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URBIS

25-27 LEEDS STREET, RHODES

Clause 4.6 Variation Request
(Floor Space Ratio)

URBIS STAFF RESPONSIBLE FOR THIS REPORT WERE:

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Project Code	P48748
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REQUEST TO VARY CL 4.4 IN CANADA BAY LOCAL ENVIRONMENTAL PLAN 2013

Address: 25-27 Leeds Street, Rhodes

Date: 26 June 2025

1. SITE AND PROPOSED DEVELOPMENT

Site Description

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

Table 1 Site Description

Feature	Description
Street Address	25-27 Leeds Street, Rhodes
Legal Description	Lot A in DP329241 Lot C in DP367132 Lot 2 in DP1192949
Site Area	11,692sqm
Site Dimensions	North: 75 metres to Parramatta River. West: 144 metres to Blaxland Road. South: 88 metres to Leeds Street. East: 133 metres.
Easements and Restrictions	<p>The site is burdened by an easement for 'right of way' access and an easement for electricity purposes.</p> <p>The easement for 'right of way' is located between 25 Leeds Street and 27 Leeds. The easement presents as a driveway separating the two buildings and provides access from Leeds Street into the site. This easement is proposed to be extinguished as part of the SSDA.</p> <p>The site also contains an easement for electricity purposes and right of way shown (B) P240119) and relates to a substation, located in the eastern corner of the site (on the corner of Leeds Street and Blaxland Road). This substation is also proposed to be removed as part of the SSDA (and easement extinguished).</p>
Site Topography	The site slopes approximately 6m from south to north (towards the Paramatta River).
Vegetation	Existing vegetation, comprising trees and shrubs, are located predominantly along the northern and western site boundaries. Street trees are also located just outside the site boundary along Leeds Street.
Existing Development	<p>25 Leeds Street (Lot A in DP329241 and Lot C in DP367132), houses a two-storey. Access to this building is via Leeds Street, and onsite carparking is provided at the front of the building, down the western side, and in a small carpark at the rear.</p> <p>27 Leeds Street (Lot 2 in DP1192949) contains a larger, two-storey warehouse and distribution centre. Vehicular access to 27 Leeds Street is via Blaxland Road. On site carparking is provided to the north of the building, along the Parramatta River.</p>
Local Context	Leeds Street is a light industrial area on the waterfront bound by Parramatta River to the north, Concord Road to the east, Leeds Street to the south and Blaxland Road to the west. The site is in a landmark waterfront location along the Parramatta River and is surrounded by public open spaces such as John Whitton Reserve, Mill Park and Uhr's Reserve. Rhodes Boat Ramp is also located adjacent to the site at the end of Blaxland Road.
Adjacent Development North	To the north of the site is the Parramatta River, which separates Rhodes from Meadowbank and the broader Ryde Local Government Area. Rhodes is connected to Ryde via Concord Road and the Parramatta River Railway Bridge.

