

CLAUSE 4.6 VARIATION REQUEST (HEIGHT)

153-157 Walker Street, North Sydney

Prepared for:

FREECITY NORTH SYDNEY DEVELOPMENT PTY LTD

July 2025

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Report Number	Final

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REQUEST TO VARY MAXIMUM PERMITTED BUILDING HEIGHT CONTROL UNDER CLAUSE 4.3

This report constitutes a written request to vary the maximum permitted building height control that applies to 153-157 Walker Street, North Sydney (the site) under Clause 4.3 of the *North Sydney Local Environmental Plan 2013 (NSLEP 2013)*.

1. Site description

The land to which this Clause 4.6 Variation Request relates is 153-157 Walker Street, North Sydney (the site). The site is located within the North Sydney Local Government Area (LGA) towards the eastern periphery of the North Sydney Central Business District (CBD). Two (2) adjoined commercial office buildings exist at the site, which is legally described as Lot 1 in Deposited Plan (DP) 84729 and Strata Plan (SP) 50411. These allotments have a combined area of 1,928m².

The site benefits from dual street frontages:

- **East:** Little Walker Street (45.9m).
- **West:** Walker Street (45.4m).

The site has two side boundaries:

- **North:** The northern site boundary (42.2m) is adjoined by the properties at 161-165 Walker Street.
- **South:** The southern site boundary (42.2m) is adjoined by the property at 141 Walker Street.

The topography of the site is characterised by a shallow slope towards the south-east. There is a total fall of ~6.7m from the north-western extent of the site to the south-eastern extent of the site. The site and the legal lot entities that it comprises are shown at **Figure 1** (overleaf).

Figure 1 Site Aerial



Source: Urbis (excl. Nearmap aerial underlay)

2. Current (Discontinued) Commercial Office Tower Approval

A Development Application (DA) was lodged with Council on 16 December 2022 to construct a 43-storey commercial office tower at the site. This DA (DA393/22) was ultimately approved by the Land and Environment Court (LEC) on 16 August 2024. Development Consent was granted to undertake the following works:

- Demolition of the existing commercial office buildings.
- Associated site enabling works, including tree removal and ground excavations.
- Construction of a 43-storey commercial office building and a 5-level basement with 113 car parking spaces and 12 motorcycle parking spaces.

The approved commercial tower scheme has a maximum built RL of 234m. This height is generally consistent with the height of the proposed structure, noting that the roof has been architecturally designed to slope from RL218 – RL234.

This Clause 4.6 Variation Request provides an independent assessment for the height variation that is proposed under this SSDA.

Extracts of the approved tower elevations under DA393/22 are provided overleaf, with the maximum permitted building height control that applies to the site shown.

3. Surrounding Height Variations (Approved and Proposed)

The following height variations have either been approved or are currently proposed in relation to development that is located within the immediate vicinity of the site:

- **146 Arthur Street (SSD61000021) – Proposed Height Variation**

Approval is sought for a 46-storey build-to-rent housing tower under SSD-61000021. The proposed scheme seeks approval for a height exceedance of 19.3m, which equates to 10.27% of the standard to be varied. SSD61000021 is currently in the post-exhibition phase of assessment.

- **107 Mount Street (DA58/22) – Approved Height Variation**

The approved commercial tower at 107 Mount Street under DA58/22 would be constructed to a maximum height of RL 187.7m. The approved height of this tower would exceed the maximum permitted building height (RL 178m) by 9.7m. The extent of this approved height variation equates to 7% of the standard that was varied.

- **63-83 Walker Street (DA97/21) – Approved Height Variation**

The approved commercial tower at 63-83 Walker Street under DA97/21 would be constructed to a maximum height of RL 155m. The subsequent height exceedance (10m) above the maximum permitted building height (RL 145m) equates to 6.9% of the standard that was varied.

- **110 Walker Street (DA19/21) – Approved Height Variation**

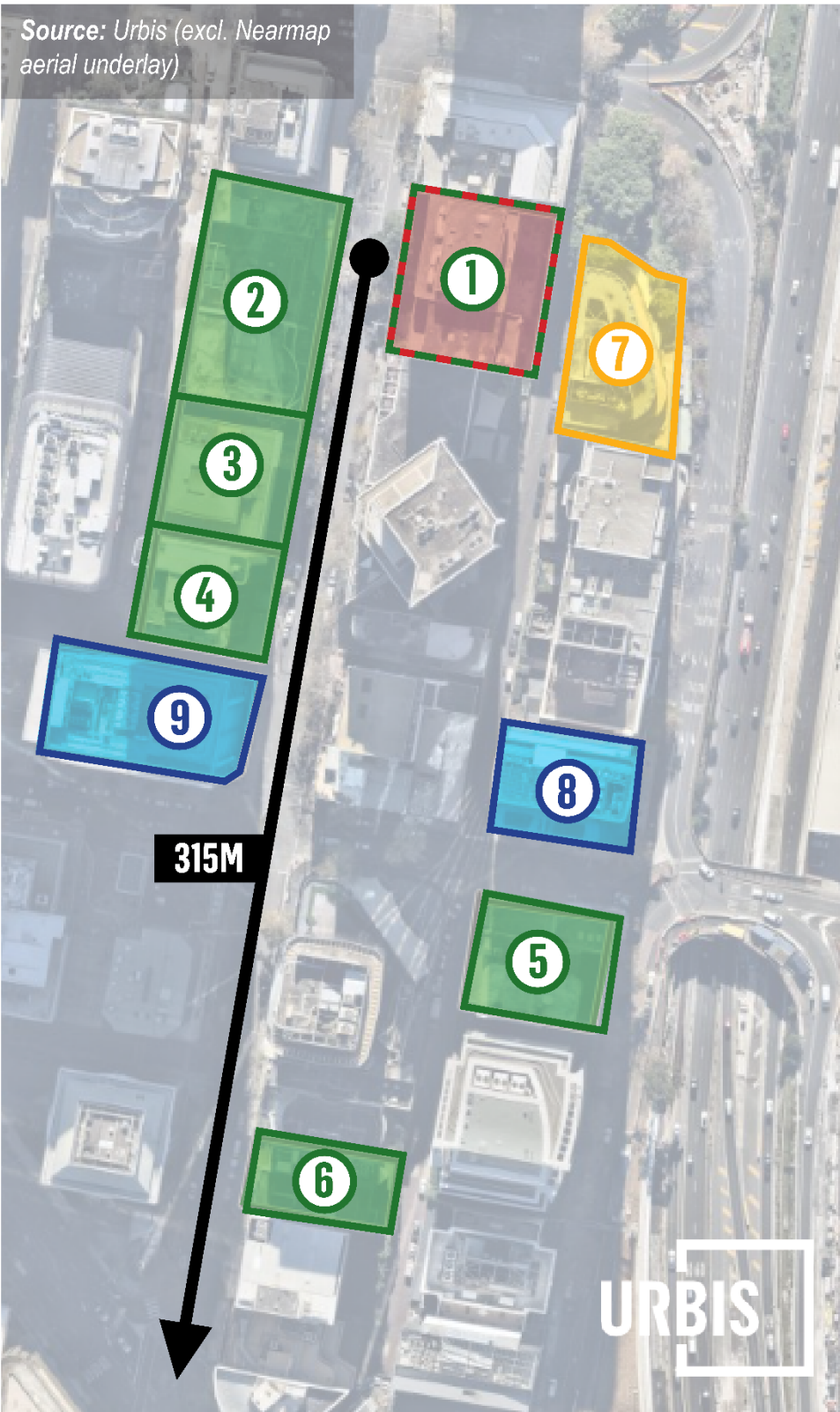
The approved commercial tower at 110 Walker Street under DA19/21 would be constructed to a height of RL 270.3m. The subsequent height exceedance (10.3m) above the maximum permitted building height (RL 260m) equates to 4% of the standard that was varied.

