<p>The FSR variation does not compromise the amenity of Central Sydney’s public spaces and can comply with the sun access plane controls for The Domain, Pitt Street and Martin Place.</p> <p>The proposed FSR has been informed by an Urban Design and Built Form Report prepared by FJMT (Appendix E of the EIS) and details the proposed building envelope (Appendix G of the EIS) and indicative reference scheme for the site (Appendix H of the EIS), demonstrating that the site can accommodate the future OSD without significant detrimental impact to the streetscape and public domain amenity.</p> <p>Further, the proposed building envelope has been the subject of pedestrian wind comfort and safety and daylight testing to ensure that the built form results in better or equivalent impacts compared to a base case building envelope in accordance with the provisions of the</p>

Objective	Assessment
	Sydney Development Control Plan 2012 (Sydney DCP 2012).
<i>To promote the primary role of the zone as a centre for employment and permit residential and serviced apartment accommodation where they complement employment generating uses.</i>	The FSR variation promotes the primary role of the zone as a centre for employment by providing additional commercial floor space.

## 7.6. HAS THE CONCURRENCE OF THE PLANNING SECRETARY BEEN OBTAINED? – CLAUSE 4.6(4)(B) AND CLAUSE 4.6(5)

The Secretary can be assumed to have concurred to the variation under Department of Planning Circular PS 18–003 ‘Variations to development standards’, dated 21 February 2018. This circular is a notice under 55(1) of the *Environmental Planning and Assessment Regulation 2021*.

Consent authorities for SSD may assume the Secretary’s concurrence where development standards will be contravened. Any matters arising from contravening development standards will be dealt with in Departmental assessment reports.

The matters for consideration under clause 4.6(5) are considered below.

- **Clause 4.6(5)(a) – does contravention of the development standard raise any matter of significance for State or regional environmental planning?**

The proposed variation to the FSR development standard will not raise any matter of significance for State or regional environmental planning. It has been demonstrated that the proposed variation is appropriate based on the specific circumstances of the case and would be unlikely to result in an unacceptable precedent for the assessment of other development proposals.

- **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 and the land use zone objectives despite the technical variation to the existing control outlined in clause 4.4 of the Sydney LEP 2012.

The proposed development achieves the objectives of the zone despite the interim non-compliance. There is no public benefit in maintaining development standard and the land use strict compliance with the development standard as there are no unreasonable impacts that will result from the variation.

As the proposed FSR is consistent with the maximum FSR that would be permitted on a site mapped within the tower cluster areas under clause 6.21E of the Sydney LEP 2012, the interim variation can achieve the desired development outcome envisioned under the Central Sydney Planning Strategy. Strict compliance with the existing FSR standard outlined in clause 4.4 would significantly restrict the delivery of additional employment generating floor space above a new metro station.

The proposal is consistent with the public interest as it promotes the orderly and efficient use of land. Maintaining the development standard would not result in a public benefit. If the FSR standard was to be maintained, outcome of the key benefits associated with the proposal will not be achieved.

There is no material impact or benefit associated with strict adherence to the development standard and there is no compelling reason or public benefit derived from maintenance of the standard.

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

Concurrence can be assumed, however, there are no known additional matters that need to be considered within the assessment of the clause 4.6 variation request prior to granting concurrence, should it be required.

## 8. CONCLUSION

For the reasons set out in this written request, strict compliance with the FSR contained within clause 4.4 of Sydney LEP 2012 is unreasonable and unnecessary in the circumstances of the case. Further, there are sufficient environmental planning grounds to justify the proposed variation and it is in the public interest to do so.

It is reasonable and appropriate to vary the FSR to the extent proposed for the reasons detailed within this submission and as summarised below:

- The FSR variation is intended to be temporary as the proposed FSR is consistent with the proposed site-specific FSR provision under the Planning Proposal request, which has been endorsed by Council for Gateway Determination.
- The proposed built form complies with the sun access plane and no additional overshadowing controls for The Domain, Pitt Street and Martin Place. This demonstrates that the overall development is of a scale consistent with the built form scale envisaged as part of the Central Sydney Planning Strategy, and the FSR variation does not represent an overdevelopment of the overall site and will not restrict the overall site's ability to protect public domain amenity.
- The FSR variation will help to deliver additional employment generating floor space in Central Sydney, which will increase Central Sydney's capacity for economic growth.
- Strict compliance with the FSR control would hinder the ability for the overall site to provide high quality over station development in Central Sydney and restrict the provision of important commercial floor space above public transport infrastructure. The proposal is consistent with the public interest as it promotes the orderly and efficient use of land and integration with public transport infrastructure. Maintaining the development standard would not result in a public benefit.
- The area of non-compliance will not create adverse environmental or built form impact to surrounding developments and the public domain.

For the reasons outlined above, the clause 4.6 request is well-founded. The development standard is unnecessary and unreasonable in the circumstances, and there are sufficient environmental planning grounds that warrant contravention of the standard. In the circumstances of this case, flexibility in the application of the FSR should be applied.



# DISCLAIMER

This report is dated November 2022 and incorporates information and events up to that date only and excludes any information arising, or event occurring, after that date which may affect the validity of Urbis Pty Ltd (**Urbis**) opinion in this report. Urbis prepared this report on the instructions, and for the benefit only, of SYDNEY METRO (**Instructing Party**) for the purpose of Clause 4.6 Variation Request (**Purpose**) and not for any other purpose or use. To the extent permitted by applicable law, Urbis expressly disclaims all liability, whether direct or indirect, to the Instructing Party which relies or purports to rely on this report for any purpose other than the Purpose, and to any other person which relies or purports to rely on this report for any purpose whatsoever (including the Purpose).

In preparing this report, Urbis was required to make judgements which may be affected by unforeseen future events, the likelihood and effects of which are not capable of precise assessment.

All surveys, forecasts, projections and recommendations contained in or associated with this report are made in good faith and on the basis of information supplied to Urbis at the date of this report, and upon which Urbis relied. Achievement of the projections and budgets set out in this report will depend, among other things, on the actions of others over which Urbis has no control.

In preparing this report, Urbis may rely on or refer to documents in a language other than English, which Urbis may arrange to be translated. Urbis is not responsible for the accuracy or completeness of such translations and disclaims any liability for any statement or opinion made in this report being inaccurate or incomplete arising from such translations.

Whilst Urbis has made all reasonable inquiries it believes necessary in preparing this report, it is not responsible for determining the completeness or accuracy of information provided to it. Urbis (including its officers and personnel) is not liable for any errors or omissions, including in information provided by the Instructing Party or another person or upon which Urbis relies, provided that such errors or omissions are not made by Urbis recklessly or in bad faith.

This report has been prepared with due care and diligence by Urbis and the statements and opinions given by Urbis in this report are given in good faith and in the reasonable belief that they are correct and not misleading, subject to the limitations above.

