

The logo for URBIS, featuring the word "URBIS" in a bold, white, sans-serif font. The letters are contained within a white square frame that is partially open on the right side. A thick white vertical line runs down the left side of the page, and a thick white horizontal line runs across the top, intersecting the vertical line at the top of the logo's square frame.

URBIS

CLAUSE 4.6 VARIATION REQUEST – MAXIMUM BUILDING HEIGHT

849, 853 and 859 Pacific
Highway and 2-8 Wilson
Street, Chatswood

Prepared for
BB WILSON PROPERTY PTY LIMITED
4 March 2025

URBIS STAFF RESPONSIBLE FOR THIS REPORT WERE:

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Report Number Final



Acknowledgement of Country

Urbis acknowledges the Traditional Custodians of the lands we operate on.

We recognise that First Nations sovereignty was never ceded and respect First Nations peoples continuing connection to these lands, waterways and ecosystems for over 60,000 years.

We pay our respects to First Nations Elders, past and present.

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

Title: Sacred River Dreaming
Artist Hayley Pigram
Darug Nation
Sydney, NSW

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EXECUTIVE SUMMARY

This Clause 4.6 Variation Request (**request**) has been prepared by Urbis Ltd on behalf of Billbergia [BB Wilson Property Pty Ltd] (**the applicant**) to accompany a State significant development application (**SSDA**) for mixed-use development (including affordable housing) (**the proposal**) at 849, 853 and 859 Pacific Highway and, 2 and 8 Wilson Street, Chatswood (**the site**).

The SSDA seeks development consent for the following:

- Construction and operation of a new 36-storey mixed use development, comprising:
 - Six-storey (+ mezzanine) basement, containing 390 x residential / commercial car parking spaces, 368 x bicycle parking spaces, 20 x motorcycle parking spaces, waste rooms, plant rooms, vertical circulation, lobby areas, loading docks, OSD tank, and other back-of-house areas;
 - Two-storey podium (Ground Level to Level 01) comprising:
 - **Ground Level:** 2 x retail showrooms (lower levels), 10 x live / work studios (lower commercial components), residential, commercial, and childcare centre lobby entries, basement vehicle entry, fire control rooms, vertical circulation, plant, and back-of-house areas.
 - **Level 01:** 2 x retail showrooms (upper levels), 10 x live / work studios (upper residential and commercial components), outdoor communal area, 1 x commercial premises, vertical circulation, plant, and back-of-house areas.
 - Two Levels above podium comprising:
 - **Level 02:** Childcare centre (including outdoor play areas), communal open space for residents (including music room, barbecue facilities, indoor / outdoor gym, swimming pool, spa, plantings, open lawns, alfresco dining areas, seating areas), vertical circulation, and back-of-house areas.
 - **Level 03:** 14 x live / work studios (lower commercial components), outdoor communal area, communal amenity space, vertical circulation, plant, and back-of-house areas.
 - Two modulated 32-storey residential buildings (above podium) (Levels 04 – 35) containing 14 x live / work studios (upper residential and commercial components), and 308 apartments comprising 47 x one-bedroom units, 125 x two-bedroom units, 133 x three-bedroom units, and 3 x four-bedroom units (including 59 x affordable housing units), vertical circulation, plant, and back-of-house areas.
- Public domain works, including landscaping, street trees, and publicly accessible open spaces; and
- Reticulation of site services and infrastructure (electricity, telecommunication, gas, water, and sewer).

The request seeks a variation to the maximum building height for the site prescribed in State Environmental Planning Policy (Housing) 2021 (**Housing SEPP**). This request is made pursuant to Clause 4.6 of the Willoughby Local Environmental Plan 2012 (**LEP**). This request should be read in conjunction with the Environmental Impact Statement (**EIS**) prepared by Urbis Ltd and dated February 2025.

For the reasons detailed in this request, the variation is well-founded and justified and there are sufficient environmental planning grounds to warrant contravention of the development standard.

REQUEST TO VARY CLAUSE 6.25 – NON-RESIDENTIAL GFA DEVELOPMENT STANDARD IN WILLOUGBY LOCAL ENVIRONMENTAL PLAN 2012

1. Site Description

The table below summarises the key features of the site and the land to which the subject DA relates.