- **105-153 Miller Street (DA387/24) – Proposed Height Variation**

The proposed commercial redevelopment at 105-153 Miller Street seeks approval to exceed the maximum permitted building height by 26m. The extent of this height variation equates to 17.2% of the standard to be varied.

Figure 2 Surrounding Height Variations

Source: Urbis (excl. Nearmap aerial underlay)



APPROVED HEIGHT VARIATIONS

1. **DA393/22 (Discontinued)**
153-157 Walker Street (Site)
Height: RL 234m
Height Variation: 11.9%
2. **DA19/21**
110 Walker Street
Height: RL 270.3m
Height Variation: 4%
3. **DA32/22**
100 Walker Street
Height: RL 239m
Height Variation: 5.3%
4. **DA368/18**
88 Walker Street
Height: RL 232.6m
Height Variation: 2.5%
5. **DA58/22**
107 Mount Street
Height: RL 187.7m
Height Variation: 7%
6. **DA97/22**
63-83 Walker Street
Height: RL 155m
Height Variation: 6.9%

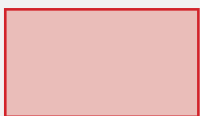
PROPOSED HEIGHT VARIATIONS

7. **SSD61000021**
146 Arthur Street
Proposed Height: RL 207.3m
Proposed Height Variation: 10.27%

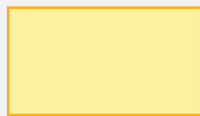
PREVIOUS HEIGHT VARIATIONS *

Previous variations to the NSLEP 2001.

8. **DA70/18**
118 Mount Street
Approved Height: RL 157m
Approved Variation: 20.8%
** Now height-compliant under NSLEP 2013.*
9. **MP08_0241**
100 Mount Street
Approved Height: RL 200.7m
Approved Variation: 2.4%
** Now height-compliant under NSLEP 2013.*



THE SITE



PROPOSED HEIGHT VARIATIONS

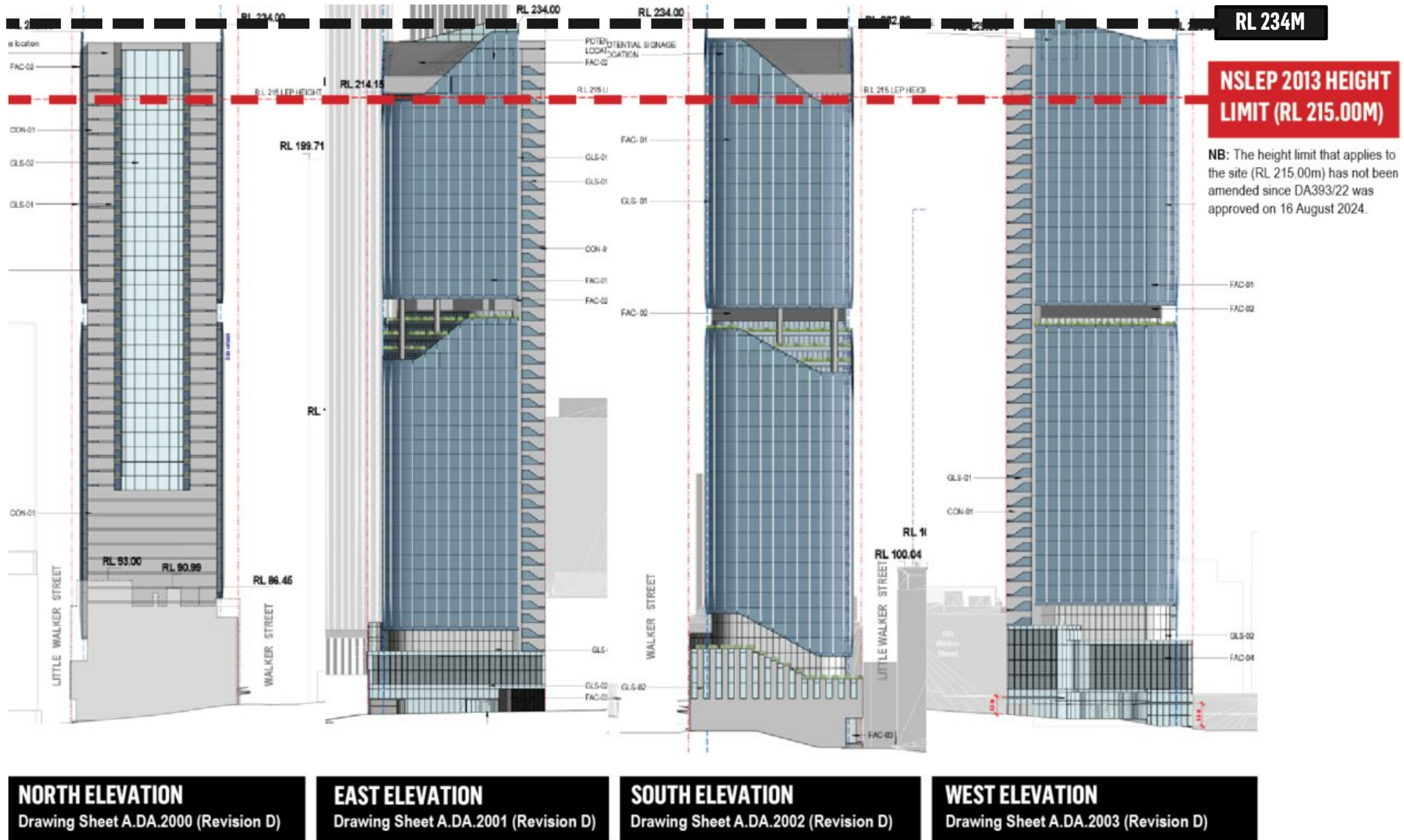


APPROVED HEIGHT VARIATIONS



PREVIOUS HEIGHT VARIATIONS (NSLEP 2001)