Figure 2 Site Photos



Picture 1 Western edge of site on Blaxland Road



Picture 2 South-west corner of the site



Picture 3 South-east corner of the site



Picture 4 Southern edge of site at 25 Leeds Street

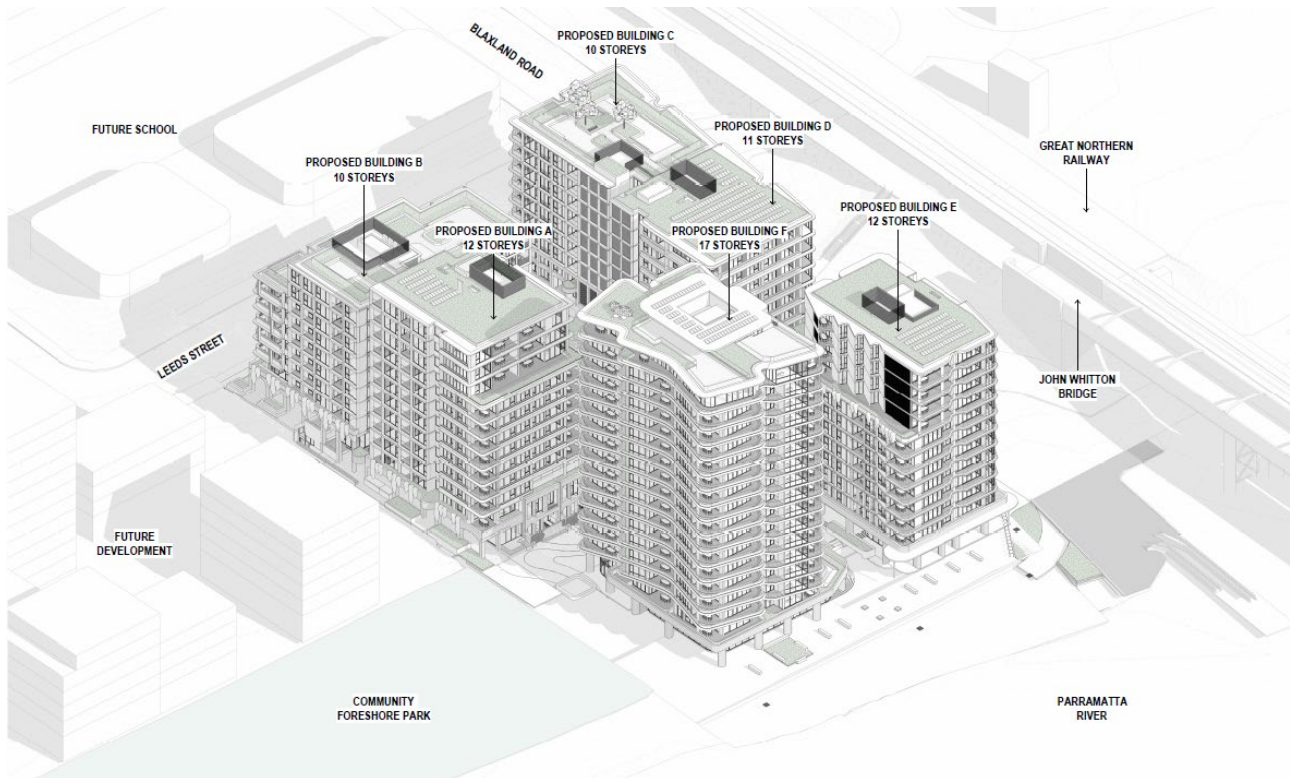
Source: SJB

Proposed Development

Specifically, the SSDA seeks development consent for:

- Removal of 17 additional trees, that were not approved under the Regional DA consent.
- Construction of six (6) mixed use residential towers, ranging in height from 10 to 17 storeys.
- Through site links, foreshore park and promenade.
- Seawall and foreshore works.
- On-site car parking and loading within a consolidated basement, accessed from Blaxland Road.

Figure 3 Axonometric Site Plan



Source: SJB

2. PLANNING INSTRUMENT, DEVELOPMENT STANDARD AND PROPOSED VARIATION

What is the planning instrument you are seeking to vary?

The application seeks to vary the *State Environmental Planning Policy (Housing) 2021*.

What is the site's zoning?

The site is zoned MU1 (Mixed Use) under the CBLEP.

What is the development standard to be varied?

The standard proposed to be varied is the maximum floor space ratio development standard under Part 2, Division 1, Clause 16(1) of the Housing SEPP.

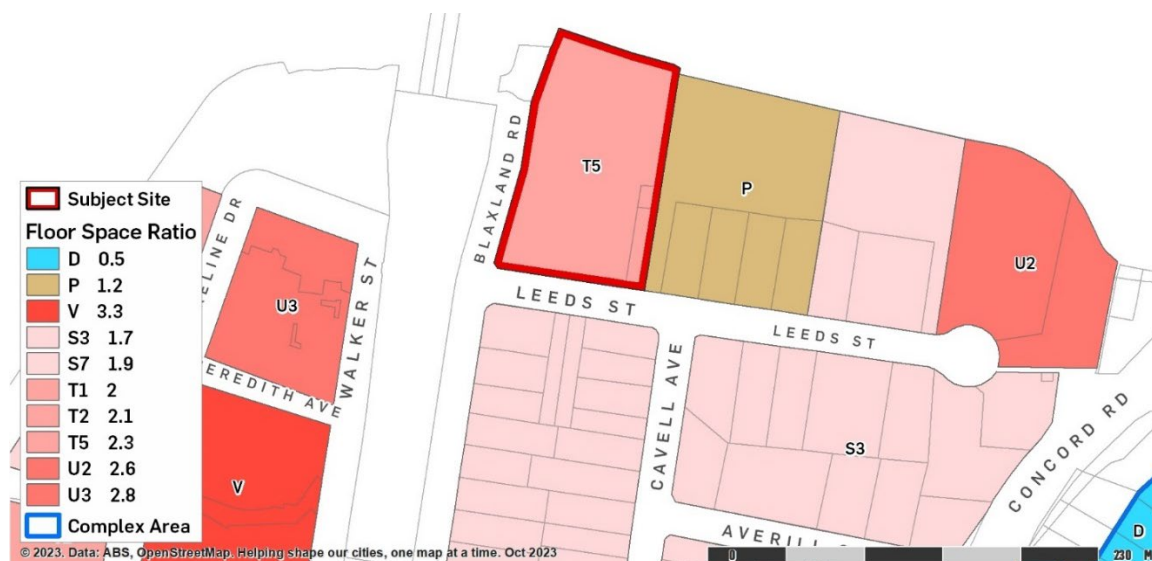
Part 2, Division 1, Clause 16(1) of the Housing SEPP states:

16 Affordable housing requirements for additional floor space ratio

- (1) The maximum floor space ratio for development that includes residential development to which this division applies is the maximum permissible floor space ratio for the land plus an additional floor space ratio of up to 30%, based on the minimum affordable housing component calculated in accordance with subsection (2).**
- (2) The minimum affordable housing component, which must be at least 10%, is calculated as follows—**
$$\text{affordable housing component} = \frac{\text{additional floor space ratio (as a percentage)}}{2}$$
- (3) If the development includes residential flat buildings or shop top housing, the maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional building height that is the same percentage as the additional floor space ratio permitted under subsection (1).**
- (4) This section does not apply to development on land for which there is no maximum permissible floor space ratio.**

The permissible floor space ratio for the land is set out in clause 4.4 of the CBLEP and shown on the LEP floor space ratio map below.

Figure 4 CBLEP Floor Space Ratio Map



Source: Urbis

The numerical value of the LEP development standard applicable in this instance is **2.3:1**.

Part 2, Division 1, Clause 16(1) development standard of the Housing SEPP permits an additional 30% floor space bonus on top of the floor space permissible under clause 4.4 of the CBLEP (based on 15% affordable housing provision), resulting in the following maximum floor space ratio controls:

- Base Allowable FSR: 2.3:1 (on a site area of 11,692.4sqm).
- Base Maximum Allowable GFA: 26,892.52sqm.

In the circumstances of the case, affordable housing provision equates to 14.49% of the overall development yield, meaning the Housing SEPP floor space bonus (using the formula above) is 28.98%.

By applying the '28.98% bonus' to the 'base' floor space above, the following results:

- $26,892.52\text{sqm} + 28.98\% = 34,685.97\text{sqm}$.
- Therefore, the maximum GFA is 34,685.97sqm (equating to an FSR of 2.96:1).

The floor space ratio development standard is not excluded from the operation of Clause 4.6 of the CBLEP.

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

15A Objective of division

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

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

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

- (a) to ensure that buildings are compatible with the bulk, scale, streetscape and desired future character of the locality,*
- (b) to provide a suitable balance between landscaping and built form,*
- (c) to minimise overshadowing of, and loss of privacy to, neighbouring properties,*
- (d) to maximise solar access and amenity for public places,*
- (e) to manage the visual impact of development when viewed from public places, including the Parramatta River.*

Type of development standard?

The request is seeking to vary the numeric floor space ratio development standard.

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

Inclusive of the Housing SEPP bonuses, the maximum floor space ratio development standard is **2.96:1**.

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

The table below sets out the existing and proposed FSR for the proposal (on a site area of 11,692sqm):

Table 2 Existing and Proposed FSR

	FSR	GFA
Existing FSR Control	2.96:1	34,685.97sqm
Proposed FSR	3.22:1	37,708.00sqm
Difference		3,022.03sqm (+8.72%)

Notably, this 3,022.03sqm breach is caused by:

1. **The floor space allocated to the wintergardens on the western elevation**, which constitute 'enclosed' balconies and therefore attract GFA. These wintergardens are proposed to mitigate the noise emanating from the adjacent rail line, providing a direct amenity benefit to these apartments.

Area: 1,205sqm

2. **The floor space that would otherwise qualify for the 5% FSR bonus under Clause 7.11 of the CBLEP**, which cannot be claimed as the BASIX commitment points required by the clause are not achievable using the most recent version of the BASIX tool.