Feature	Description
Street Address	849, 853, and 859 Pacific Highway and 2 and 8 Wilson Street, Chatswood.
Land Owner	Billbergia (BB Wilson Property Pty Ltd)
Legal Description	<p>The legal property description of the site is:</p> <ul style="list-style-type: none"> ▪ Lot 1 Deposited Plan (DP) 1189541 (8 Wilson Street (Lot 1 O'Brien Street)) ▪ SP 52947 (2 Wilson Street) ▪ SP 1496 (849 Pacific Highway) ▪ SP 60178 (853 Pacific Highway) ▪ SP 10110 (859 Pacific Highway) ▪ SP2 land fronting Pacific Highway
Site Features	<p>Existing site improvements comprise:</p> <ul style="list-style-type: none"> ▪ 849 Pacific Highway – three storey residential flat building (9 x units) ▪ 853 Pacific Highway – three storey residential flat building (6 x units) ▪ 859 Pacific Highway – four storey residential flat building (8 x units) ▪ 2 Wilson Street – four storey residential flat building (14 x units) ▪ 8 Wilson Street – two storey industrial building owned by Transport Asset Holding Entity of NSW (TAHE). [This lot is burdened by an easement benefitting TAHE along the North Shore Rail Line boundary].

Feature	Description
	The site has an irregular shaped configuration and an area of 4,294 sqm (excluding the parcel of land zoned SP2 Infrastructure. The site is bound by Wilson Street (to north), O'Brien Street (to south), Pacific Highway (to west) and the T1 North Shore and Western Line, T9 Northern Line, and Metro North-West Line (to east).
Local Context	<p>The site is located within the suburb of Chatswood in the Willoughby Local Government Area (LGA). Chatswood is located 6km north of the Sydney CBD within Sydney's Lower North Shore. The site is in proximity and highly accessible to the commercial centres of North Sydney and Macquarie Park.</p> <p>The site is located at the north-western extent of the Chatswood CBD within convenient walking distance of local amenities, facilities, and services. The area is well advanced in its transition from an older style commercial precinct into a thriving mixed-use area characterised by commercial and residential land uses.</p>
Regional Context	<p>The surrounding development context is summarised as follows:</p> <ul style="list-style-type: none"> ▪ North: Directly north of the site is Wilson Street, that connects to Pacific Highway and extends over the railway line. Opposite the site is 871- 877 Pacific Highway, which has received consent for a new 27-storey mixed use building with a commercial podium and residential tower above (DA-2022/161). ▪ South: Directly south of the site is O'Brien Street, a cul-de-sac road. Further south is 11 Railway Street – a 24 storey mixed use residential development. ▪ East: The site has an eastern boundary to the T1 North Shore and Western Line, T9 Northern Line, and Metro North-West Line. Further east is medium density housing extending through the CBD. ▪ West: Directly west lies the Pacific Highway. Further west is medium density housing.
Transport	The site is approximately 550m from Chatswood train and Metro station. Chatswood Train Station is located on the T1 North Shore, Northern, and West Line and connects to major centres such as North Sydney, Parramatta, and Sydney CBD. The Metro station provides services to Macquarie Park and Epping.
Site Access	<p>The site is located along Pacific Highway which is a State classified road, and a major traffic corridor. The Pacific Highway is a six-lane, two-way road. In both directions the kerbside lanes are dedicated transit lanes during peak hours. Multiple high frequency bus routes run along the Pacific Highway resulting in a high level of accessibility to / from the site to destinations across metropolitan Sydney.</p> <p>Wilson Street is a local two-way road, with parking in both directions permitted. Bus stops along Anderson Street connect to Wilson Street to its west. Bus stops are provided along Pacific Highway and Ashley Street.</p> <p>The site connects to gentle gradient footpaths on the surrounding street network and safe road crossings.</p>
Flooding	The site is not affected by overland flow.
Natural Environment	The site is located in an urban context and is not within proximity to any risks such as flooding, land slip, bushfires, or coastal hazards.
European Heritage	The site is not listed as a local or State heritage item nor is it located within a heritage conservation area.
Aboriginal Heritage	No Aboriginal objects or Aboriginal places are registered within the subject area.

2. Proposed Development

The SSDA seeks development consent for the following:

- Construction and operation of a new 36-storey mixed use development, comprising:
 - Six-storey (+ mezzanine) basement, containing 390 x residential / commercial car parking spaces, 368 x bicycle parking spaces, 20 x motorcycle parking spaces, waste rooms, plant rooms, vertical circulation, lobby areas, loading docks, OSD tank, and other back-of-house areas;
 - Two-storey podium (Ground Level to Level 01) comprising:
 - **Ground Level:** 2 x retail showrooms (lower levels), 10 x live / work studios (lower commercial components), residential, commercial, and childcare centre lobby entries, basement vehicle entry, fire control rooms, vertical circulation, plant, and back-of-house areas.
 - **Level 01:** 2 x retail showrooms (upper levels), 10 x live / work studios (upper residential and commercial components), outdoor communal area, 1 x commercial premises, vertical circulation, plant, and back-of-house areas.
 - Two Levels above podium comprising:
 - **Level 02:** Childcare centre (including outdoor play areas), communal open space for residents (including music room, barbecue facilities, indoor / outdoor gym, swimming pool, spa, plantings, open lawns, alfresco dining areas, seating areas), vertical circulation, and back-of-house areas.
 - **Level 03:** 14 x live / work studios (lower commercial components), outdoor communal area, communal amenity space, vertical circulation, plant, and back-of-house areas.
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- Public domain works, including landscaping, street trees, and publicly accessible open spaces; and
- Reticulation of site services and infrastructure (electricity, telecommunication, gas, water, and sewer).