Figure 3 Approved Height Variation (DA393/22)



Source: DA393/22 Stamped Plans; GPT Funds Management Limited v North Sydney Council [2024] NSWLEC 1498; Architectus (adapted by Urbis)

PROPOSED DEVELOPMENT

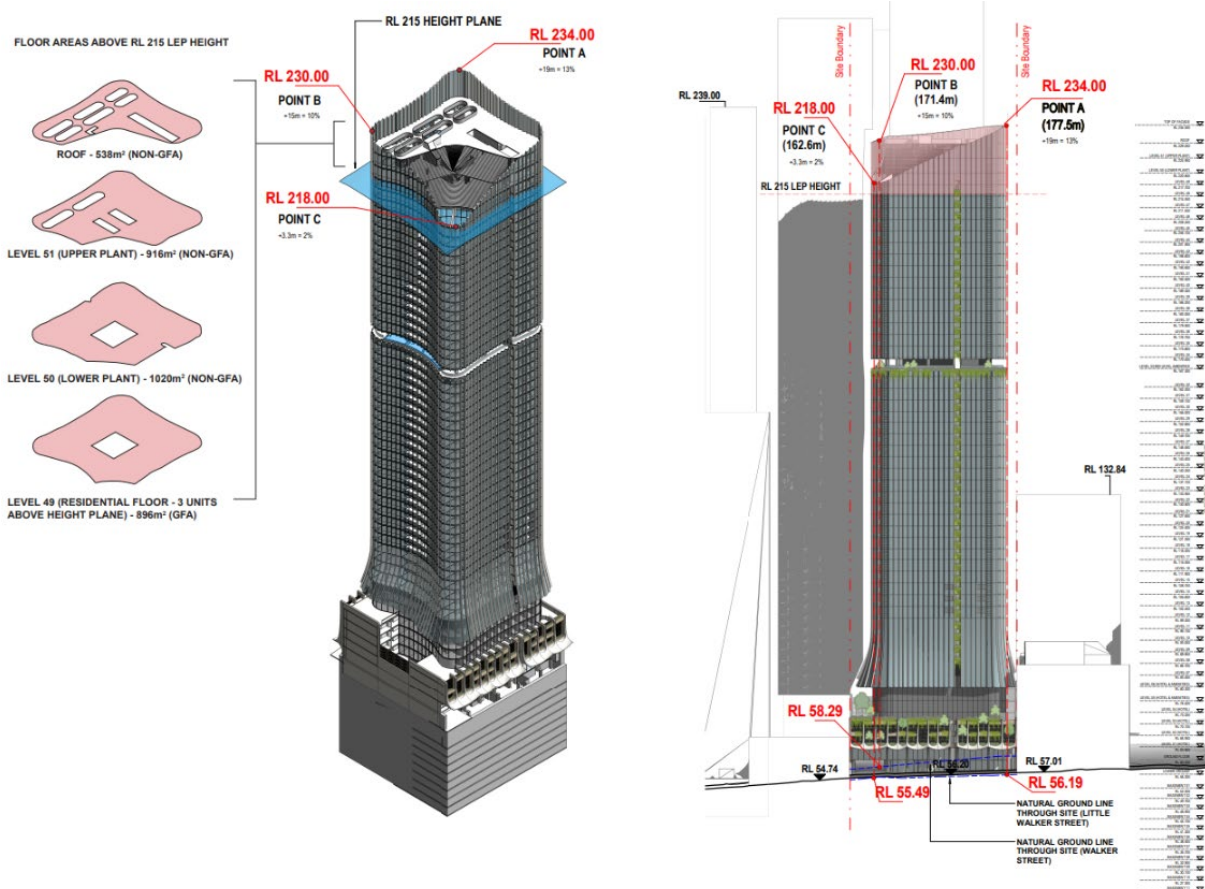
The proposed development under this SSDA (SSD-82599709) seeks approval for:

- Demolition of existing structures and tree removal.
- Excavations to accommodate eleven (11) basement levels with 233 car parking spaces and building services.
- Construction of a fifty-one (51) storey mixed-use tower, which will accommodate:
 - 296 residential apartments.
 - A hotel with 164 rooms.
 - Guest amenities and communal open spaces.
 - 174m² of retail floorspace at the Ground Level and Lower Ground Level.
 - Plant rooms on Level 50 and 51.
- Utility network connections and augmentations as required.

The proposed development is supported by a concurrent Planning Proposal which seeks to introduce 'Shop Top Housing' as an additional permitted land use at the site. The Planning Proposal will be assessed and determined concurrently alongside this SSDA.

Further reference should be made to the detailed description of the proposed development that is provided within the Environmental Impact Statement (EIS) that has been prepared to support this SSDA.

Figure 4 Isometric Massing Diagrams



Source: Architectus

NB: Enlarged versions of this diagrams are provided on Page 7 and Page 8

PLANNING INSTRUMENT, DEVELOPMENT STANDARD AND PROPOSED VARIATION

4. Instrument to be Varied

The application seeks to vary the *North Sydney Local Environmental Plan 2013 (NSLEP 2013)*.

5. Applicable Land Use Zone

The site is subject to the E2 Commercial Centre Zone under the NSLEP.

6. Development Standard to be Varied

The numerical development standard to be varied is the maximum permitted building height control that is mapped for the site (RL 215m) under Clause 4.3 of the NSLEP 2013. The standard to be varied is imposed under Clause 4.3 of the NSLEP 2013:

4.3 Height of buildings

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

7. Type of Development Standard

The request is seeking to vary the maximum numeric height of buildings development standard, as it applies to the site.

8. Development Standard to be Varied

Under the NSLEP 2013, the maximum height of buildings control for the site is RL 215m.

9. Numerical Extent of Proposed Variation

The maximum height of the proposed development is RL218 – RL234, which exceeds the height control by up to 19m, which is a percentage variation of 11.9%. This is calculated based on the natural ground level being RL56.19 below the highest point of the tower form. .