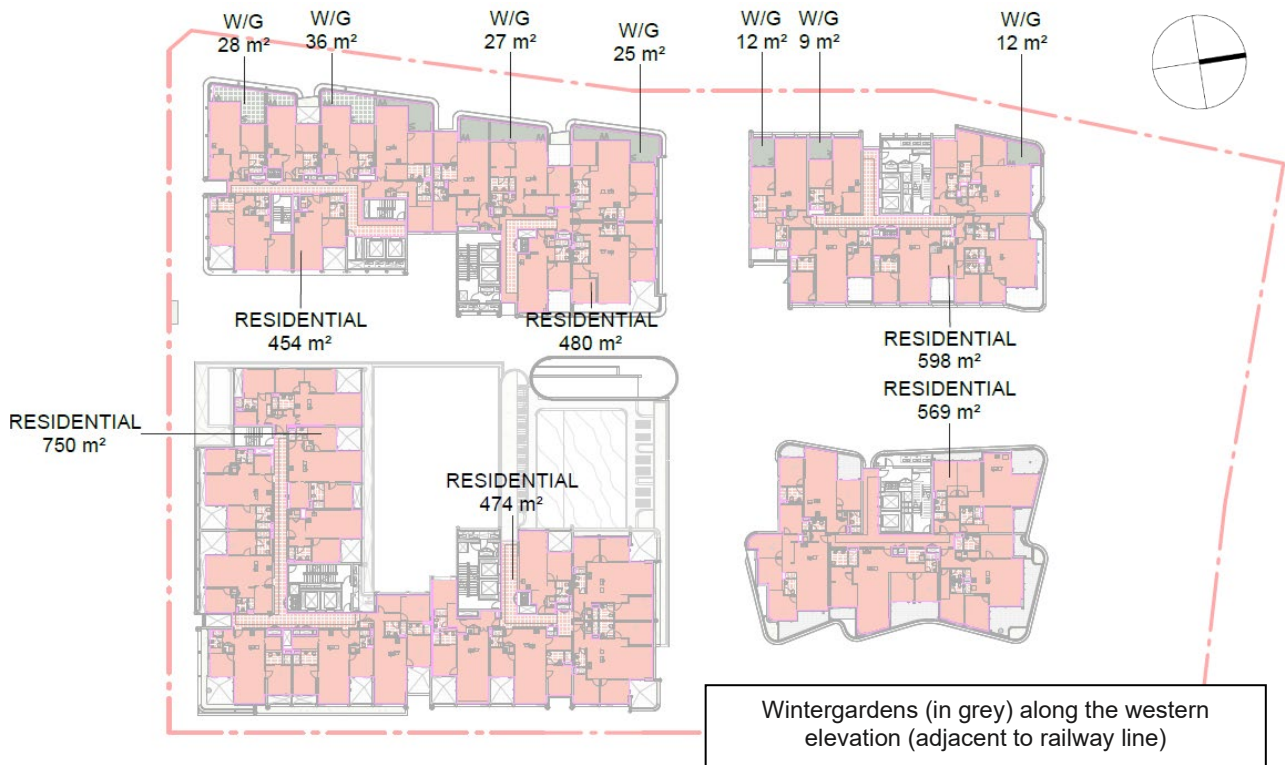
Area: 754.04sqm (being a 5% bonus on top of the base 2.3:1 FSR control, applied to the site area, with a 28.98% AH uplift applied – i.e., 11,692.40sqm (site area) x 1.05 (BASIX Bonus) x 1.2898 (AH Bonus))

Notably, if these two components are excluded from the proposed GFA, the development would sit 1,062.99sqm above the maximum permissible GFA. The impacts of this additional floor space from a built form perspective are justified below. Notably, the built form arrangement has been subject to an architectural design competition, Bridging Design Excellence Strategy and 'endorsed' following two DIP review sessions.

Visual representation of the proposed variation

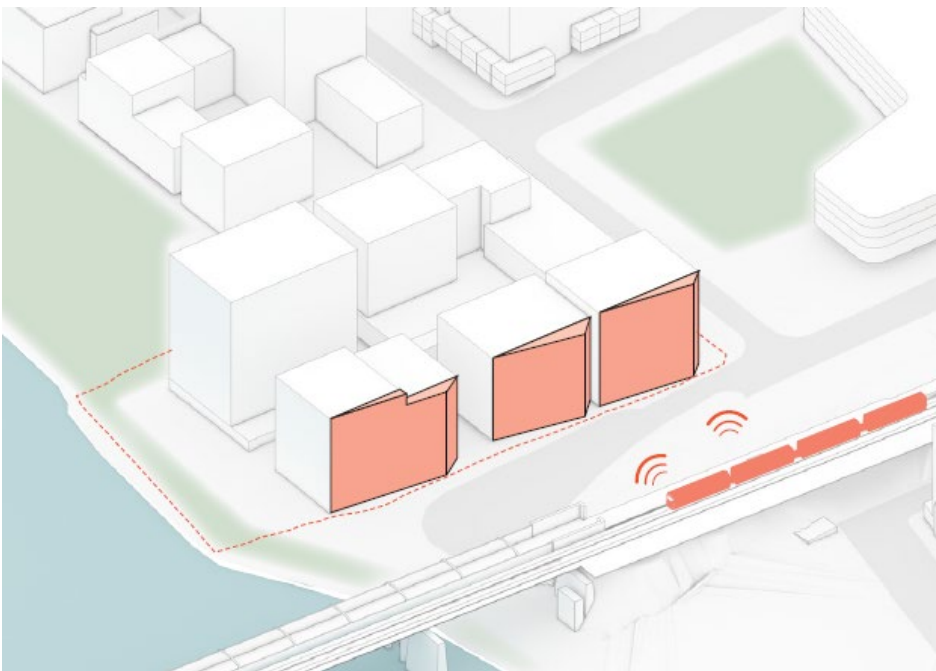
The figure below provides a visual representation of the wintergardens on the western elevation of the development that are partially causing the breach of the floor space ratio development standard.