The objectives of the SSDA project are as follows:

- Facilitate the delivery of a high-quality development (including affordable housing), at a well-located site;
- Deliver a built form outcome that is consistent with the desired future character of the Chatswood CBD;
- Capitalise on the site's close proximity to Chatswood CBD and public transport accessibility;
- Provide high quality employment-generating floor space within ground floor retail units, live / work units, and podium commercial uses (including a childcare centre);
- Deliver active public domain spaces to support a vibrant and lively community; and
- Deliver affordable housing to help achieve the State Government's targets.

The SSDA utilises legislation gazetted by the NSW Government that introduces an SSDA pathway for large scale residential developments with a cost over \$75 million, provided that at least 10% of the residential component of the development will be used for affordable housing for a minimum of 15 years. These provisions allow a 30% uplift in the maximum permitted height and FSR controls that apply to the land.

The NSW Government policy initiative incentivises and supports the delivery of affordable housing under the *State Environmental Planning Policy (Housing) 2021 (Housing SEPP)*. It combines all levels of government, investors, and the private sector to unlock quality affordable housing supply over the medium term.

As one of the leading residential property developers in the Australian market and given their existing working relationship with Evolve Housing (a registered Community Housing Provider), Billbergia has identified the opportunity to deliver much needed housing, including affordable housing, at the subject site.

The table below summarises key numerical features and details of the proposed development.

Descriptor	Project Details
Project description	Construction of a 36-storey mixed-use development, with a commercial podium and two residential towers above (including affordable housing)
Project area	4,294 sqm (excluding the parcel of land zoned SP2 Infrastructure) 4,752 sqm (including the parcel of land zoned SP2 Infrastructure)
Gross floor area	36,323 sqm
Floor space ratio	8.46:1
Building height	120.05m (within 36 storeys)
Apartment mix	308 x residential apartments, comprising: <ul style="list-style-type: none"> ▪ 47 x 1-bedroom apartments ▪ 125 x 2-bedroom apartments ▪ 133 x 3-bedroom apartments ▪ 3 x 4-bedroom apartments
Affordable housing	5,448 sqm affordable housing provision (59 x units): <ul style="list-style-type: none"> ▪ 16 x one-bedroom units ▪ 26 x two-bedroom units ▪ 17 x three-bedroom units
Non-residential GFA	4,442 sqm, comprising: <ul style="list-style-type: none"> ▪ Retail / showroom uses at ground and lower levels: 1,281 sqm ▪ Childcare centre: 483 sqm ▪ Commercial component of live / work units: 2,678 sqm
Live/ work units	24 x live/work units
Communal open space	1,271 sqm communal open space (29.6% site area)
Deep soil zone	307 sqm (7.1% site area)
Basement and car parking	Six-storey basement car parking providing 390 x car parking spaces
Bicycle parking spaces	369 x bicycle parking spaces
Motorcycle parking spaces	20 x motorcycle parking spaces
Estimated development cost	\$310,450,400 (including GST)