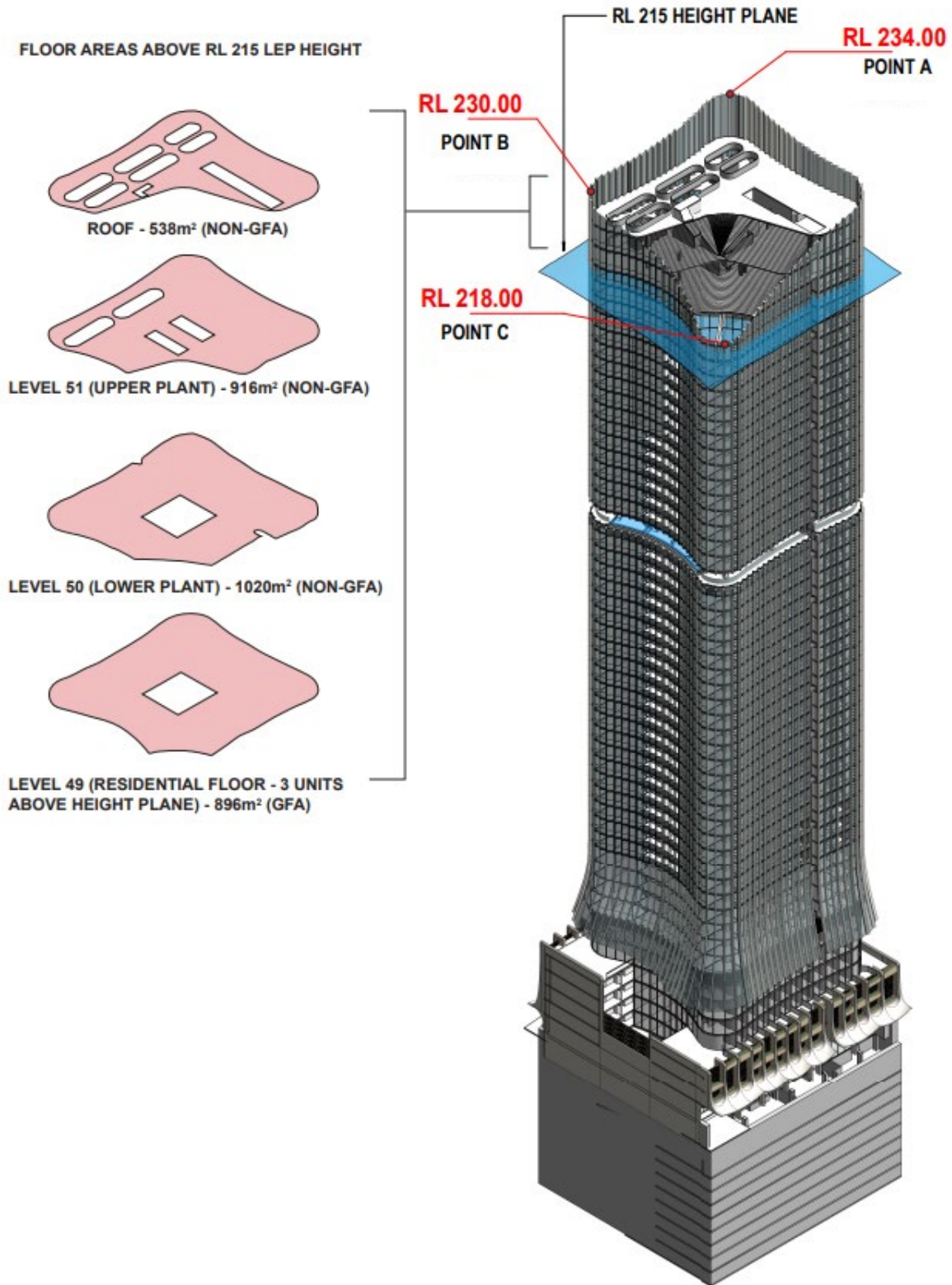
10. Visual Representation of Proposed Variation

The 3D height plane diagram below demonstrates that the following elements breach the LEP height limit:

- Level 49 – which contains 3 residential apartments, at RL217.7
- Level 50 and 51 – which comprises plant zones, at RL220 and RL224 respectively
- Roof – at RL 229.
- The lift overrun sits at R230.55 being the tallest structure within the services zone.

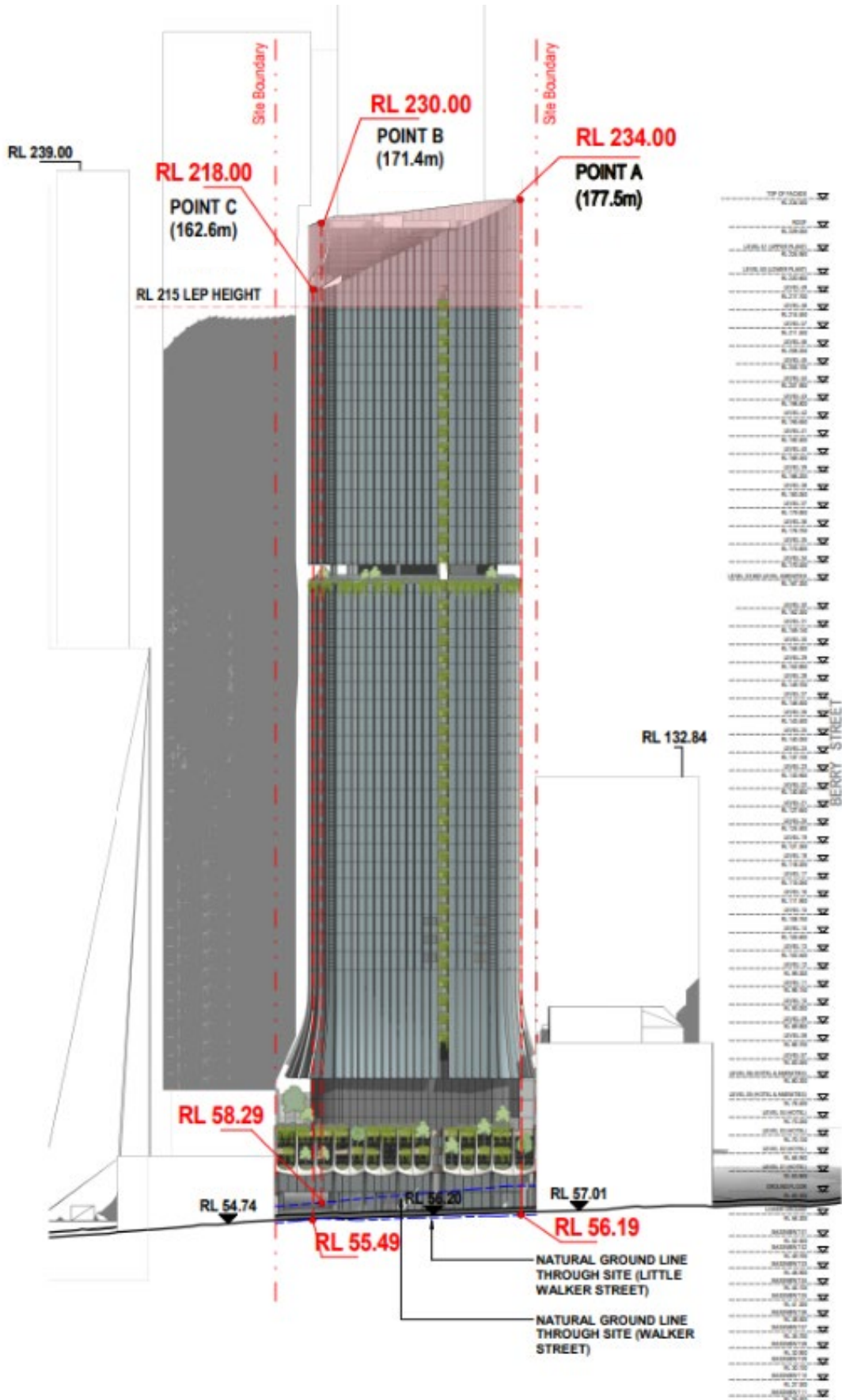
The entire building is encased in a curtain façade, with the façade height varying between RL218 and RL234. The façade height has been specifically designed to ensure that the service zone and associated building infrastructure is not readily visible. The façade extends to the height of the solar plane, ensuring that there remains no overshadowing to the park on the eastern side of the freeway.