Figure 5 Wintergarden Locations (extract of Level 4 GFA Plan)



Source: SJB

Figure 6 Western Façade Affected by Rail Noise / Wintergardens



Source: SJB

3. JUSTIFICATION FOR THE PROPOSED VARIATION

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

Key Questions	Response
a) Are the objectives of the development standard achieved notwithstanding the non-compliance?	<p>(a) to ensure that buildings are compatible with the bulk, scale, streetscape and desired future character of the locality,</p> <p>While the site's immediate locality is characterised by light industrial and low-density residential uses, its desired future character is informed by the Rhodes Place Strategy and resultant development controls gazetted into the Canada Bay LEP.</p> <p>The land to the north of Leeds Street, including the site, is zoned for mixed-use development. As redevelopment occurs, there will be a gradual shift towards higher density mixed-use / residential developments, as envisioned by the planning controls.</p> <ul style="list-style-type: none"> Sites directly to the east are nominated for building forms of between 12 to 18 storeys under the Rhodes Place Strategy. With the inclusion of Housing SEPP bonuses, these heights could increase to 15-23 storeys. The proposal, which proposes buildings between 10-17 storeys, falls well within this height range. In addition, sites to the east have 'base' FSR controls of 2.6:1, which is 0.3:1 higher than the subject site (base FSR control of 2.3:1). Again, should Housing SEPP bonuses be pursued on these sites, higher FSRs would result. On both parameters (height and FSR), the proposal is consistent with the desired future character of the locality. <p>The DIP has reviewed and endorsed the overall design, including its bulk and scale, with full consideration of the acoustic constraints and proposed wintergardens.</p> <p>Notably, the variation does not stymie the achievement of key aspects of the desired future character such as through site links, view sheds to the water from Leeds Street and engagement with the waterfront through the introduction of a publicly accessible promenade.</p> <p>The proposed development is therefore expected to be compatible with the bulk, scale, streetscape and desired future character of the adjacent sites, particularly to the east, which are anticipated to transition to high-density mixed-use developments in the short to medium term.</p> <p>(b) to provide a suitable balance between landscaping and built form,</p> <p>The conversion of balconies to wintergardens (and the FSR non-compliance generally) does not reduce the opportunities for landscaping on the site.</p> <p>The proposal meets the relevant landscaping requirements outlined in the ADG and DCP. It exceeds the minimum 1:1 landscape replacement ratio and the 25% tree canopy coverage target, both of which are DCP requirements. Further, the proposal complies with the ADG's 7% deep soil requirement.</p> <p>(c) to minimise overshadowing of, and loss of privacy to, neighbouring properties,</p> <p>Privacy for Neighbouring Properties</p> <p>The proposed variation largely relates to the wintergardens along the western elevation. To the west of these wintergardens is a train line and park. Therefore, the inclusion of wintergardens in this location will not affect the privacy of any neighbouring properties.</p> <p>Additionally, the wintergardens are designed to enclose balcony areas, providing acoustic attenuation and improving amenity for future occupants. Enclosing these balconies as wintergardens (rather than leaving them open) inherently enhances privacy.</p>

Key Questions	Response
	<p>With regard to the balance of the site (and FSR non-compliance generally):</p> <ul style="list-style-type: none"> • Adequate separation between buildings is provided to ensure visual privacy is achieved. Where ADG separation distances are not achieved within the site, solid walls or privacy screens (to habitable rooms) are proposed to mitigate privacy impacts. • A through site link is planned on the eastern boundary of the site linking Leeds Street to the future park (to the east). There will therefore be no building separation non-compliances, or related privacy impacts, to the neighbouring properties to the east (or indeed any neighbouring properties). <p>Solar Access to Adjoining Sites</p> <p>While there is some additional shadow (compared to the existing condition), it largely falls on roads, the landscaped verge adjoining the train line, or the northern part of the future school lot (away from the planned open space).</p> <p>As illustrated in the shadow diagrams below, overshadowing as a result of noncompliant parts of building (shown in pink) are fast moving and contextually minor. The proposal, notwithstanding the variation to the FSR standard, complies with the applicable shadow controls set out in the CB LEP and DCP:</p> <ul style="list-style-type: none"> • Overshadowing associated with the height variation in the morning is minimal and falls to south of the site and then during the afternoon, moves across the sites to the east. The proposed development will not restrict future dwellings on these (eastern) sites from achieving ADG solar compliance, as the proposal only casts shadows in the afternoon period (with no shadowing prior to 12pm). The future development sites to the east still have the potential to receive unobstructed solar access from the north (given they adjoin the planned public open space and Parramatta River). • The future Leeds Street Open Space is partially located on the site and continues to the east along the waterfront. The proposal, notwithstanding the variation to the height control, complies with the shadow controls under Clause 7.3 of the CBLEP. Specifically, the proposal does not result in any additional overshadowing of the Leeds Street Open Space between 8:30am and 12:30pm and will not cause overshadowing of more than half of Leeds Street Open Space between 12:30pm and 3pm. • Importantly, the proposal does not overshadow the proposed area of open space on the future school site to the south of Leeds Street. <p>Accordingly, the proposal (inclusive of the variation) adequately protects solar access to public spaces.</p> <p>The proposed wintergardens on the western façade will not create any noticeable additional shadow compared to what would be caused by open balconies on the same elevation.</p>