PLANNING INSTRUMENT, DEVELOPMENT STANDARD, AND VARIATION

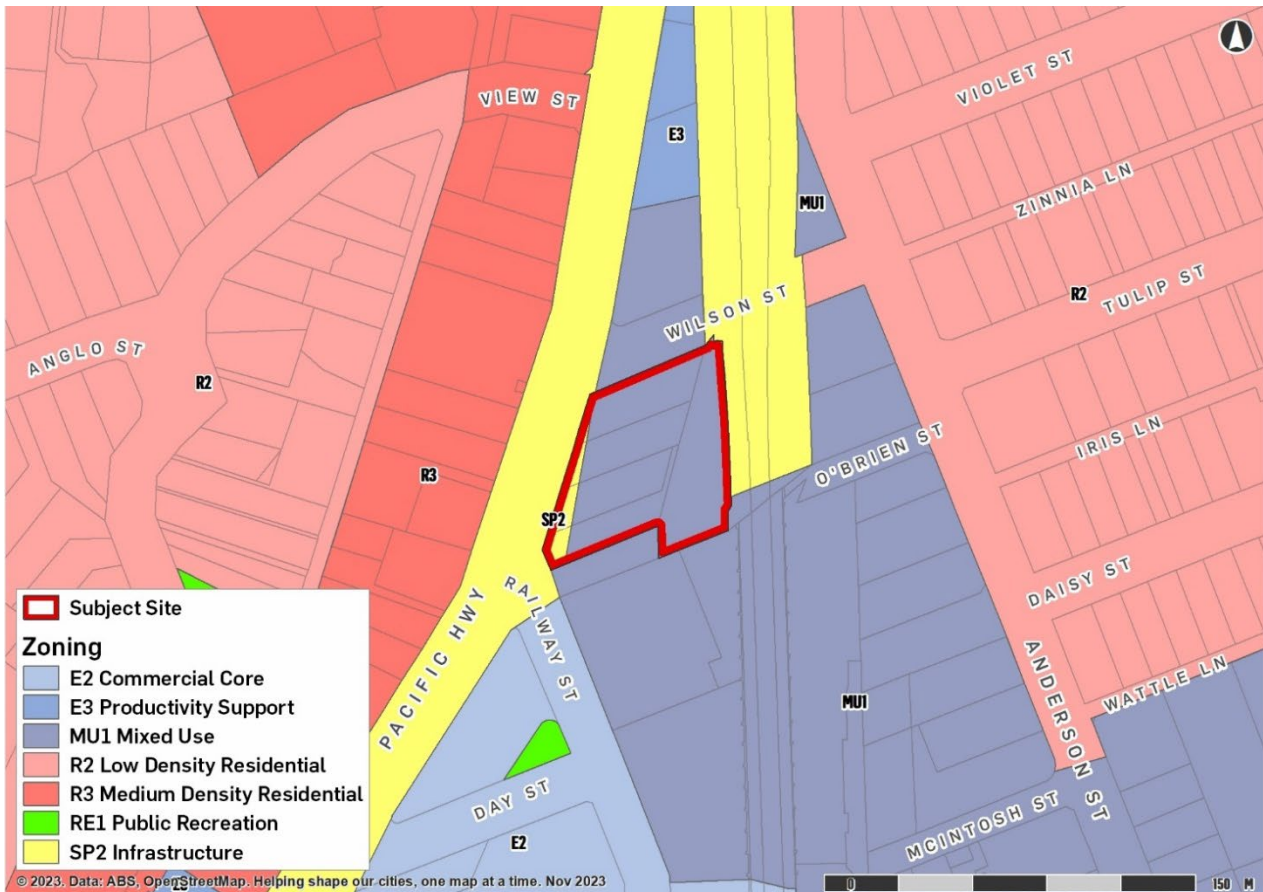
3. Environmental planning instrument sought to be varied

This request seeks to vary the State Environmental Planning Policy (Housing) 2021 (**Housing SEPP**).

4. Zoning of the site

The land to which the SSDA relates is zoned MU1 (Mixed Use) and SP2 (Infrastructure) (see **Figure 1**).

Figure 1 Land Use Zoning



Source: Urbis

The relevant objectives of the MU1 Mixed Use Zone are:

- To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.
- To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.
- To allow for city living on the edges of the city centre of Chatswood, which encourages public transport use, shopping and the use of businesses and recreational services that contribute to the vitality of the city, without undermining its commercial role.

A small parcel of land zoned SP2 Infrastructure (Classified Road) is included in the site. In terms of the legal ownership arrangements, there are no easements, restrictions, or entitlements over the SP2 zoned land in favour of Transport for NSW (TfNSW). The SP2 zoned land is devoid of any built form, structures, or servicing works. The parcel of land will remain under the ownership of the applicant until such time that the land is compulsorily acquired by the relevant authority for future road widening works.

5. Development standard to be varied

The standard proposed to be varied is the maximum height of the building standard under Part 2, Division 1, Clause 16(3) of the Housing SEPP. Part 2, Division 1, Clause 16(3) of the 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—

$$\text{affordable housing component} = \frac{\text{additional floor space ratio}}{\text{(as a percentage)}} \div 2$$

(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 building height for the site is established in Clause 4.3(2) of the LEP and shown on the LEP Height of Buildings map (refer **Figure 2** below). In accordance with Clause 4.3(2) of the LEP, the site is subject to a maximum building height of 90 metres.

Figure 2 LEP Height of Buildings Map



Source: Urbis

Part 2, Division 1, Clause 16(3) development standard of the Housing SEPP permits an additional 30% height bonus above the maximum building height (in metres) permissible under Clause 4.3 of the LEP (based on the provision of 15% affordable housing). The proposal provides at least 15% affordable housing and is therefore eligible to utilise the full 30% uplift in building height available under the Housing SEPP. This results in a maximum height of building development standard of **117 metres**.

The height of buildings development standard is not excluded from the operation of Clause 4.6 of the LEP.