Figure 5 Isometric Height Plane Diagram



Source: Architectus

Figure 6 Walker Street Elevation (Height Plane Overlaid)



Source:
Architectus

Figure 7 Tower Crown (illustrating the stepped nature of the roof form and plant zones over the height limit)

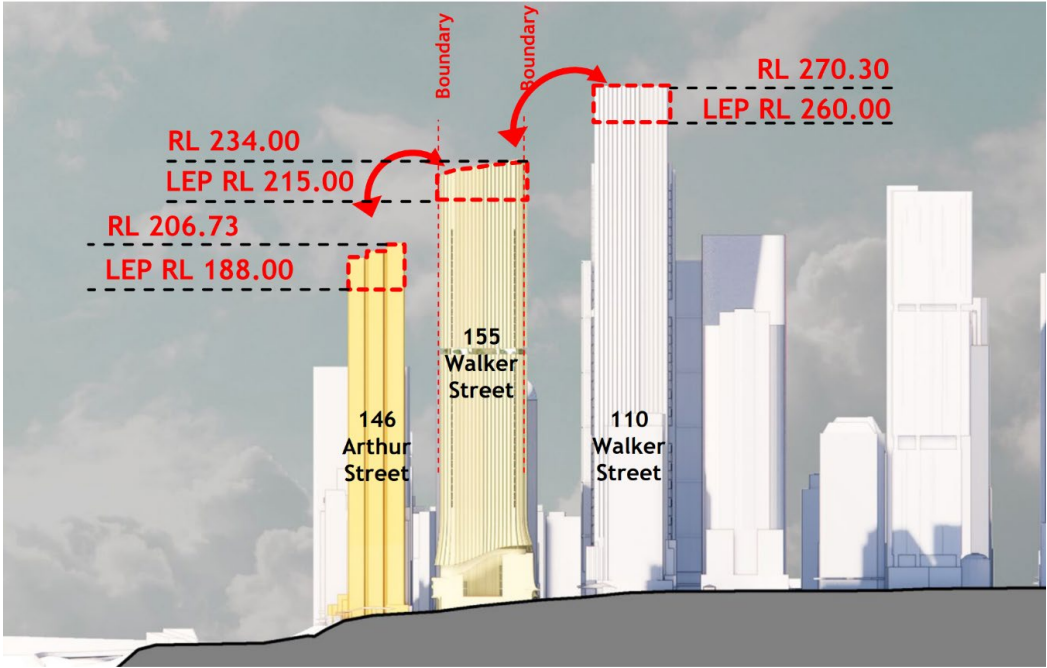


Source: Architectus

NB: The roof form of the tower, which is referred to as a 'crown' in the Architectural Design Report, is not consistent with the definition of 'Architectural Roof Feature' under the NSLEP 2013. This clarification is only noted in passing with respect to the sound environmental planning grounds that are presented within this Clause 4.6 Variation Request for the proposed height variation.

JUSTIFICATION FOR THE PROPOSED VARIATION

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

Key Questions	Response
<p>a) Are the objectives of the development standard achieved notwithstanding the non-compliance?</p>	<p>The objectives of the height of buildings development standard are achieved, notwithstanding the height non-compliance, as demonstrated below.</p> <p>(a) to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,</p> <p>The site is located between Walker Street and Little Walker Street.</p> <p>There is a total fall of ~6.7m from the north-western extent of the site to the south-eastern extent of the site.</p> <p>The proposal responds appropriately to the slope by stepping the lower ground floor levels in response to addressing the public domain.</p> <p>The tower form responds to the broader topography of the area which slopes down from the northern parts of the CBD, along Ridge Street (RL89), to the southern parts of the CBD, along Blue Street (RL74). The immediate area also slopes from Walker Street (RL84) to Arthur Street (RL63). The proposed height of the building sits comfortably within this emerging skyline and appropriately responds to the stepping of building heights from west to east, as illustrated in the extract below.</p> <p>Figure 8 Skyline Presentation</p>  <p>Source: Architectus</p> <p>To further accentuate the topography and in response to the sun access plane, the crown of the development has been designed as a series of steps, which are encapsulated within a curtain façade. The proposed elements of the building that exceed the height control, including the lift overrun and screening structure assist in reinforcing this stepped tower profile, when viewed from the north.</p> <p>It is therefore demonstrated that the proposed height including non-compliant elements has been appropriately designed to reflect and respond to the topography of the area, noting that this would sit comfortably within the surrounding context.</p> <p>(b) to promote the retention and, if appropriate, sharing of existing views,</p>

A Visual Impact Assessment (VIA) is being prepared by Urbis to validate that the proposed built form will not exacerbate view impacts, beyond that which has already been considered and approved.

The proposed building envelope is contained within the existing approved envelope, with the body of the tower having a reduced floor area compared to the approved envelope.

In this regard, it is reasonable to state that the view impacts have already been assessed, and the impacts have been determined to be reasonable and appropriate for the sites context. In fact, the Commissioner for the court proceedings for the original DA found that:

“The proposed height exceedance does not give rise to unreasonable adverse visual impacts or disruption to views from neighbouring properties;” and that

“The amended DA provides a resolved built form that is consistent with the North Sydney CDB skyline and involves building heights stepping down from elevated topography.

These findings still remain relevant.