Figure 7 Shadow Study Between 9am-3pm June 21 (pink equals non-compliant shadow)
update



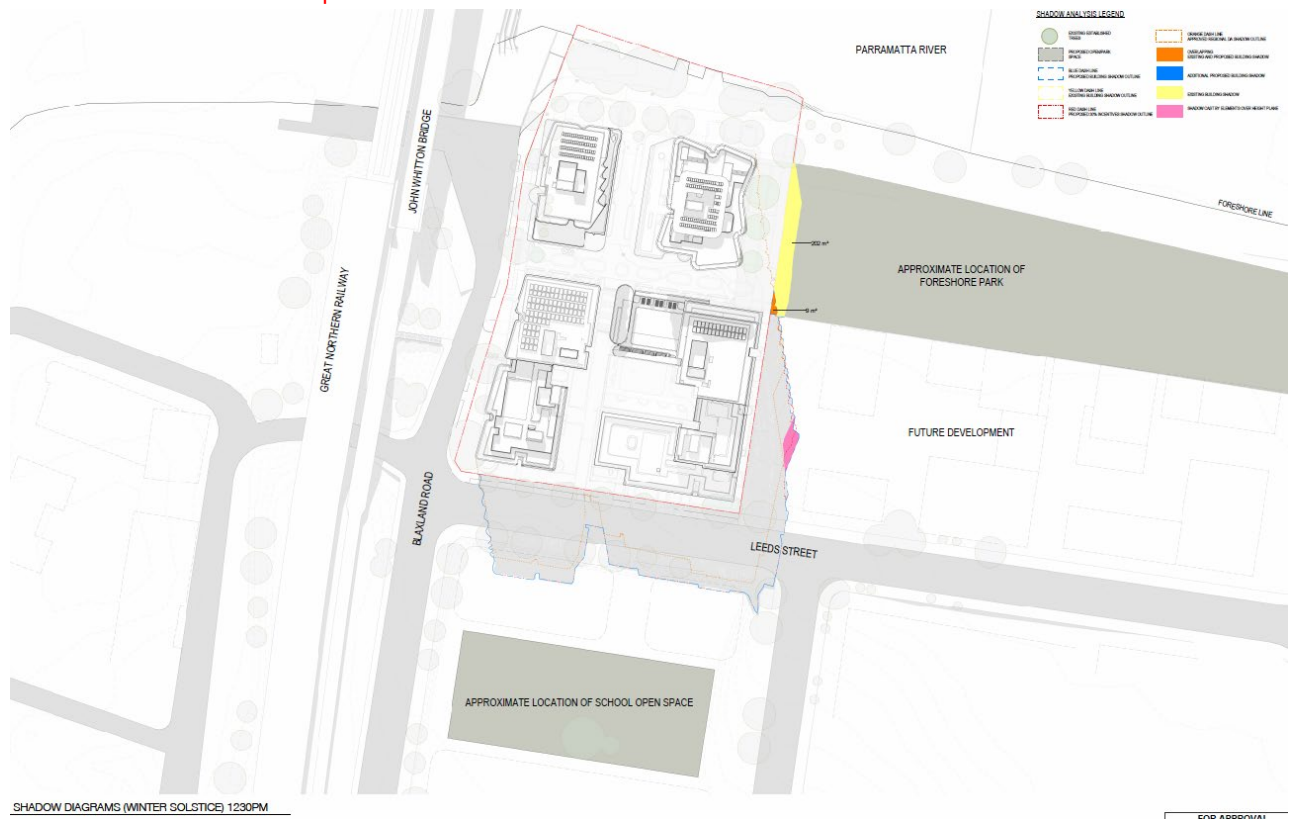
Source: SJB

(d) to maximise solar access and amenity for public places,

The future Leeds Street Open Space is situated on the subject site and extends eastward along the waterfront. Despite the variation to the FSR standard, the proposal complies with the shadow controls set out in Clause 7.3 of the CB LEP.