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:

- (a) to ensure that new development is in harmony with the bulk and scale of surrounding buildings and the streetscape,*
- (b) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,*
- (c) to ensure a high visual quality of the development when viewed from adjoining properties, the street, waterways, public reserves or foreshores,*
- (d) to minimise disruption to existing views or to achieve reasonable view sharing from adjacent developments or from public open spaces with the height and bulk of the development,*
- (e) to set upper limits for the height of buildings that are consistent with the redevelopment potential of the relevant land given other development restrictions, such as floor space and landscaping,*
- (f) to use maximum height limits to assist in responding to the current and desired future character of the locality,*
- (g) to reinforce the primary character and land use of the city centre of Chatswood with the area west of the North Shore Rail Line, being the commercial office core of Chatswood, and the area east of the North Shore Rail Line, being the retail shopping core of Chatswood,*
- (h) to achieve transitions in building scale from higher intensity business and retail centres to surrounding residential areas.*

6. Type of development standard

The request is seeking to vary the numeric height of building control pursuant to the Housing SEPP.

7. Variation to development standard

Inclusive of the Housing SEPP bonuses, the maximum building height development standard is as follows:

- Maximum allowable Height = 90 x 130% = 117 metres

The proposed development has a maximum building height of 120.05 metres and therefore exceeds the maximum building height development standard by 3.05 metres (exceedance of 2.6%). The height of building is measured from existing ground level at RL103.75 to the highest point of the building at RL223.8.

The following table summarises the building height exceedance.

Building Height Standard (inc. +30%)	Maximum Height Proposed	Proposed Variation	Part of the Building that Exceeds Height
117 metres	120.05 metres	3.05 metres (2.6%)	Lift overrun, plant, and glass balustrades

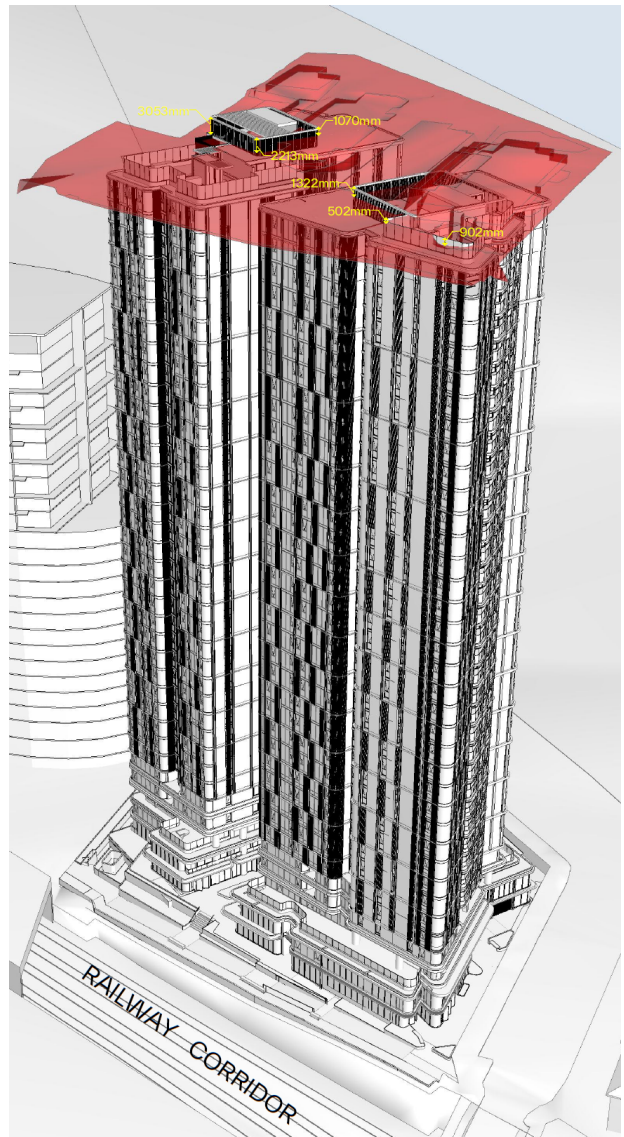
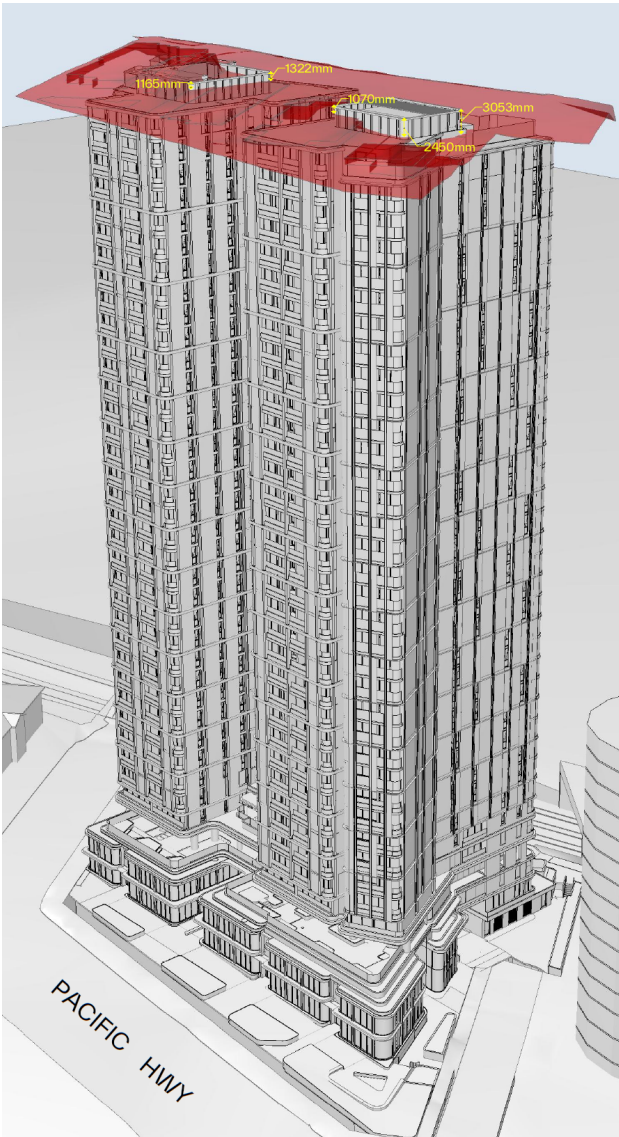
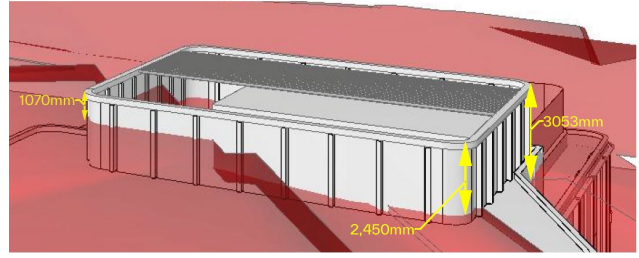
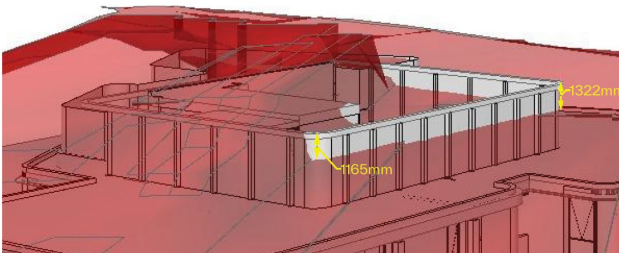
The exceedance primarily relates to a lift overrun on the top of the southern and northern towers and a small portion of wind mitigation balustrades to the north-eastern corner. The vast majority of the lift overruns and glass balustrades are within the 117m building height plane. However, due to the topography of the site, corners of the lift overruns and glass balustrades marginally protrude beyond the height plane. The balance of architectural and structural elements exceeding the height plane results in only minor exceedances.