(c) to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,

Shadow diagrams have been prepared by Architectus which show the shadow cast by the proposed development at hourly intervals between 9am and 3pm for the winter solstice and the equinox. Shadow associated with the height non-compliance is differentiated from an LEP compliant envelope.

When reviewing the June 21st shadow diagrams, this demonstrates that the extent of additional overshadowing, beyond that of a compliant envelope is very marginal. The degree of additional overshadowing beyond the LEP height, is consistent or less than, the extent of overshadowing already approved and considered at the site.

It is noted that between the hours of 9am – 1:30pm, the shadow cast falls within the commercial areas of the CBD or within Warringah Freeway. At 2pm there is a degree of overshadowing to the eastern side of the Freeway, on land zoned E2 Commercial Core. A portion of the additional shadow falls within the RE1 zoned land at the corner of Alfred Street North and Whaling Road, which is a local reserve. The extent of overshadowing is reduced in comparison to the existing approval.

It is noted that the RE1 zoned land is outside of the North Sydney Centre and therefore the proposed height exceedance does not give rise to unreasonable adverse overshadowing impacts to surrounding uses and areas based on the solar access framework established for the North Sydney Centre, under clause 6.3 of the NSLEP.

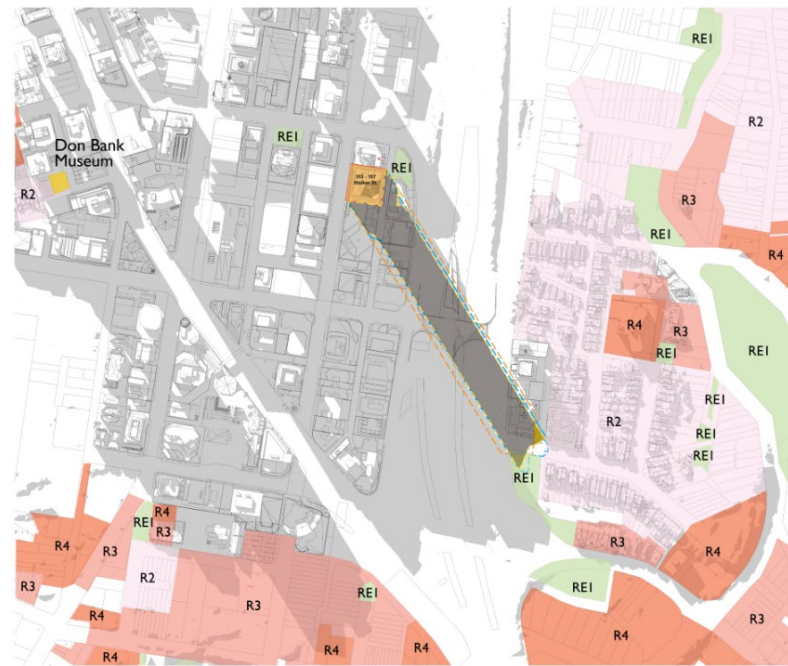
At 3pm the shadow falls within the R2 zoned land, with a minor portion extending into the R4 zoned land. Given that the overshadowing is limited to a one hour window, when the sun is at its lowest, it is considered that this degree of overshadowing is reasonable and appropriate. In fact, the reduction in the size of the floorplate marginal reduces the width of the overshadowing.

The degree of overshadowing at 2pm and 3pm is illustrated below, confirming that only a minor degree of additional overshadowing occurs beyond the LEP height plane. Where there is additional overshadowing, this is consistent with, or better than, the shadowing cast by the approved development.

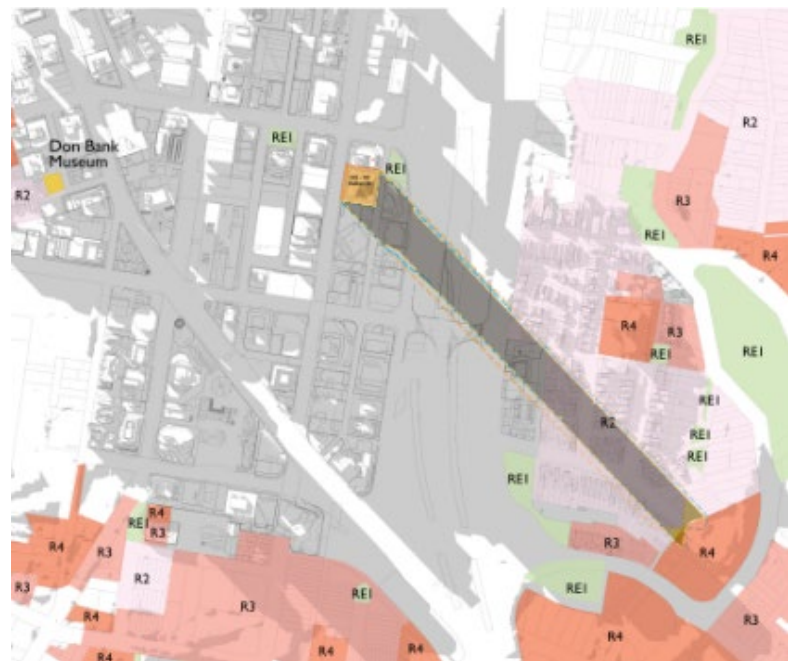
Overall, the shadow diagrams demonstrate that the proposed height variation will not be responsible for significant or non-compliant overshadowing of surrounding areas, beyond that already approved.

The proposed height exceedance does not give rise to unreasonable adverse overshadowing impacts to surrounding uses and areas based on the solar access framework established for the North Sydney Centre pursuant to cl 6.3 of the NSLEP

Figure 9 Shadow Diagrams



2pm June 21st



3pm June 21st

Source: Architectus

(d) to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,

The portions of the development which exceed the height plane are limited to a single residential level, rooftop plant, lift overrun and the expression of the building façade.

The portion of the building that exceeds the building height plane and contains habitable areas, is limited to a single level of 896m² of GFA. This portion represents a 2% non-compliance with the height of buildings standard. The remainder of the built form beyond the height plane comprises significant building plant and infrastructure, including cooling towers, PV panels lift overrun and the jib, required for building cleaning and maintenance. The façade extends beyond this infrastructure, encapsulating into the design whilst ensuring that it is stepped and sloped in line with the sun access plane requirements.

It is not expected that the additional habitable areas beyond the height plane will result in any greater privacy impacts for new or existing residents, particularly noting the building separation between other tall towers at this scale.