Specifically, the proposal does not cause any additional overshadowing of the Leeds Street Open Space between 8:30am and 12:30pm and will not result in more than half of Leeds Street Open Space being overshadowed between 12:30pm and 3pm. Refer to the 12:30pm shadow diagram below for further details.

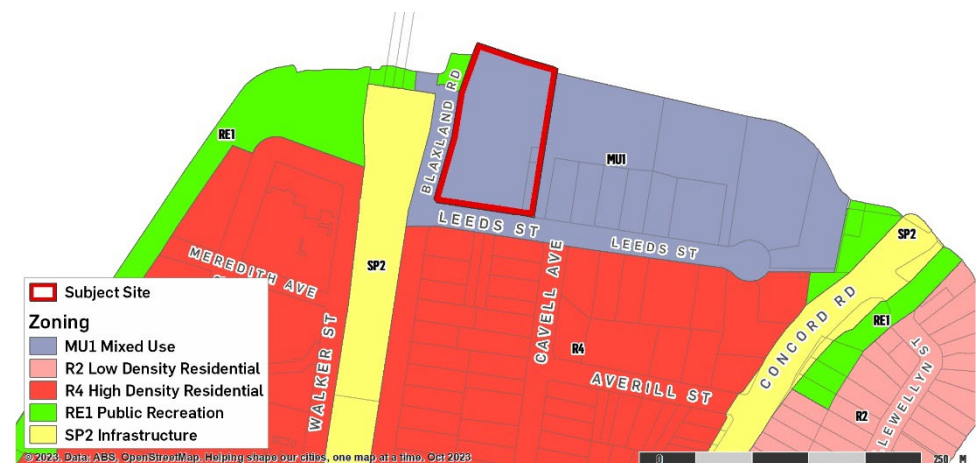
Figure 8 12:30pm Shadow Diagram (pink equals non-compliant shadow)
update



Source: SJB

Mills Park is located to the west of the site, across the rail line, and is zoned RE1 (Public Recreation). There is also an RE1 zoned parcel of land directly next to the site's north-western boundary. Due to of the site's orientation, the proposal does not cast shadows on these areas.

Figure 8 Land Zoning Map



Source: Urbis (adapted from the Canada Bay LEP)

Key Questions	Response
	<p>(e) to manage the visual impact of development when viewed from public places, including the Parramatta River.</p> <p>The proposed variation involves enclosing the balconies along the site's western elevation to create wintergardens. While some additional façade structure and detailing will be added to provide acoustic attenuation to the balconies/wintergardens on the western façade, this is not expected to be visually noticeable, especially at street level or when viewed from the Parramatta River.</p> <p>More generally, the visual impacts of the development (as viewed from public places, including the Parramatta River) were assessed by Urbis in the Visual Impact Assessment (VIA), which concluded:</p> <ul style="list-style-type: none"> • The visual impacts for the six assessed viewpoints range from Negligible to Low-Medium. • The proposal does not block views to any heritage items or areas of unique scenic quality. • From distant views the proposal is viewed in a wide visual composition amongst existing and under construction tower forms, which reduces the visibility and visual impact of the proposal. • The visual effects and impacts on the Parramatta River domain were considered low and acceptable. • The visual effects and impact rating for the identified Leeds Street Character Area view axis is acceptable given the view axis north along Cavell Avenue is retained and the intrinsic character of the composition remains. • The proposal has a high level of compatibility with the surrounding visual character. • The proposal is compatible with the contemplated desired future character for the area. <p>On balance, when all relevant matters are considered, the visual effects caused by the proposed development are considered to be <i>"reasonable and acceptable"</i> and as such the proposal can be supported on visual impact grounds.</p>
b) Are the underlying objectives or purpose of the development standard not relevant to the development?	N/A – see above
c) Would the underlying objective or purpose be defeated or thwarted if compliance was required?	N/A – see above
d) Has the development standard been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard?	N/A – see above

Key Questions	Response
e) Is the zoning of the land unreasonable or inappropriate so that the development standard is also unreasonable or unnecessary?	N/A – see above

As demonstrated above, the objectives of the floor space ratio development standard are achieved notwithstanding the proposed contravention.