The lift overrun has been thoughtfully addressed by incorporating an architectural feature that reduces its visibility and mitigates the impact of the height breach as shown in **Figure 4**. This approach ensures that the increased building height does not adversely affect the views, privacy, or solar access of adjacent properties.

Visual representation of the proposed variation

Figure 3 identifies the areas of the development which exceed the height of building development standard.

Figure 3 Building Height Plane



Source: PBD Architects

JUSTIFICATION FOR THE PROPOSED VARIATION

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

Key Questions	Response
<i>(a) Are the objectives of the development standard achieved notwithstanding the non-compliance?</i>	<p>For completeness, this section addresses both the objectives of the infill affordable housing provisions of the Housing SEPP and the objectives of the height of building development standard of the Willoughby LEP 2012.</p> <p><u>Objective of Part 2, Division 1 of the Housing SEPP</u></p> <p><i>15A The objective of this division is to facilitate the delivery of new infill affordable housing to meet the needs of very low, low and moderate income households.</i></p> <p>The proposal dedicates 15% of the total GFA as affordable housing which equates to 59 affordable housing apartments (5,448 sqm of GFA).</p> <p>The affordable housing component has been carefully designed to ensure high levels of amenity and a variety of housing typologies that will meet the expected needs and profile of the affordable housing tenants.</p> <p>The development provides affordable housing for those on very low, low, to moderate incomes in a location close to services, retail and public transport responding to an identified need for affordable housing.</p> <p><u>Objectives of Clause 4.3</u></p> <p><i>(a) To ensure that new development is in harmony with the bulk and scale of surrounding buildings and the streetscape</i></p> <p>The proposed development is consistent with the current emerging high-density character of the surrounding locality of the southern Chatswood CBD in terms of bulk and scale. The proposal is consistent with the envisaged land use, urban design, and public domain objectives outlined in Council's CBD Planning and Urban Design Strategy 2036.</p> <p>Given the scale of urban transformation to 120.05 metre towers on surrounding land throughout the CBD, the proposed minor protrusion of the building height control on the tower rooftops will not materially change the development outcome, nor detract the harmonious relationship with surrounding towers.</p> <p><i>(b) To minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion</i></p> <p>The following key environmental impacts have been considered in the assessment of this variation request:</p> <p>Overshadowing: The mid-winter overshadowing diagrams (at Figure 4) demonstrate that the extent of overshadowing cast as a consequence of the proposed development protruding beyond the 117 metre height plane is minor compared by the overshadowing cast by a compliant building height.</p> <p>Amenity and privacy: The proposed extrusion into the height plane allows access to the rooftop terrace areas, which will provide high levels of outdoor amenity to future residents of the residential apartments.</p> <p>Disruption of views: The proposed exceedances are principally located within the centre of each tower and are unlikely to result in the disruption of views from adjacent buildings towards objects of visual importance. The extent of additional height beyond the height limit is imperceptible and difficult to articulate to the naked eye from the public domain perspective.</p> <p>Bulk and scale: No GFA is located within the part of the building that exceeds the height control.</p>