	<p>For example, the building to the north would not be developed to the same height as the site due to overshadowing limitations on protected public open space (Doris Fitton Park). The building to the east, at 146 Arthur Street has a maximum proposed height of RL206.73 which is well below the proposed residential level, being RL217. Whilst 110 Arthur Street has a height of RL283.60, the residential level is stepped back from the south-western corner, with the primary outlook towards the north, north-west and east, away from 110 Arthur Street. This appropriately reduces the extent of visual privacy impacts between the two buildings at this upper level.</p> <p>(e) to ensure compatibility between development, particularly at zone boundaries,</p> <p>The site and immediate context are all located within the E2 Commercial Core. Notwithstanding, it is acknowledged that the proposed shop-top housing development introduces a residential use into the site, which is located within and amongst commercial towers and BTR developments.</p> <p>Therefore, there is a mix of land uses. The proposed height variation does not introduce any issues of land use compatibility, given that the height of the tower form is consistent with the established and emerging heights of buildings within the North Sydney CBD.</p> <p>The proposed exceedance would be imperceptible in the context of the development as a whole and the broader future emerging context which will comprise a number of tall towers of comparable scale, as per recent approvals and applications under assessment.</p> <p>(f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area,</p> <p>The site is located within the North Sydney CBD, within walking distance of the Victoria Cross Metro. The surrounding character consists of tall building forms, of which the proposed development is an appropriate form and scale, consistent with the existing streetscape and desired future character of North Sydney CBD.</p> <p>The proposed height non-compliance is primarily associated with the lift overrun, rooftop services and a rooftop screening structure with only 2% of the variation containing habitable floor space.</p> <p>The proposed height variation does not materially change the built form outcome on the site, or its relationship with any existing or future development surrounding the site. In fact, it enables a highly articulated roof form to be developed that ensures all building services are appropriately screened, minimising the visual obtrusiveness typically associated with the required infrastructure.</p> <p>It is considered that the crown of the building provides a high quality architectural response, that respects the surrounding neighbours, it that it provides for a pleasant outlook from buildings that are of a taller nature than that proposed.</p> <p>The proposal, notwithstanding the height non-compliance maintains the scale envisaged for the site through the provision of a tall, slender tower form and positively contributes to the North Sydney CBD skyline.</p> <p>The proposal therefore promotes the desired character of the area while delivering on the NSW Government's strategic priorities of increasing housing supply in well located areas.</p>
<p><i>b) Are the underlying objectives or purpose of the development standard not relevant to the development? (Give details if applicable)</i></p>	<p><i>Not applicable</i></p>
<p><i>c) Would the underlying objective or purpose be defeated or thwarted if compliance was required? (Give details if applicable)</i></p>	<p>The underlying objective or purpose of the height standard is to promote development for tall buildings within the North Sydney CBD.</p> <p>Clause 6.3 of the NSLEP permits buildings on land in the North Sydney Centre to exceed the maximum building height, providing that it does not result in unreasonable overshadowing impacts to areas outside of the North Sydney Centre. This includes public open space as well as private residential dwellings.</p> <p>The proposed development is for a building envelope that sits within a recently approved building envelope, that has been assessed against the objectives of the NSLEP, and in particular, the height objective. Through that process, it was determined that the proposed building height and mass did not give rise to unreasonable adverse overshadowing impacts to surrounding areas, based on the solar access framework under Clause 6.3.</p>

	<p>The proposed building height and mass (which is less than that approved by the Commissioner) continues to meet the objectives of both clause 4.3 and clause 6.3 of the NSLEP.</p> <p>Strict compliance with the mapped building height of RL215 would be contrary to the intent and outcome of clause 6.3, which enables buildings to exceed the mapped height.</p> <p>Further, it is noted that the vast majority of the variation (10%) is associated with plant, lift overrun and building services, along with the architecturally designed façade that aids in reducing the visually obtrusive nature of this equipment. It is therefore considered that the design response for the buildings crown results in superior outcomes comparative to a lower building façade height that exposed these elements.</p> <p>It is also noted that the extent of variation is largely consistent with other approvals within the North Sydney Centre and given the variable mapped heights and tall building forms, the proposed scale and massing would sit comfortably within the North Sydney skyline.</p> <p>The height at RL218-234 provides for a stepping of building forms between Walker Street and Arthur Street, which follows the natural topography of the lane and achieves the stated objectives, which encourages building heights to step down from the elevated topography.</p> <p>Based on the above, it is considered that strict compliance with the development standard is unreasonable in this instance given the inconsistency between the LEP height control and clause 6.3 and any impacts associated with the additional height is negligible in the broader context of the site.</p>
<p><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></p>	<p><i>Not applicable</i></p>
<p><i>e) Is the zoning of the land unreasonable or inappropriate so that the development standard is also unreasonable or unnecessary?</i></p>	<p><i>Not applicable</i></p>

12. Sufficient Environmental Planning Grounds

There are sufficient environmental planning grounds to justify the proposed variation, noting a height-compliant scenario would result in a suboptimal development outcome. The following is noted in summary of this Clause 4.6 Variation Request:

- **Consistency with the objectives of Clause 4.3 of the NSLEP 2013.**

The proposed development is consistent with the objectives of Clause 4.3 of the NSLEP 2013, as substantiated by this report in relation to the height variation that is sought. The extent of the height variation is comparable to other tall building forms within the immediate vicinity of the site and promotes the stepping of towers, in line with the natural topography, which slopes towards the Freeway.

- **Consistency with the objectives of the E2 Commercial Centre Zone.**

The proposed height variation is reasonable to anticipate in the context of the site with respect to the desired future character of the North Sydney CBD and the land use objectives for the E2 Commercial Centre Zone.

- **Compliance with Clause 6.3 of the NSLEP 2013, including Subclause (3).**

Exceeding the maximum permitted building height is permissible, provided overshadowing impacts comply with Clause 6.3(3) of the NSLEP 2013. It has been demonstrated that the proposed development satisfies the applicable provisions of Clause 6.3.

- **Achievement of a high-quality design outcome and a transitional reduction in tower height towards the Warringah Freeway.**

The proposed tower form has been enhanced with articulated façade elements, a tapered roof form and a modulated podium design that will be observable in the round. The proposed height of the development will support the urban design intent for a transitional reduction in tower height towards the Warringah Freeway and is in keeping with the profile of existing and future high-rise development in the locale.

- **No unacceptable visual impact or reduction to open-sky vistas.**

The proposal does not result in any unacceptable reduction to open-sky vistas or view loss in accordance with established case law principles. At the date of writing this document, Urbis is in the process of preparing a detailed Visual Impact Assessment to further verify the achievement of this outcome.

As outlined in the interim covering letter that has been prepared by Urbis' Visual Impact Assessment team, it is reasonable to anticipate that the findings of the Visual Impact Assessment will reinforce the conclusions made within this report. The final point below is noted in this regard.