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

There are sufficient environmental planning grounds to justify contravening the development standard:

Wintergardens

- The proposed variation is partially a result of enclosing balconies to create wintergardens along the western elevation, providing acoustic attenuation from the adjacent railway line, without adding additional floorspace. In this sense, the additional GFA is necessary to protect apartments near the railway line, ensuring appropriate acoustic conditions. The Acoustic Report prepared by E-Lab as part of the SSDA confirms the wintergardens effectively reduce noise from the nearby railway (in accordance with the Transport and Infrastructure SEPP, the *Development Near Rail Corridors and Busy Roads – Interim Guideline*, and the recommendations of Part 4J of the ADG).
- The variation essentially acts as additional façade detailing over the balconies, with no extra perceivable impact on bulk, scale, or visual presentation of the building to the public domain. In this sense, the overall building envelope would remain unchanged if the acoustic attenuation measures were not required, indicating that the variation is a necessary response to site-specific constraints.
- A compliant design (inclusive of no wintergardens) would lead to poorer outcomes, particularly in terms of amenity for western-facing apartments.
 - The proximity of the railway line to the west of the site poses a challenge in creating acoustically comfortable spaces for the apartments on Blaxland Road, particularly for the balconies. To address this, the western blocks are angled slightly towards the views, helping to deflect noise.
 - Acoustic attenuation is further enhanced through the use of double glazing and enclosed balconies, which are separated from the living spaces by glass sliding doors. The enclosed balconies feature operable double-stacked glazed sliding doors that allow two-thirds of the space to be opened.
 - The development achieves 60%+ cross-ventilation, in exceedance of NSW ADG requirements, notwithstanding the inclusion of wintergardens.

BASIX Score

The design exceeds the base BASIX energy and water requirements under the current tool, demonstrating strong environmental performance and a commitment to sustainable outcomes:

- The energy score exceeds the base requirement of 60 by 9 points (69/60).
- The water score exceeds the base requirement of 40 by 14 points (54/40).

The inability to meet the 5% FSR bonus thresholds (i.e., ‘overachievement’ by 15 and 20 points respectively) stems from constraints imposed by the updated BASIX tool, rather than the development’s inherent sustainability credentials:

- Clause 7.11 of the LEP, which provides for the BASIX bonus, was gazetted while the previous BASIX tool (v3) was in use. This tool was recently updated, with BASIX target scores increased on 1 October 2023. Under the earlier version of the BASIX tool, which was used to assess the original Regional DA, the proposed design would have qualified for the bonus, as it significantly exceeds the prior thresholds.

- Achieving the new energy target of 75/60 would require measures that are either impractical, ineffective, or inappropriate, such as installing cogeneration in the basement or placing Building Integrated Photovoltaics (BIPV) on south-facing surfaces, which generate negligible energy.
- Achieving the new water target of 60/40 would require dual reticulation or recycled water infrastructure. As referenced in the Rhodes East Development Control Plan, the delivery of this infrastructure is a Government responsibility. While the design allows for future connection to such infrastructure, it is currently not operational or available, with no guarantees provided by Government on when it will be delivered. Alternative measures, such as rainwater collection, were explored but found ineffective for significantly raising the score.

The proposed development incorporates numerous measures that optimise sustainability within the constraints of the site and the BASIX tool:

- Generous photovoltaic (PV) systems utilising all feasible roof space.
- Future readiness for connection to recycled water infrastructure when made available by Government.
- Green roofs and high-efficiency systems for air conditioning, lifts, hot water, and lighting.

On this basis, the Applicant (via this Clause 4.6 variation request) is seeking to utilise the 5% BASIX floor space bonus, as the development would qualify for this bonus at the time the LEP clause was gazetted (i.e., using Version 3 of the BASIX tool).

General

- The non-compliant development does not result in any adverse environmental impacts and instead provides a built form that achieves the desired future character of the area and is consistent with the objectives of Clause 4.4.
 - The proposed GFA non-compliance is partially the result of ensuring the private open spaces (balconies) along the western façade of the development achieve the necessary level of acoustic comfort.
 - The wintergardens do not increase perceived building mass and have no additional visual impact from the public domain. More generally, a comprehensive VIA has been prepared, which confirms the visual effects caused by the proposed development, inclusive of the FSR non-compliance, are *“reasonable and acceptable”*.
 - The development meets NSW ADG solar access and cross ventilation requirements and does not negatively affect views or overshadowing of adjacent sites / public domain.
- The overall design is consistent with the desired future character of the area and does not cause adverse environmental impacts on neighbouring properties. The Design Integrity Panel (DIP) has endorsed the (inclusive of GFA exceedance, wintergardens), recognising its benefits.
- The proposal aligns with key objectives of the Canada Bay LEP, promoting orderly development, good design, and improved amenity.

For these reasons it is deemed there are sufficient environmental planning grounds to justify the contravention of the development standard.

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