Key Questions	Response
	<p>(c) <i>To ensure a high visual quality of the development when viewed from adjoining properties, the street, waterways, public reserves or foreshores</i></p> <p>The proposed development has been subject to an architectural design competition consistent with Clause 6.23 of the LEP. The project was awarded design excellence by the Jury, subject to design refinements prior to the lodgement of the SSDA. The final design is consistent with the scheme for which design excellence was awarded despite the minor exceedance of the height of building control and is therefore considered to represent a high visual quality when viewed from adjoining land.</p> <p>The additional height at the lift overrun is generally centred within the towers and will not be visible to pedestrians or discernible to the naked eye.</p> <p>(d) <i>To minimise disruption to existing views or to achieve reasonable view sharing from adjacent developments or from public open spaces with the height and bulk of the development</i></p> <p>The proposed elements that exceed the building height control (including lift overruns and balustrades) ensure access to and appropriate screening of rooftop terraces areas. The proposed exceedance is unlikely to result in the disruption of existing views.</p> <p>(e) <i>To set upper limits for the height of buildings that are consistent with the redevelopment potential of the relevant land given other development restrictions, such as floor space and landscaping</i></p> <p>The proposed variation is minor (a maximum of 2.6% variation). In the context of the Chatswood CBD, which has been planned for significant transformation to high-density with equally scaled towers in proximity of the subject site, the magnitude of departure will still maintain a scale and character as envisioned in the Chatswood CBD Planning and Urban Design Strategy 2036 (Chatswood CBD Strategy).</p> <p>The proposed height breach does not result in additional habitable floor space or GFA, and additionally delivers rooftop terraces and services on the tower rooftops to the benefit of residents.</p> <p>(f) <i>To use maximum height limits to assist in responding to the current and desired future character of the locality</i></p> <p>The future and emerging character of the immediate surrounds is commensurate with the Chatswood CBD Strategy.</p> <p>(g) <i>To reinforce the primary character and land use of the city centre of Chatswood with the area west of the North Shore Rail Line, being the commercial office core of Chatswood, and the area east of the North Shore Rail Line, being the retail shopping core of Chatswood</i></p> <p>The proposal reinforces the primary and emerging character of the Chatswood CBD through delivering a mixed-use development.</p> <p>(h) <i>To achieve transitions in building scale from higher intensity business and retail centres to surrounding residential areas.</i></p> <p>Pacific Highway provides a physical separation and transition to the medium density housing to the west of the Highway.</p> <p>The objectives of the building height development standard of the LEP and Housing SEPP are achieved, notwithstanding the minor non-compliance detailed in this request. Figure 4 indicates the extent of overshadowing between a compliant building height and the proposed building height.</p>
<p>(b) <i>Are the underlying objectives or purpose of the development standard not relevant to the development? (Give details if applicable)</i></p>	<p>N/A</p>

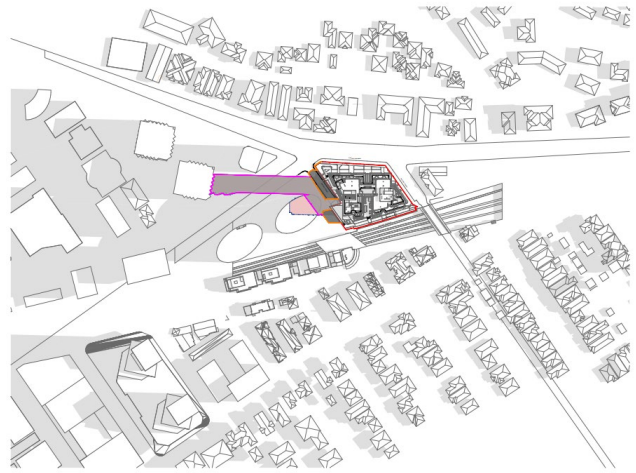
Key Questions	Response
<i>(c) Would the underlying objective or purpose be defeated or thwarted if compliance was required? (Give details if applicable)</i>	N/A
<i>(d) Has the development standard been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard?</i>	N/A
<i>(e) Is the zoning of the land unreasonable or inappropriate so that the development standard is also unreasonable or unnecessary?</i>	N/A

Figure 4 indicates the extent of overshadowing comparison between a compliant building height (117 metres) and the proposed building height (120.05 metres) (additional shadow identified in **hatched red**).