- **No unacceptable additional wind impacts.**

The proposed height variation does not give rise to any additional wind impacts for the pedestrian environment at the ground level which has been confirmed by the wind report.

- **Acceptable environmental impacts**

Poses no unmanageable impacts on the neighbouring development or development outside the North Sydney Centre noting that the minimum required two hours of direct sunlight to the subject areas are maintained, with the building envelope resulting in a reduction in overshadowing compared to the approved commercial scheme.

- **Promotes sustainable building outcomes**

The majority of the height exceedance is associated with plant and building infrastructure, such as cooling towers, solar panels and the like. This is necessary to ensure that the building achieves a 7-star green star rating, which demonstrates the high performing sustainability outcomes proposed. A compliant building height would compromise the ability to achieve this.

- **Promotes good design**

The proposed building has been designed by award winning architects, Architectus. The variation to the building height has been purposefully designed to enable visual interest and building articulation through the curved crown which varies in height. The demonstrates a skilful response to enclosing the plant zone to ensure that this does not create visual clutter within the skyline.

- **The proposed height of development under this SSSA does not exceed what has already been assessed and deemed to be acceptable under the approval of DA-393/22.**

In this regard, it is reiterated that the bulk, height, and overall scale of development at the site does not exceed that of the approved (discontinued) commercial tower scheme. Insofar as externalised massing-related impacts are concerned, there is a valid site-specific assessment precedent that can be referred to by DPHI for the purposes of assessing the proposed height variation.

This is noted in passing, as it has been demonstrated that the proposed height variation is supportable on individual merit.

The level of flexibility that is allowable under Clause 4.6 of the NSLEP 2013 is technically and procedurally appropriate to apply in this case to facilitate the orderly and economic use of land in a manner that is consistent with the desired future character of the local area. In light of the environmental planning grounds for the proposed height variation, as outlined throughout this report, DPHI can be satisfied that the variation is sufficiently justified.



architectus



CLARIFICATIONS

This Clause 4.6 Variation Request has been prepared to support a SSDA that is accompanied by a concurrent Planning Proposal to introduce 'Shop Top Housing' as an additional permitted land use at the site. It has established reasonable environmental planning grounds for the proposed height variation to be supported. Amending the maximum permitted building height control that applies to the site under the scope of the concurrent Planning Proposal is not considered to be necessary on this basis.

This approach is supported by the [Housing Development Authority State Significant Development Criteria \(HDA Selection Criteria\)](#), which establish the following directions:

- **In relation to Objective 2 (“Identify projects that can be assessed quickly”):**

The HDA seek to prioritise works that are “*largely consistent with development standards*”. Specifically, development that “*does not exceed applicable development standards by more than 20%*” is strongly preferred where a concurrent rezoning is not being proposed. The extent of the proposed height variation equates to less than half of this upper limit, reflecting a minor departure from the standard to be varied.

- **In relation to Objective 4 (“optional concurrent spot rezonings”):**

Under the HDA approval pathway, concurrent Planning Proposals are intended where “*significant changes to development standards or prohibited development will require a suitable concurrent rezoning proposal*”. Accordingly, the scope of the Planning Proposal is isolated to the proposed introduction of 'Shop Top Housing' as an additional permitted land use at the site.

The proposed height variation is not 'significant' with respect to the numerical benchmarking that is employed by the HDA Selection Criteria (<20%), which leaves the introduction of 'Shop Top Housing' as an additional permitted land use as the only logical inclusion in the scope of the concurrent Planning Proposal.

As outlined within this Clause 4.6 Variation Request, the height and overall mass of the proposed development does not exceed that of the commercial tower that is currently approved on the site under DA-393/22. From a massing perspective, the proposed scale of development has already been assessed and deemed to be acceptable with respect to the intended effect of Clause 4.3 and Clause 6.3 of the NSLEP 2013.

This Clause 4.6 Variation Request has established sound, independent environmental planning grounds for the proposed height variation. In this regard, there is no conceivable need for the maximum permitted building height control that currently applies to the site (RL 215m) to be amended through the concurrent Planning Proposal. This would add further complexity to the assessment process in the absence of any rationale.

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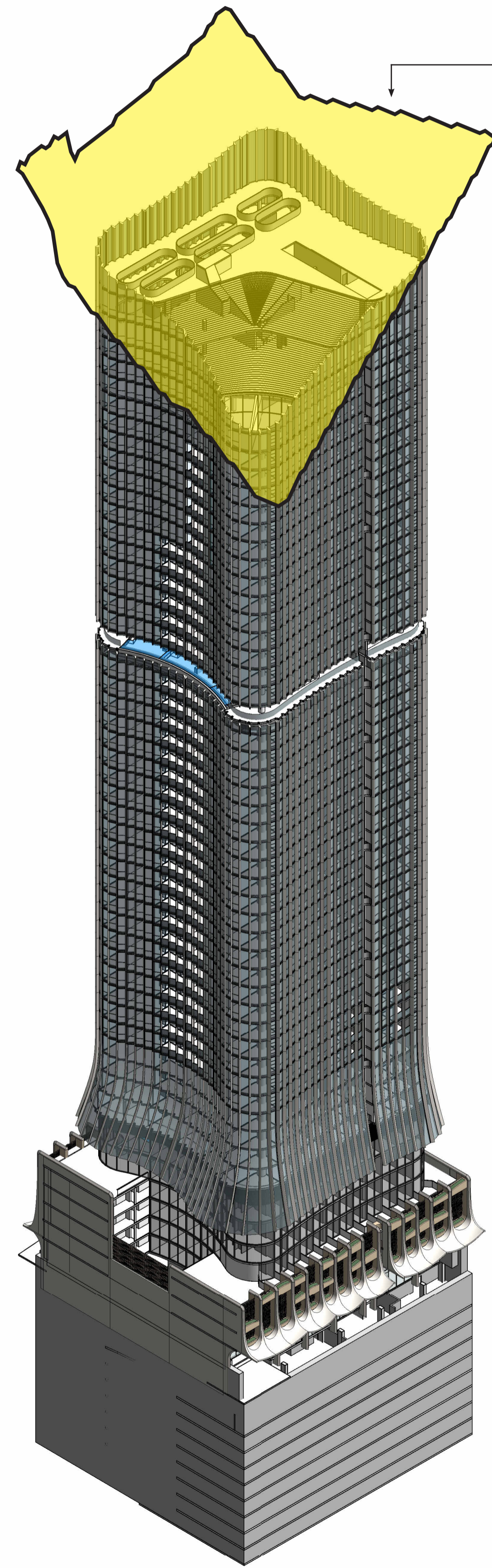
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ATTACHMENT A

Height Plan Diagrams and Elevations



SOLAR PLANE TO
ALFRED PARK