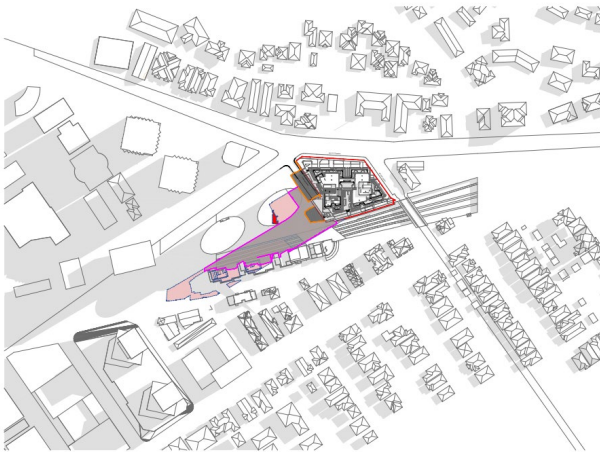
Figure 4 Overshadowing Diagrams – Winter Solstice



Picture 1 9am (21 June)



Picture 2 11am (21 June)








Picture 3 1pm (21 June)



Picture 4 3pm (21 June)

Source: PBD Architects

-  OVERSHADOWING CAST BY THE DA BUILDING ENVELOPE
-  ADDITIONAL OVERSHADOWING CAST BY THE PROPOSED DEVELOPMENT WITH 30% UPLIFT UNDER THE 117m HEIGHT LIMIT
-  ADDITIONAL OVERSHADOWING CAST BY THE PROPOSED DEVELOPMENT WITH 30% UPLIFT OVER THE 117m HEIGHT LIMIT
-  EXTENT OF THE SHADOW CAST BY THE EXISTING BUILDINGS ON SITE
-  SITE BOUNDARY

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

There is an absence of environmental harm arising from the contravention of the height of building development standard and sufficient and positive environmental planning grounds to justify contravening the development standard for the following reasons:

- **Overshadowing:** The mid-winter overshadowing diagrams (replicated at **Figure 4**) demonstrate that the extent of overshadowing cast as a consequence of the proposed development protruding beyond the 117 metre height plane is minor compared by the overshadowing cast by a compliant building height.
- **Visual and privacy:** The proposed variation does not result in additional habitable floor space or gross floor area. The exceedance allows access to the rooftop private terraces and necessary building services and balustrades. The proposed development is physically separated by the Pacific Highway, Wilson Street, O'Brien Street, and the North Shore train line. Consequently, direct neighbours will not be compromised by this minor height exceedance in terms of privacy, solar access, or overshadowing.
- **Disruption of views:** The majority of the proposed exceedances are located within the central portion of the tower rooftops and are unlikely to result in the disruption of views from adjacent development towards locations of objects that contain visual importance. The element of the proposed development protruding beyond the 117 metre height plane is imperceptible and difficult to articulate to the naked eye.
- **Improved amenity:** The proposed extrusions allow access to the rooftop terrace areas, which will provide high levels of outdoor amenity and liveability to future residents of the penthouse apartments.
- **Architectural integration:** The lift overruns and glass balustrades which protrude above the height limit sensitively blend into built form and aesthetic of the design and contribute to the unique and striking identity of the building. In this context, the integration of the protruding elements into the building act as a contributory decorative element akin to an architectural roof feature.
- **Build quality:** During detailed design subsequent to the original design competition, the floor-to-ceiling heights of the residential apartments have increased from 3100mm to 3150mm, in part to comply with the new NCC and to allow for coordination of additional building services between each residential floor.
- **Tower slenderness:** The design creates two towers with small floor plates. Smaller floor plates result in improved building performance in terms of environmental sustainability and bulk and scale. The proposal maximises amenity to the surrounding land uses and minimises the overall bulk and scale of the project.
- **Obstacle Limitation Surface:** The proposal, inclusive of the proposed building height breach, will not exceed the Obstacle Limitation Surface applicable to the site. Advice from Sydney Airports (**Appendix TT** of the EIS) endorses a building height up to 198m AHD at the site. The proposed building height exceedance is well below this Obstacle Limitation Surface limit.

For the reasons detailed in this request, the variation to building height standard of the Housing SEPP is well-founded and justified and there are sufficient environmental planning grounds to warrant contravention.

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